captive insurance times

The primary source of global captive insurance news and analysis

Conference Special

A convenient truth

As climate change rises up the risk agenda, will captive insurance offer a solution?

The largest captive ever formed?

An update on the captive created to distribute funds for homeowners affected by the 'crumbling foundations' issue

Advantage, Delaware

Steady growth in 2018 and new legislation on conditional licensing looks like a positive force for the 'small wonder'

Great expectations

Finance Malta on why the domicile is one of the top jurisdictions for captive insurance

Vermont to launch blockchain captive pilot programme

The Vermont Department of Financial Regulation (DFR) and the Office of the Vermont Secretary of State (SoS) are collaborating on a pilot programme that will explore the use of blockchain technology in the captive insurance market.

DFR commissioner Michael Pieciak and secretary of state Jim Condos signed a memorandum of understanding on 9 January, which outlined their combined efforts to explore the use of blockchain in the digital recordkeeping practices of the state's captive industry.

On 10 January, the DFR and SoS jointly issued a request for information (RFI), due 14 February, to identify vendors that may work with the state to launch a pilot programme that would allow new captives to register with the SoS using blockchain technology.

Blockchain is a digital ledger technology designed to create a transparent and validated record of transactions, which provides users with more efficiency, accuracy, and security than traditional recordkeeping methods.

The pilot is being set up to experiment with the functionality of blockchain in state regulatory processes.

In addition, the programme will review and revise relevant statutes, rules, regulations, and bulletins to ease the implementation of blockchain technology.

In May last year, the Vermont Captive Insurance Division revealed it was planning to work with the SoS on a project that tested the use of blockchain in captives.

Commenting on the pilot programme, David Provost, captive insurance deputy commissioner, said: "Vermont has long been known as an international leader in the captive insurance industry with a robust regulatory and professional community and a willingness to embrace innovation."

"This makes Vermont's captive insurance industry the ideal place to pilot this blockchain programme."

The pilot would allow Vermont to "examine whether or not the application of blockchain technology for digital recordkeeping can improve aspects of the state regulatory process", Condos suggested.

Commissioner Pieciak stated: "Financial services firms are innovating at lightning speed and regulators have an obligation to keep up."

"This partnership with the SoS provides a great opportunity for our teams to become better acquainted with distributed ledger technology and understand how the state and Vermont businesses might benefit."

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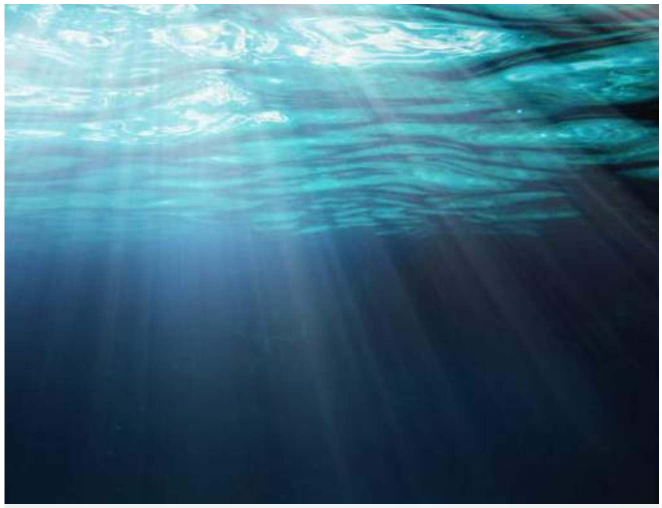

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captive insurance times

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SIIA releases captive manager code of conduct

The Self-insurance Institute of America (SIIA) has released the SIIA Captive Manager Code of Conduct to provide ethical business conduct guidance to captive managers.

The code, which is the result of months of deliberation and feedback by SIIA members and other stakeholders, is also engineered to provide education and protection to current and potential clients.

SIIA convened a diverse group of industry participants to help produce a set of ethical benchmarks that can be used to inform consumers, policymakers and regulators on how to evaluate captive manager business practices, and the captive industry in general.

The code is made up of five canons: integrity, conflicts of interest, confidentiality, advertising, and practice management.

The provisions of the code have been implemented by SIIA members, with the following goals in mind: anticipating the next challenges to the industry, offering readily available standards for policymakers and regulators, providing a professional and ethical differentiator for those SIIA members and managers, and offer a need level of uniform professionalism in the industry.

The association's members expect it to serve as an important step forward in strengthening industry practices and risk-management recommendations, further ensuring captive managers observe high standards of ethical conduct.

A task force has been established by SIIA to ensure the code is evaluated and updated periodically to reflect an ever-evolving industry and looks forward to ongoing dialogue with industry participants, regulators and other stakeholders.

Ryan Work, vice president, government relations, SIIA, said the code is a way to create "a professional standard of responsibility for captive managers".

Work commented: "As we, as an association and industry, seek to improve and strengthen these practices, the code will help to inform and educate policymakers and regulators, while also providing an important resource to clients."

"It is our hope, as we continue to build upon the foundational guidelines of this code in the future, to demonstrate the quality and integrity of those captive managers who choose to adhere to it."

Global Risks Report 2019 warns of environmental risks and rising global tensions

Environment-related risks and rising global tensions are among the most threatening and pressing global risks, according to the World Economic Forum's 2019 Global Risks Report.

The report incorporates the results of the annual Global Risks Perception Survey, (GRPS), which included responses from approximately 1,000 experts and decision-makers.

For the third consecutive year, environment-related risks dominate the GRPS results, accounting for the top three risks by likelihood (extreme weather events, failure of climate-change mitigation and adaptation, and major natural disasters) and four of the top five risks by impact (failure of climate-change mitigation and adaptation, extreme weather events, water crises, major natural disasters).

The report notes: "Of all risks, it is in relation to the environment that the world is most clearly sleepwalking into catastrophe."

According to the report, the world's ability to collaborate and provide collective action in the face of major crises has reached crisis levels, with worsening international relations obstructing action across a growing array of serious challenges.

The report also revealed that in 2019, rising geopolitical and geo-economic tensions are "the most urgent risk", as 90 percent of experts predicting further economic confrontation between major powers in 2019.

Accentuating the issues surrounding the potential for international cooperation looking forward is a darkening economic outlook, which is in part caused by geopolitical tensions.

The report also emphasises the danger of rapidly evolving cyber and technological threats, with a large majority of GRPS respondents expecting increased risks of cyber-attacks leading to theft of money and data (82 percent) and disruption of operations (80 percent) in 2019.

Alison Martin, group chief risk officer, Zurich Insurance Group, said following on from the historic wildfires, continued heavy flooding and increased greenhouse gas emissions in 2018, "it is no surprise that in 2019, environmental risks once again dominate the list of major concern".

Martin continued: "So, too, does the growing likelihood of environmental policy failure or a lack of timely policy implementation."

She explained: "To effectively respond to climate change requires a significant increase in infrastructure to adapt to this new environment and transition to a low-carbon economy."

Børge Brende, president of the World Economic Forum, highlighted the need for improved international relations.

Brende commented: "With global trade and economic growth at risk in 2019, there is a more urgent need than ever to renew the architecture of international cooperation."

"We simply do not have the gunpowder to deal with the kind of slowdown that current dynamics might lead us towards."

"What we need now is coordinated, concerted action to sustain growth and to tackle the grave threats facing our world today."

Energi launches second group captive for energy industry

Energi has launched its second group captive for the energy industry, eCaptiv PC2-IC.

The captive programme, which is domiciled in Vermont, is aimed at energy companies with less than $250,000 in primary casualty premiums.

Energi launched its first energy industry group captive, PC1-IC, in August, and the two programmes now have more than 40 members and over $18 million in gross written premium.

Both programmes are for energy companies with fuel distribution, energy transportation, energy construction, renewable energy, agricultural cooperative, and utilities segments.

The programmes offer up to $5 million in limits for general liability, commercial automobile and statutory limits for workers' compensation.

Members of the group captive have adopted risk management technology programmes, including dash cameras, telematics and online training that are key in combating nuclear punitive damage judgements and commercial auto trends.

Energi's sister company, eTech Services' Telematics Exchange and eLive Connect are used to aggregate telematics data from various telematic service providers and provide around the clock loss prevention and safety training for drivers.

Paul Wendt, president of Ken Wendt's Propane Gas Service, commented: "As a middle market company in the energy industry, we were seeking alternative insurance solutions to combat the current trends that are impacting our business today."

"The eCaptiv programmes provide us with the opportunity to control our own destiny with other like-minded businesses like our company."

CICA announces RMI student essay competition finalists

The Captive Insurance Companies Association (CICA) has announced the three teams of finalists in its 'Next Generation Captive Insurance Solutions for New Risk Challenges' essay contest for college risk management and insurance (RMI) students.

The contest, sponsored by Strategic Risk Solutions (SRS), required two-person teams to describe how and why a captive insurance company could be used as a cost-effective method of alternative risk financing for emerging risks and their corresponding loss exposures.

The three teams of finalists, are invited to attend the CICA 2019 International Conference in March, where they will receive cash prizes and give presentations on their essays.

The first team, Christian Ferrara and Charles Fisher from Appalachian State University, submitted an essay titled “Alternative Risk Solutions: Captive Insurance for Cyber and Supply Chain Risk”.

Ferrara was one of three students sponsored by SRS to attend the Vermont Captive Insurance Association conference this year and in issue 159 of Captive Insurance Times spoke to us about his experiences.

St. Joseph’s University students Kayla Cecchine and Brendan Tarte’s essay is named “Captive Insurance: An Intimate and Efficient Risk Financing Solution to Climate Change and Tax Rulings Risks”.

Angel Song and Alana Vicale, from Temple University, reached the final for their essay titled “Opioid Epidemic in the US”.

Song has also featured in Captive Insurance Times, having spoken to us in July about her experiences as an intern during the summer. CICA president Dan Towle said the competition was an example of the association’s commitment to attracting more young professionals to the captive industry.

Towle commented: “The contest was very competitive. We received entries from students studying risk management, insurance, actuarial science, finance, and business.”

He said: “All these areas of study are important to preparing the next generation of captive professionals.”

“CICA is committed to help attract new professionals to the captive industry, which is top-heavy with leadership that is approaching retirement.”

China and Hong Kong captive markets to grow fast in next 10 years

The captive insurance markets in China and Hong Kong will grow fast in the next 10 years, according to Jose Ribeiro, managing director, Asia Pacific, A.M. Best.

Speaking on A.M. Best TV, Ribeiro noted that the captive market in Asia was small, despite the size of some of the economies in the region.

Ribeiro said: “Latest statistics suggest there are close to 7000 captives globally, I would suggest 3 percent of those are in Asia.”

“That is a very small number considering Asia has massive economies. China and Japan are the second and third largest economies in the world and yet the number of captives is still very, very small compared to the global market.”

He explained that the region’s largest captive markets were low in numbers of captives but were growing.

“Singapore is probably the biggest market and now boasts around 80 captives, a small number but one that is still growing. The second is Labuan, which currently has around 50 to 60 captives.”

“The third is in Micronesia, a domicile that has mainly been chosen by Japanese companies, which now has 25 captives and is growing.”

Ribeiro added that the markets that he believed would see particular growth were China and Hong Kong.

Ribeiro explained: “The Chinese captives, which are mostly domiciled in either China or Hong Kong, are limited in number but more are coming to the market.”

“China and Hong Kong are two domiciles which will grow very fast over the next 10 years, mainly because of the Chinese market.”

He explained: "That is why CICA is creating new opportunities for students and young professionals to learn about captive insurance."

Towle added: "Our conference sessions with students have been very popular."

"By involving students in the conference, it allows them to showcase their creative ideas, connect with industry leaders and get excited about career opportunities in captive insurance."

Commercial insurers to supplement 'crumbling foundations' captive

The Hartford and Liberty Mutual Insurance have agreed to provide supplemental financial assistance to current and former policyholders receiving assistance in remediating their crumbling foundations from the state's non-profit captive, the Connecticut Foundation Solutions Indemnity Company (CFSIC).

CFSIC was set up to remediate homeowners impacted by the 'crumbling foundations' issue, cracks forming in foundations caused by concrete of a stone aggregate mined from a quarry containing pyrrhotite.

Commercial insurers generally refused to cover the issue, but on 8 January the Hartford and Liberty Mutual entered into memoranda of understanding to provide supplemental financial assistance to policyholders.

Under its agreement, The Hartford will establish and administer The Hartford Benefit Programme and commit $3.5 million to the programme.

Under its separate agreement, Liberty Mutual will establish and administer the Liberty Benefit Programme and commit $7 million to the programme.

Another commercial insurer, Travelers entered into a similar memorandum of understanding in December last year, pledging $5 million.

Homeowners in Connecticut who have been impacted by the 'crumbling foundations' issue will be eligible for the supplement, providing they are current or previous policyholders with the companies and opted to participate in the assistance programme launching through CFSIC.

Participation in the programmes will be voluntary, meaning supplementary assistance will be available to qualifying homeowners but is not required for homeowners to receive general assistance through CFSIC.

A spokesperson from The Hartford, Michelle Loxton, said despite most homeowner policies not covering the damages the company recognises the highly unusual nature of the issue and the impact it is having on Connecticut families and therefore felt providing the funding was the right thing to do.

Jim MacPhee, president and COO of Liberty Mutual Global Retail Markets (US), applauded the state for establishing the remediation fund and added: “We believe it’s the right thing for us to provide additional assistance to our customers who would have no other avenue for relief if their repair costs exceed their CFSIC benefit.”

Governor Dannel Malloy said the commitments from the insurers represented significant progress for affected homeowners.

Malloy added: “I applaud both companies for stepping up.”

Attorney general George Jepsen joined Malloy in commending The Hartford and Liberty Mutual Insurance in becoming part of the solution to the ‘crumbling foundations’ problem.

Jepson said: “These funds will help many homeowners to bridge the gap between their CFSIC benefit and the cost of replacing their home’s foundation.”

“This is an important commitment made by these two companies today, and I’m hopeful that additional insurers will join them to help address this potentially catastrophic situation.”

Department of Consumer Protection commissioner Michelle Seagull commented: “We’re pleased to see more companies joining this effort to give these homeowners some relief. There’s no one solution to this terrible situation, and we’re pleased whenever more resources become available. We’re committed to continuing to work with our partners and

RRG premium above $3 billion, says Pinnacle study

The amount of premium insured by risk retention groups (RRGs) has grown to more than $3 billion, according to Pinnacle Actuarial Resources’ 2018 RRG Benchmarking Study.

The study examined publicly-available RRG financial statement data as of year-end 2017 to provide analysis of key financial metrics and industry trends.

It reveals that RRG premium rose from just over $2 billion in 2008 to above £3 billion in 2017.

The number of RRGs has also grown steadily over the 10 year period, with figures from A.M. Best revealing there were a total of 226 by the end of 2017.

According to the study, there are now six states with 10 or more domiciled RRGs, with A.M. Best’s statistics showing that more than 60 percent of RRGs are domiciled in three states Vermont (37 percent), South Carolina (15 percent), and the District of Columbia (13 percent).

Vermont also led in terms of average RRG size in direct written premium (DWP) by domiciliary state, while New York, Pennsylvania, and California led in DWP by risk state.

In terms of DWP by line of business for US RRGs, medical professional liability ($1,785 million) was the largest written line, followed by other liabilities ($1,081 million), and commercial auto liability ($301 million).

According to Pinnacle’s study between 2007 and 2017, net income has been positive for both the industry and RRGs.

Net income as a percent of surplus had been decreasing for RRGs, until it saw an upturn in 2017.

According to the study, the ratio of underwriting income to surplus has been cyclical in nature over the 10 year period, with RRGs often running opposite of the industry.

The study added that the combined ratios for RRGs have been over 100 percent between 2013 and 2017. Pinnacle emphasised that as premiums are insurance companies’ primary measure of top-line revenue, premium trends are key financial indicators.

The study shows that RRGs have had higher DWP growth over the four years prior to 2017 than the insurance industry.

During several years prior to 2017, the industry has retained 90 percent of its net written premium (NWP) as a percentage of DWP, while RRGs have retained around 60 percent of their DWP.

Pinnacle found that insurers’ primary expenditures are loss and loss adjustment expenses and are the primary driver of insurer profitability.

The accident year loss and loss adjustment expense ratios have been higher for RRGs than the industry between 2011 and 2017.

The ratios of underwriting expenses to DWP for RRGs have been consistent in the nine years prior to 2017.

Across all lines loss development on held reserves has been favourable for RRGs between 2010 to 2017.

Neon sponsors first ILS renewal under UK regulatory framework

Neon has sponsored its second insurance-linked securities (ILS) transaction through its UK-based transformer vehicle NCM Re, the first reinsurance renewal under the UK regulatory regime for alternative capital investment in the reinsurance sector.

The transaction was launched 1 January and is a $77 million collateralised quota share of Neon Syndicate 2468's property treaty reinsurance and direct and facultative portfolios.

In January last year, Neon launched NCM Re, the UK's first ILS vehicle, and sponsored the UK's first ever ILS transaction.

The launch of NCM Re and sponsoring of the transaction followed the UK government decision to pass ILS regulations in December 2017.

Mark Gibson, alternative capital director at Neon, said the company was delighted that size of the transaction could be increased this year, due to the continued support of existing investors and the addition of new investors.

Gibson said: "This is quite an achievement given ILS market conditions and we are pleased to have sponsored the first renewal transaction under the UK regime, facilitated by early engagement with the Prudential Regulation Authority."

sister agencies to support homeowners in their time of need."

Michael Maglaras, CFSIC superintendent, stated: "With the addition of The Hartford and Liberty Mutual as our new collaborators, we're going to be able to greatly expand the help we can give homeowners."

Nevada welcomes three new captive insurers in 2018

The Nevada Division of Insurance issued three captive licenses last year, a significant drop in comparison to the 22 captives licensed in 2017.

Figures from the Nevada Division of Insurance revealed there were 19 captive closures in 2018, which matched the 19 closures from the year before.

The new licences and closures mean that at year-end 2018, there were 185 captives licensed in the state, of which the Department of Insurance estimated 175 are active.

The department has been in the process of winding up inactive companies over the past few years.

The lion share of captives in the state are pure captives (153), with risk retention groups the second most popular structure (14), followed by association captives (eight), agency captives (two) and one branch captive.

There are seven sponsored captives, with 120 sponsored cells.

Capstone publishes fourth response to 'Reserve' US tax court decision

Capstone Associated has published its fourth commentary in response to the opinion of the US Tax Court in the Reserve Mechanical Corporation v Commissioner of Internal Revenue case.

The commentary addresses the court's use of the Avrahami v Commissioner case as the authority for many of its findings in its opinion on the Reserve case. Capstone described this use as a “misapplication”.

The fourth commentary notes: “Despite the significantly different facts and jurisdictional posture of Reserve relative to Avrahami, the Court erred in remaking the facts of Reserve to fit into the legal findings of Avrahami, while demonstrating a lack of understanding of how insurance works in the business community.”

“In doing so, the Court cast aside long-standing statutory provisions designed to encourage the formation of captive insurers by small and mid-size businesses.”

Capstone concluded that the factual dissimilarities between the two cases, which are covered in detail in the commentary, mean that the Court’s analysis in the Reserve case and its attempt to strictly follow the Avrahami case “cannot be explained”.

Capstone’s commentary labels the Reserve case as “a dangerous precedent for the insurance industry” that “may indicate that the Tax Court has made a policy decision distinct from Congress”.

The 60-page commentary can be found in full on the Capstone website.

R&Q completes two workers’ compensation transactions

Randall and Quilter Investment Holdings (R&Q) has completed the assumption of the workers’ compensation liabilities of a Vermont-based self-insurer and the novation of reinsurance policies issued between 2002 and 2009 from a Cayman Islands-domiciled group captive.

The workers’ compensation liabilities were assumed through R&Q’s wholly owned A-rated carrier, Accredited Surety and Casualty Company.

The transaction, which marks R&Q’s sixth deal with a self-insurer in the last two years, provided full finality to the self-insurer and has removed the barrier for the ultimate dissolution of its workers’ compensation trust.

The reinsurance policies of the group captive, which provided workers’ compensation coverage to its members throughout the US, were novated into R&Q Bermuda, the R&Q owned segregated account company.

Ken Randall, chairman and CEO of R&Q, said: “These two transactions demonstrate our ability to once again provide exit solutions to the self-insurance space and reinforces our market leading position in providing captive exit solutions.”

A micro captive case with a macro impact?

Following the class action lawsuit brought against Arthur J Gallagher & Co and Artex in December, we talk to the attorney for the plaintiffs, David Deary

Ned Holmes reports

Last December, a group of plaintiffs filed a class action lawsuit against a group of defendants, including Arthur J Gallagher & Co and its subsidiary Artex Risk Solutions, accusing them of being part of a 'massive captive insurance conspiracy'.

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

Additionally, it claimed the defendants entered into undisclosed business arrangements with each other and formed a nationwide referral network to funnel clients business to them.

Gallagher and Artex have said the case against them has "no merit" and will be dealt with accordingly.

We spoke to David Deary, attorney for the plaintiffs and partner at Loewinsohn Flegle Deary Simon, about the case and why it should serve as a warning to the industry.

Can you give me some background on your firm and the case?

Loewinsohn Flegle Deary Simon is a mid-sized law firm in Dallas, Texas, that specialises in litigation. We have represented over 500 clients since approximately 2003 against accounting, investment and law firms that designed, marketed, sold, and implemented all different types of reported tax-advantaged investment strategies that were ultimately disallowed by the Internal Revenue Service (IRS) and/or tax courts as illegal and abusive tax shelters.

We began looking at various micro captives under audit during 2018. Based on our analysis and input from consulting experts, we concluded that the various micro captives currently under audit and/or tax court scrutiny would more than likely be disallowed as illegal and abusive tax shelters and that micro captive clients would be assessed back-taxes, penalties and interest.

During the latter part of 2018 we began to receive phone calls from individuals under audit for participating in a micro captive insurance company. We now represent a large number of clients who have suffered substantial damages as a result of their participation in the micro captive insurance programme. In fact, we have clients with claims against virtually every major promoter. We anticipate we will be filing additional lawsuits against these other major promoters in the near future.

When did you first begin working on this case?

We began working on the Internal Revenue Code section 831(b) micro captives in 2018. Around that time, clients began contacting us as a result of our long and successful track record in this area of litigation. Our clients want to be made whole. They have been assessed and paid back-taxes, substantial penalties, and interest on penalties and taxes. They paid large annual fees and expenses as part of the captive insurance programme. They have incurred substantial legal fees and expenses defending the IRS audits and/or tax court proceedings. Our clients want to recover their full-measure of damages.

Are you alleging that in this case the defendants knowingly mislead your clients?

Yes, and the class action complaint that our clients recently filed goes into extensive detail as to how Artex knowingly misled its clients. Artex told its micro captive clients before it sold them micro captive services that it had the expertise to design, implement, and manage micro captives in a manner that complied with all applicable tax and insurance laws. Artex's clients relied on these representations in retaining Artex and then later relied on Artex to design, implement, and manage the micro captives as it represented it would.

"Our clients want to be made whole ... Our clients want to recover their full-measure of damages"

David Deary, partner, Loewinsohn Flegle Deary Simon

It is clear now to Artex's clients that the company told these clients several misrepresentations. For instance, the actuarial studies Artex obtained in connection with managing the micro captives were not actuarially sound.

Instead, Artex selected actuaries who would provide assessments designed to justify policy premiums that would hit a predetermined value. Further, the pricing of the policies that Artex caused the micro captives to issue were inflated. Artex also advised its clients to obtain policies for risks that were unlikely to have a material impact on its clients' operations.

Artex's methods for distributing risks also did not meet tax law and insurance industry standards. Artex structured the micro captives so that 100 percent of the premiums paid went to an agent for a reinsurance pool. The agent would retain 2.5 percent of the premiums and then direct 51 percent of the net proceeds to the reinsurer while the micro captive received 49 percent of the net premiums. In exchange for these premiums, the micro captive would retain a primary layer of risk amounting to the first 25 percent of the policy limits.

The reinsurance pool would retain the remaining 75 percent of the risk for covered claims in an excess layer. Artex dictated to our clients which risks the micro captives would cover. Although Artex represented that these risks were material, this representation was false. In fact, covered losses almost never hit the excess layer pool because the micro captive's primary layer of 25 percent sufficed to cover the claims. Because losses almost never hit the reinsurance pool, there was never proper risk distribution under tax law and insurance industry standards.

Artex touted their expertise and credibility and emphasised how sophisticated and complicated the micro captives are to design, implement, and manage. Artex claimed its micro captive insurance programme complied with section 831(b) of the Internal Revenue Code and actually discussed how the tax code specifically allows these micro captives.

Artex represented that it had the special expertise and experience to design, implement and operate a micro captive insurance company in a way that complies with the tax code, including section 831(b). In fact, Artex assured our clients that if the captive is managed and operated within the tax code rules and section 831(b) specifically, the IRS will allow it. Artex also told its micro captive clients that some of Artex's other micro captive clients were audited for the use of captive services exactly like those Artex was promoting to them and that the IRS upheld these micro captives as legal. Artex touted the fact that it has tax lawyers, accountants and insurance experts at Artex that will make sure the captive is designed, implemented, managed and operated in compliance with the tax code. These representations gave our clients great comfort.

Artex understood that captive insurance was well beyond our client's expertise and that our clients retained Artex to supply micro captive expertise.

Artex therefore understood that our clients relied upon and were at the mercy of Artex to design, implement, and manage the micro captives consistent with applicable tax law and insurance standards. In light of Artex's micro captive expertise, our clients' lack of micro captive expertise, and our client's reliance on Artex, the conclusion is inescapable that Artex's misrepresentations to our clients were knowing.

Unfortunately, Artex failed to design, implement, manage, and operate the micro captive insurance companies in accordance with the applicable rules and regulations, including section 831(b). Unfortunately, the clients relied upon Artex to their detriment.

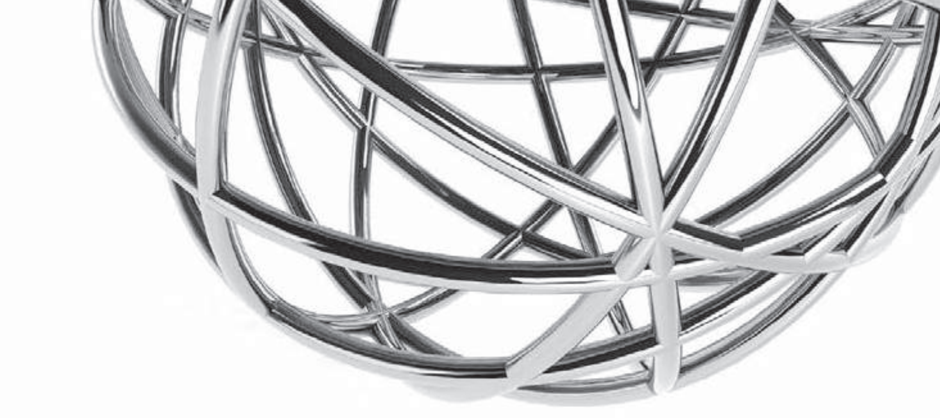
What is the timeline moving forward?

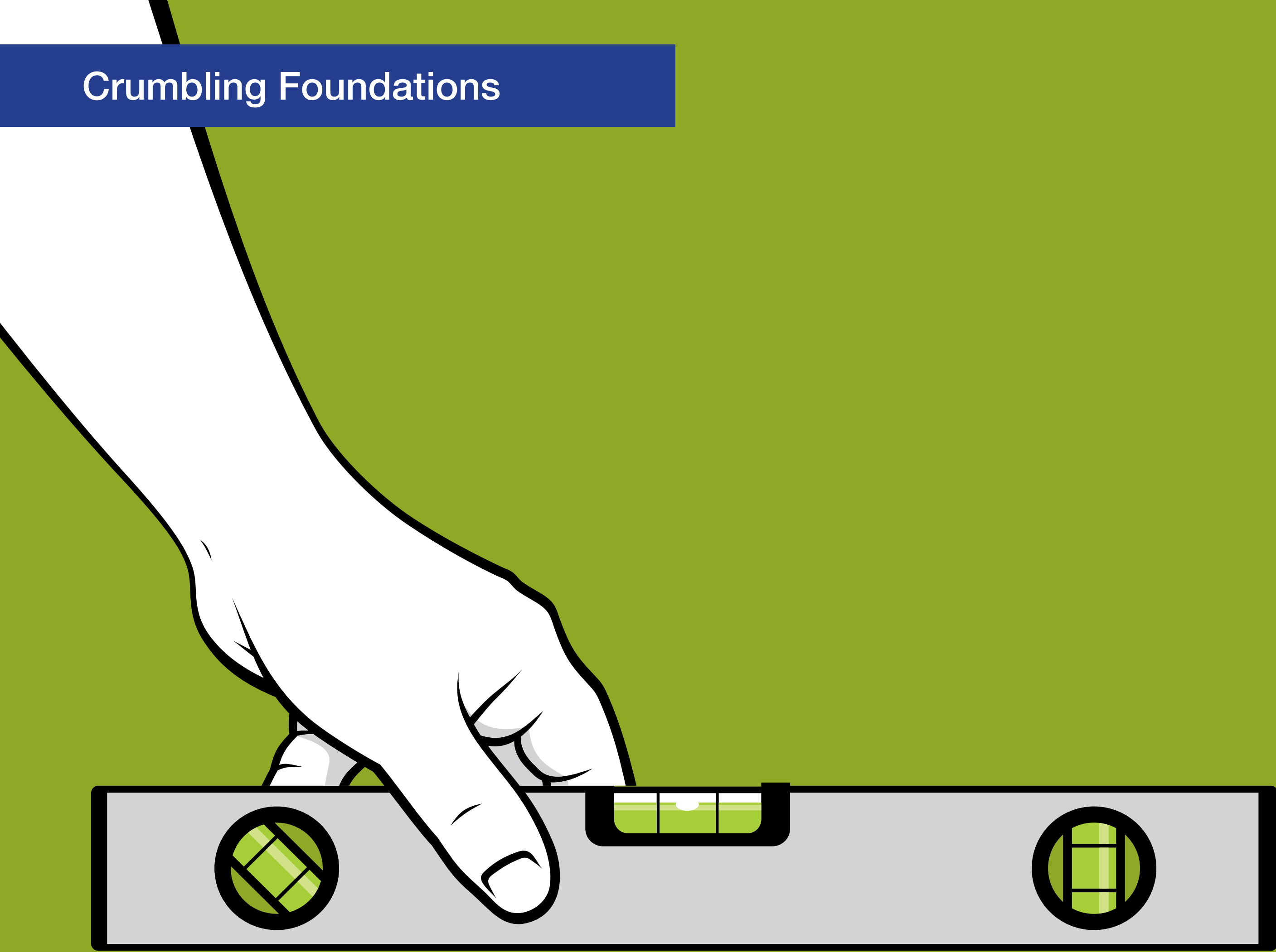
We just filed the class action complaint a few weeks ago, and the defendants have not even answered yet. We expect in the coming months that there will be motion practice followed by discovery.

Does this lawsuit serve as a warning to other captive managers?

It serves as a warning to captive managers that if they are going to promote and sell micro captive services, the micro captives must be designed, implemented, and managed to comply with all applicable tax and insurance laws.

I assume that there will be more cases against Artex and others involved in the captive insurance industry. **CIT**





The largest captive ever formed? An update on 'crumbling foundations'

The captive created to distribute funds to help homeowners impacted by the 'crumbling foundations' issue began accepting applications on 10 January

Ned Holmes reports

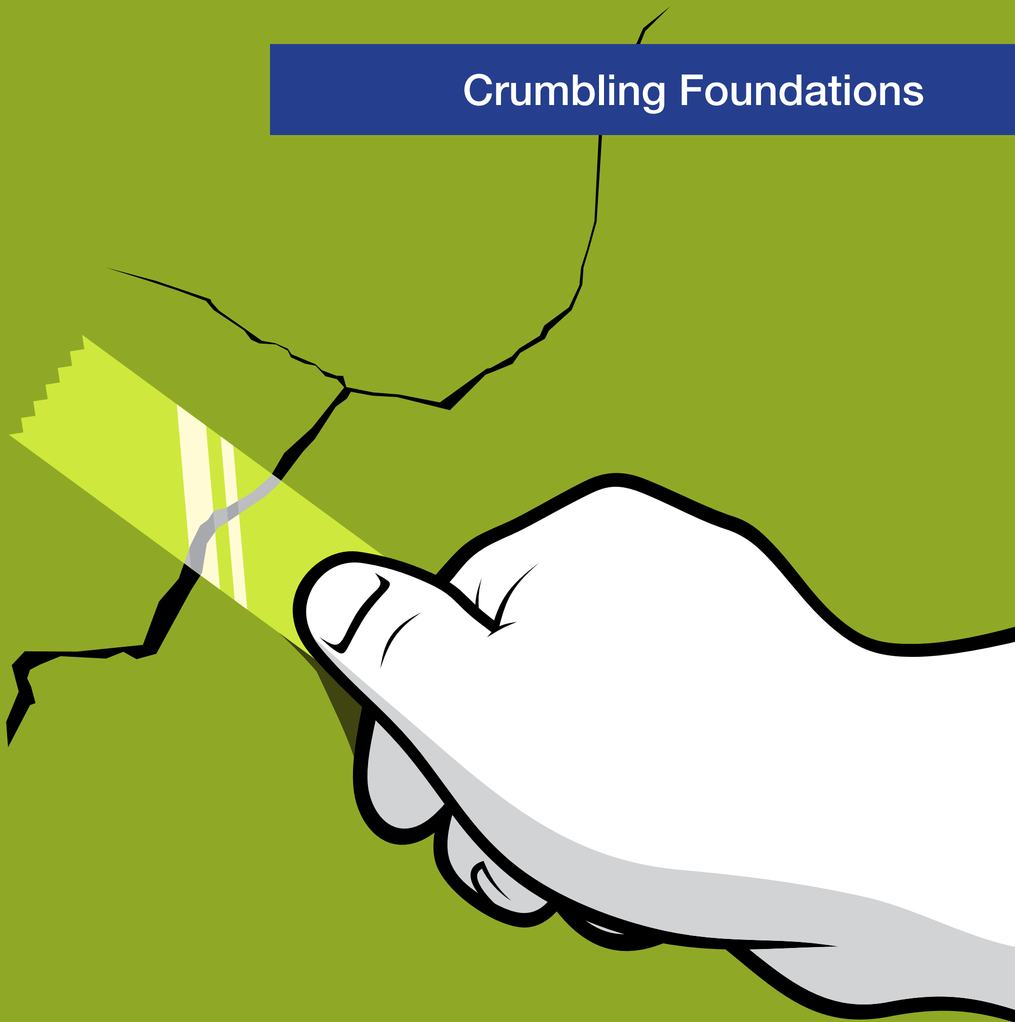
"By the time this captive has fulfilled its mission it will be the largest captive insurance company ever formed in the history of the movement, in terms of paid claims," says Michael Maglaras, the man at the helm of the Connecticut state funded non-profit captive which is aiming to help homeowners impacted by the 'crumbling foundations' issue.

Maglaras, superintendent of the Connecticut Foundation Solutions Indemnity Company (CFSIC) and president of Michael Maglaras & Company, adds: "If this captive completes its mission, paid losses will likely be between $1.2 billion and $2 billion. It's going to be larger than the world trade centre captive, it is going to be the largest captive ever formed in terms of actual claim payments."

Speaking to the captive insurance veteran, who has 42 years of industry experience under his belt, seven months after we published our first feature on the issue, it is clear that while the process is further along, the magnitude of the task remains.

A complex issue

CFSIC's worst case scenario estimation is that there could be 30,000 homes in the state impacted by the forming of web-like



cracks in their foundations, which can do irreversible damage. The issue is caused by the mineral pyrrhotite in the concrete foundations of buildings, which when exposed to oxygen and water causes the cracks to form.

Commercial insurers generally denied coverage responsibility for the issue and, so, with residents in desperate need of a solution, the state government launched the Crumbling Foundations Assistance Fund to help impacted homeowners and launched CFSIC to distribute the remediation funds.

Resolving the issue is no easy repair process. It requires lifting a house off its foundations with a crane, knocking the foundations down, and then replacing all parts of the foundation, reattaching all the utilities and dropping the house back on top of its new foundation.

“It is very complex,” notes Maglaras, “it is very expensive, it is very time consuming, but we are very, very close to the first of those repairs happening.”

The timeline

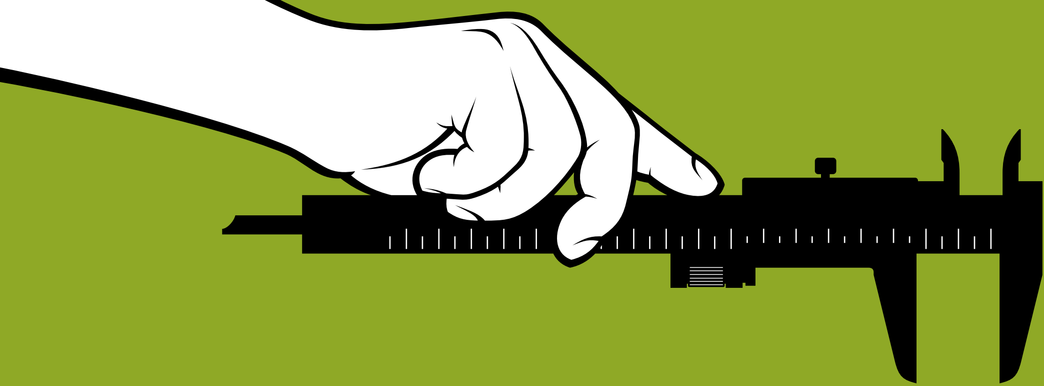
CFSIC is now accepting claims through its third party administration firm, ESIS Proclaim, having officially opened its doors on 10 January—a point which has been greatly anticipated since the state passed legislation authorising the formation of a non-profit captive as part of the 2018/19 state budget in June 2017.

The ball really began rolling in February 2018, when the Connecticut State Bond Commission approved $350,000 in funding to form the captive. Michael Maglaras and Company were selected as CFSIC superintendent in April 2018, and the board of directors was appointed in July. The nine-person all volunteer board, which was selected in accordance with the enabling legislation, included industry representatives, affected homeowners and government figures.

Prior to the launch, Maglaras and CFSIC also amassed a “very, very solid group” of service providers. These industry hard-hitters include Crowe as auditor, Marsh as captive manager, and Milliman as actuary.

The original launch date for CFSIC was set for 15 November, however, due an unexpectedly high volume of responses during the 30-day public comment period, it was delayed.

Steven Werbner, president of CFSIC and the representative of the municipal government on the board, says this public input may have pushed back the start of the programme but was “extremely invaluable”.



He explains: “Michael Maglaras received some 500 to 600 different comments that we as a board sifted through the majority of. They allowed us to make refinements to our underwriting guidelines to address a number of those comments and concerns.”

The application process for homeowners can be completed electronically online or completed by hand and then either scanned in and emailed to ESIS Proclaim, or posted to ESIS Proclaim.

Homeowners are required to indicate whether they’re applying for financial assistance for a foundation replacement (a type one claim) or for reimbursement for the costs of a previous replacement (a type two claim). For type one applications, there are additional distinctions necessary on what class of severity the claim is, one, two or three.

Speaking prior to the 10 January launch date, Maglaras predicted “a massive flood of applications”, while Werbner suggested they would receive between 400 and 700 applications initially.

Werbner added that, as the average cost of remediation of the foundations was running between $175,000 and $250,000, if his prediction is correct they “will quickly exceed the revenue that we currently have, so we are going to have to monitor that concern in terms of what the activity is for applications versus available dollars.”

Finances

Currently, the state legislature has guaranteed $100 million in funding in annual $20 million installments over the next five years. Additionally, effective January 2019, a surcharge has been added to homeowner insurance policies in Connecticut to provide extra funding to the captive. Werbner estimates that this could provide an additional $33 million over the five-year period.

He says: “If we receive the full payment, that would be around $133 million over five years, when, in fact, we may need over $1 billion.”

CFSIC is under no false illusions about finances, and Maglaras has targeted a number of potential sources for funding. He explains: “I am going to be making more requests to the state government, requests to the US Department of Housing and Urban Development, requests to the Federal Emergency Management Agency, and a very direct request to President Trump.”

Maglaras has also targeted the commercial insurance sector for funding. He says: “I am not trying to get commercial insurers to rethink declinations because that is not my job.”

“But businesses will be able to make contributions to us to help restore people’s lives, and I want the insurance industry to recognise this as an enormously important public relations opportunity.” Clearly, this opportunity has been realised by parts of the commercial insurance sector, as three insurers have agreed to provide supplemental financial assistance to current and former policyholders receiving assistance from CFSIC.

The Hartford pledged $3.5 million, Liberty Mutual Insurance pledged $7 million, and travelers pledged $5 million.

Proof in the pudding

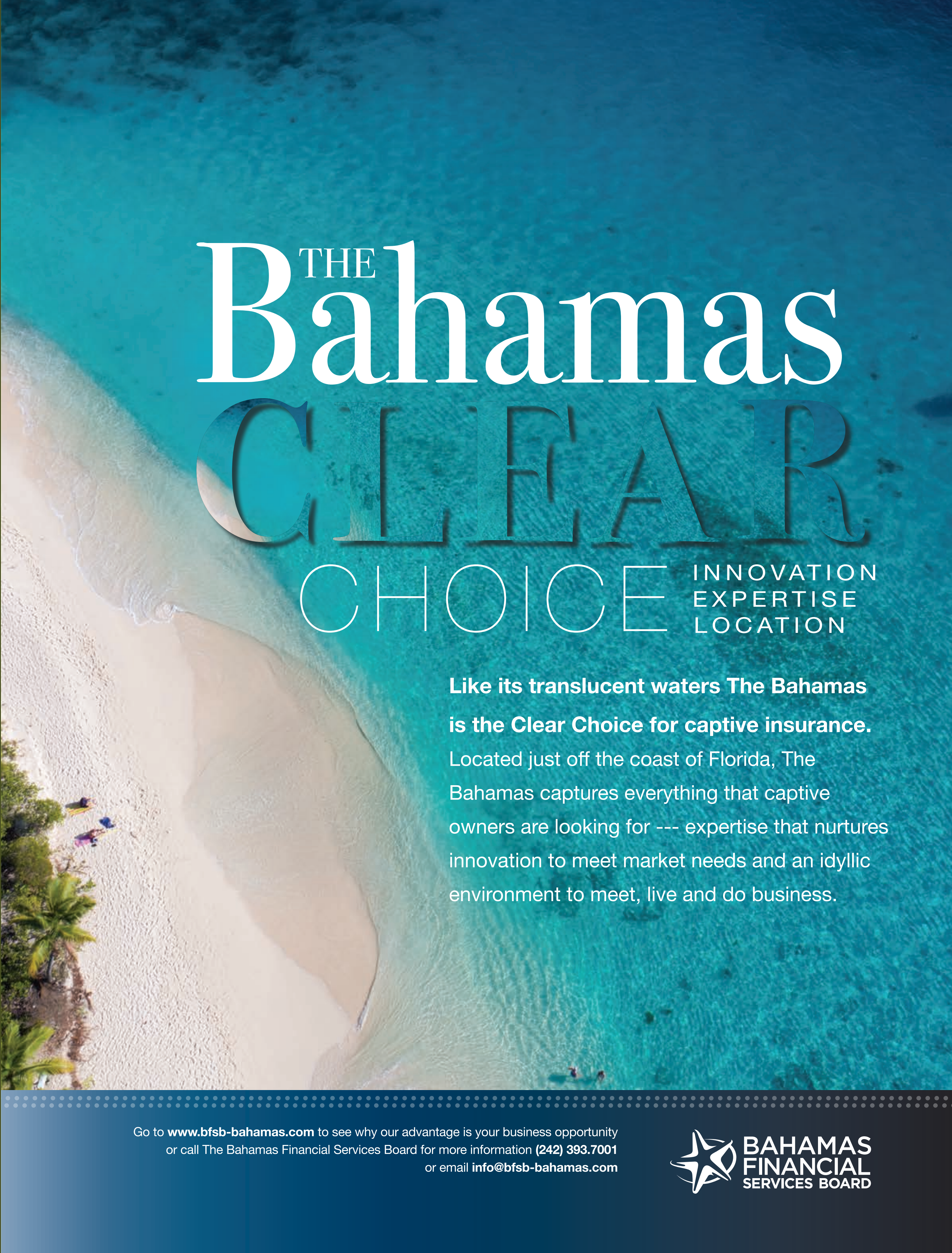
Both Maglaras and Werbner are in agreement that it will be more effective to go back to the legislature for more funding further down the line once the issue can be better understood and real data produced.

Werbner states: “Initially we are hopefully going to get a better understanding of what the need is in terms of the number of applications. We will then be able to create data that we can go back to the legislature with.”

Maglaras adds: “We have to open our doors and we have to adjust the first hundred claims. We can talk about the number of claimants, we can talk about the average value of the loss.

We can get Milliman to project and project but if you let me get 100 claims under my belt, I will know exactly where I am going because we’ll begin to see averages, how we can control construction costs and construction value. We will get to see all those things that are critical and important.” He remains confident that the captive will be successful and that he can find the further funding it needs.

“When we cut cheques and rebuild foundations we rebuild people’s lives. People have lost the most important piece of the equity they own, their homes”, he says, “if I can rebuild 100 foundations, if I can rebuild 100 lives, I will get that funding from the state, I will get it from the US federal government, I will get it from contributions from the insurance industry. I will get it because the proof will be in the pudding.” **CIT**



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Great expectations for the Maltese insurance market

Ivan Grech,
COO,
Finance Malta

Ivan Grech of Finance Malta discusses why Malta is one of the top jurisdictions for captive insurance

Malta has been on the radar of captive owners for quite some time now with a number of large international groups opting to establish their insurance operations on the island. These include internationally famous brands such as BMW, Renault, Peugeot-Citroen, Nissan, Vodafone, E.On and many others. So, what is making Malta one of the top jurisdictions for captives?

Malta is onshore within the EU

This avoids many of the difficulties linked with offshore operations, particularly the lack of authorisation to operate within the EU. Malta's full EU membership offers captives the right to passport its licence throughout EU and EEA states via a simple notification to regulators, leading to savings from the economies of scale of a centralised operation and the avoidance of a need for costly fronting arrangements.

Language

English is the business language on the island leading to a simpler interaction process with the regulator and service providers. Furthermore, the population in Malta has become very international with ex-pats from many different countries residing on the island. This has led to native speakers of many different languages being available if and when needed.

A single and business-minded regulator

The Malta Financial Services Authority (MFSA) is the single regulator of financial services in Malta, regulating investment business, insurance business, banking, trustee services and private pensions. The MFSA building also houses the International Taxation Unit and the Company Registry which, besides ensuring coordination between these three important bodies, provides a useful 'one stop shop' for practitioners and consumers alike.

The MFSA has a 'firm but flexible' reputation, encouraging informal discussion at all levels with insurance company stakeholders, sponsors, managers, applicants and other interested parties. The Authorisation Unit and the Insurance and Pensions Supervision Unit of the MFSA recognise the varying business techniques and numerous accounting conventions applicable in different countries where the parent companies of captives may be situated and the overall approach is generally aimed at establishing acceptable requisites tailored to meet applicants' specific business requirements. The MFSA is considered very business-minded and Malta remains one of the top countries when it comes to efficiency in processing new applications in the shortest possible timeframe.

A preferential regulatory regime for captives

Although EU membership means that all European insurance companies are to abide by a set of standard regulatory rules, Malta recognises the particular nature of captives and offers a preferential regime with certain derogations and shorter application processing times. Malta's experience in the field has also seen a number of captives also develop into third party underwriters, particularly for affiliated business.

An advanced legal system

Malta's sound company law, fiscal legislation (which operates a full imputation taxation system) and insurance law are all firmly based on tried and tested UK legal principles and implement all applicable EU legislation. The Maltese courts have historically always referred to English law in matters involving insurance and reinsurance law.

Cell option ideal for smaller captives

Innovative legislation, such as the protected cell company (PCC) legislation and redomiciliation regulations, adds to the allure of the Maltese legal system. The PCC system allows companies to form their captive within a cell of an existent insurer, as these can ride on the licence and capital guarantee of the established PCC company to lower the capital needs, when compared to the minimum requirements set at law. The time required for a

> The all-round package that Malta offers makes it a perfect jurisdiction for captive owners seeking the perfect location for their business

cell authorisation application is also reduced. PCC cells are particularly popular for smaller captives. Larger captives owners wanting to segregate different portfolios within their insured assets (such as by country or high risk from low-risk lines of business), may also benefit from setting up a PCC company and hiving off the different portfolios in different cells.

Furthermore, resource requirements are also reduced in view that most key functions (such as risk management, compliance and internal audit) would already be covered by the PCC company's own key functions.

An extensive double taxation treaty network

Malta's extensive double taxation treaty network covers over 70 countries including the UK, France, Germany, Italy and the US. The Maltese Government is actively pursuing additional treaties with particular emphasis on income arising from financial and investment services.

This extensive double tax treaty network makes Malta a very attractive jurisdiction for establishing captive insurance companies.

A comparatively low cost jurisdiction in the EU

As an established financial services centre, Malta is consistently topping the charts as one of the most cost-efficient domiciles for captives.

A central location and time zone

The Maltese Islands are also ideal due to their location. Malta is one hour ahead of GMT and only a short flight away from mainland Europe with most destinations covered by an extensive flight network, thereby making its location ideal for efficient and quick communication with mainland Europe.

Availability of international service providers

Captives moving to Malta will be required to appoint an insurance manager authorised in Malta, unless they are self-managed, as well as an external auditor in Malta. Malta offers an impressive array of international captive and insurance managers who have set up operations in Malta, the big four audit firms as well as a number of local operators.

A strong IT Infrastructure

Malta has invested heavily in its IT infrastructure also due to various large IT-reliant industries which have based themselves on the island. The state-of-the-art infrastructure has been a key factor in the success of Malta's financial services industry.

Much more to offer

Apart from all the above, Malta also offers a well educated and multilingual workforce, a knowledgeable pool of professional service providers, a modern communications network and much more, including a very hip lifestyle and nice weather all-year round.

The all-round package that Malta offers makes it a perfect jurisdiction for captive owners seeking the perfect location for their business. Its popularity amongst captive owners is certainly set to grow, also considering the consequences of Brexit now placing the UK and its foreign territories as offshore countries and, Malta being the only British-influenced country left within the EU's borders post-Brexit. **CIT**

Tides below a false dawn

Election cycles, a declined interest in emerging market assets, and a return to protectionism have hampered projected growth in Latin America. Despite this, the outlook on captives remains positive

Ned Holmes reports

The economic tides were supposed to have turned in Latin America. On the back of the first increased growth in the Latin American market in six years in 2017—2.5 percent GDP, up from 2.2 percent in 2016 (figures are for the Latin American region without Venezuela)—the economy was predicted to strengthen again in 2018.

A report from the Economic Commission for Latin America and the Caribbean estimated GDP in the region would grow again to 3.2 percent in 2018, while industry commentators suggested the outlook was very good for the foreseeable future. It now appears that may have been a false dawn.

Regional growth came in at 1.6 percent year-on-year (figures from Focus Economics and excluding Venezuela). Bartolome Massot, head of Latin America at Quest Management Services, suggests that “political noise likely held back growth, despite an improving labour market”.

Undoubtedly, last year was disappointing for the region, a year which Massot says has been characterised by “elections cycles, declined interest in emerging-market assets and a surprising turn toward protectionism again”, and yet the feeling surrounding the future of the captive market remains positive.

Current market

Massot notes that while a healthier wider economy would mean a healthier captive insurance market, the outlook for the region’s captive industry is very positive. He explains that the size of the market, in terms of the number of captives, is debatable: “Some sources suggest that only 80 captives belong to Latin American shareholders, while others put the number around 200.”

He adds: “Whether the latter number includes unincorporated cells is only known by those who manage it.”

Massot explains that the market is predominantly made up of three types of captives; segregated captives, used either as straight

forward risk transfer mechanisms to the reinsurance market or to strategically retain some risks; pure and group captives, many of which are owned by non-Latin American shareholders with large operations within the region; and finally a small number of agency/producer captives who promote their rent-a-captive facility to small- and medium-size businesses.

Juan Pablo Cuartas, vice president of captives, Latin America, JLT Insurance Management, and Juanita Blanco Piñeros, assistant vice president of captives, Latin America, JLT Insurance Management, add that “overall, Colombia and Mexico continue as the region’s leaders in new captive creation, followed by Peru, Chile and Brazil”.

They suggest that the captive market grew steadily in 2018 and “expect to see continuous growth in captive creation for 2019, in line with previous years”.

One thing positively impacting the captive market is the increased regional presence of Latin American companies. This is owed in part to the “multi-latinas” model, which refers to companies in the region that have grown faster than average and expanded beyond their borders to other countries in Latin America and beyond.

Cuartas and Piñeros explain that “because these growing companies are often innovative, they are receptive to structuring new captive insurance schemes and the related risk management tool captives provide”.

For emerging markets, a lack of understanding of captive insurance is often a key obstacle in industry growth, and while this education gap does still exist, it has become significantly smaller over the last few years.

Cuartas and Piñeros comment: “Latin American companies now have a better understanding of the captive concept, its benefits and implications.”

“This can actually be perceived in the interaction with risk managers who are becoming more specialised and professional, talking more in a ‘language of risk’ rather than a ‘language of insurance’. This specialisation will certainly generate more opportunities for captive insurance schemes.”

Massot is in agreement about a shift in attitude in the region, he explains: “Opportunity wise, Quest saw a spike in enquiries for new formations and requests for feasibility studies.”

“In every case, we are dealing with in-house professionals who have in-depth knowledge of risk management, most are professionally qualified and they know how they want to use the captive to produce results. This determination a significant change compared to 2017.”

He remains positive about the future of the region’s captive industry, noting that “regardless of the number of captives, the truth is that its potential remains as strong if not more so, than last year”.

Obstacles

Despite the good feeling surrounding Latin America's potential for captive growth, the region has obstacles that are impossible to ignore. From a regulatory standpoint, insurance companies are faced with protectionist laws and tight restrictions.

Many countries in the region still have regulatory restrictions that directly impact the financial structure of captive insurance companies, adding more complexity than other regions in the world.

Protectionist insurance laws are employed all across the region, but Massot says the toughest laws are in countries where the captive potential is the highest, such as Brazil and Colombia. He argues: "Businesses could be doing much better and managing their risk far more efficiently if country regulators opened-up the industry, which ultimately translates into healthier economies all-around."

According to Massot, many of these protectionist policies provide short term benefits but limit long term growth and sustainability.

He adds: "Governments need to look at today's problems, but more importantly they need prevent speculation while allowing organisations to complete freely."

"Policy making in Latin American must keep on the pace of reform and further free trade agreements; but it must also include antitrust legislation, ideally regional and only domestic."

Another issue is that organisations in the region are struggling to partner with the right provider. Massot says this is down to a fundamental conflict of interest caused by the fact that the biggest players in the captive management are also brokers.

He explains: "There is a fundamental conflict of interest in doing the right thing when you have all your eggs in both baskets. These situations are very difficult and it almost always ends up in detrimental insurance advice for the client."

Despite the closing education gap, Cuartas and Piñeros note that the region still faces a continued unwillingness among local insurance companies to participate in captive insurance schemes, which could restrict growth.

Cuartas and Piñeros say this unwillingness is down to a range of factors, including "lack of knowledge, infrastructure and regional presence".

Bloc economics could also have an important role to play in future growth. The influence of the South American trading bloc Mercosur may be expanding within its members, but Massot comments that "it remains a forum and not an executive body".

He highlights its treatment of Venezuela, who was indefinitely suspended from Mercosur in August 2017 in response to non-democratic actions made by Venezuelan President Nicolás Maduro, as a "mistake".

"Mercosur should have taken steps to resolve a problem that will affect the whole region if left alone."

Predictions

Despite continued uncertainty in Latin America in 2019, predictions for the future are positive. Massot's figures suggest regional growth should bounce back up to 2.3 percent GDP this year, and grow to 2.6 percent GDP in 2020 (excluding Venezuela).

Across the region, Massot expects an upturn in economic fortune. He explains that Brazil will improve its labour market toward the final quarter of 2019, "thanks to the political turn that will fuel acceleration from the start".

In Argentina, following a chaotic 2018, Massot believes we will see more government accountability, and although recession will remain, it will be softened as structural reforms are implemented.

Additionally, he predicts faster growth in Chile and Peru.

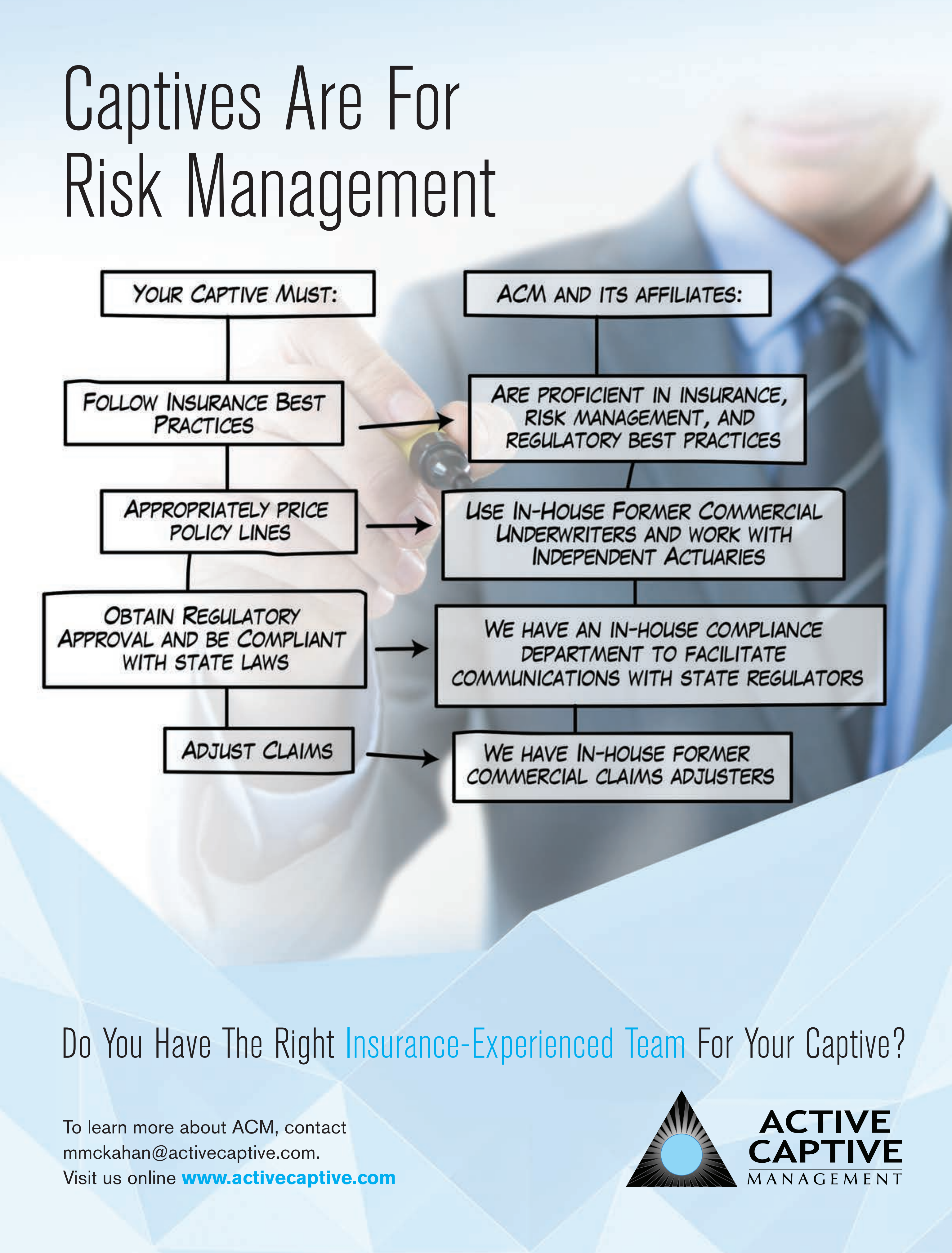
In Colombia and Brazil, two countries with high captive potential, Massot suggests we may see small steps towards opening up the insurance market.

He says: "I think that this will start with further changes to capital and solvency rules more in line with Solvency II with full equivalence shortly after. We will also see a reform in admission rules in Brazil and Argentina."

There is no doubt that there is an opportunity for captives in the region– currently Latin America is a region of over 880 million, $147 billion in premium, an insurance protection gap of roughly two and a half times the size of the actual market, and very few commercial captives.

It remains to be seen whether 2019 can deliver the sort of captive insurance industry growth that many believe the region is due, and despite the economic stutter in 2018, the attitude remains optimistic.

Cuartas and Piñeros conclude: "Continuous growth is expected in the region for 2019." **CIT**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Kiki Oyemhen, underwriter, JLT Insurance Management

Personal bio

I am British Nigerian and grew up in London, Dublin and Leeds. I am a graduate of the University of East Anglia. I enjoy going to the gym and playing various sports, particularly rugby in which I have played all positions in the scrum over the last 10 years, but mostly flanker, and I also play badminton.

Professional profile

I currently work for JLT Insurance Management as an underwriter in the captive management team in Bermuda. I work with large Fortune 500 companies providing a number of services starting from the feasibility of a captive solution to the day-to-day management of the insurance programmes within the captive.

What/who have been your influences in the captive industry?

I am influenced by the incubation and innovation capabilities of the captive industry and to be honest there are too many skilled individuals to name just one influencer.

As a whole, the industry pushes me to new ways of thinking.

What is your impression of the industry?

It is an amazing place to learn new things, no matter what your background or experience is. The range of the clients and industries you will deal with in the captive space is so vast that you will find it very difficult to be bored.

Everyday is a school day with new challenges and ideas to implement–you start to wonder where the time goes.

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

To work on more unique ways to utilise the various captive facilities and see what comes of it. Captives are going to evolve along with technological advancements so it will be good to be at the forefront of this.

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

The captive industry is a small community of professionals and it's not as intimidating as it may appear. The industry is filled with so many intelligent people that think outside the box and this can be intimidating, but at the end of the day those same people are human and want you to learn and develop your skills too so that the industry can continue to live and grow. Feel free to ask questions and reach out to people.

"Kiki Oyemhen is an exciting talent emerging in the captive industry. She combines a strong underwriting track record with client focused delivery and a wide appreciation of insurance structuring, pricing and optimised retentions to ensure that her clients maintain the most appropriate programme structures for their risk appetites"

Andy Hulme, chief underwriting officer, Builders Reinsurance

Kiki Oyemhen

Risk on the road

Al Rhodes
President and senior actuary
SIGMA Actuarial Consulting Group

Guilden Gilbert
CEO
Chandler Gilbert Captive Managers

Mark Jacobs
CEO
Captive Alternatives

David Kirkup
COO/CFO
Captive Alternatives

Captive insurance experts discuss the emergence of non-traditional risks of 2019 and look to the future of the industry

Ned Holmes reports

What trends do you think the industry will see in 2019?

Al Rhodes: On a high level, we believe overall captive utilisation will see continued growth, but expect that growth to slow down with respect to group captive utilisation. We also anticipate a slight shift from offshore to domestic domiciles. In terms of the captive programmes themselves, approximately 50 percent of the captives we provide actuarial services to now cover at least one non-traditional risk, with that percentage having grown significantly over the last five years. Since this growth has shown little evidence of halting, we expect 2019 will see even more captives taking on new and emerging non-traditional risks.

Guilden Gilbert: I believe we will see a continuing trend of mergers and acquisitions within the overall marketplace and Lloyds will continue to restrict syndicates on the amount of risk they can take and set some form of minimum premiums which could have the effect of some market hardening. This could lead to some growth in captives as companies look to stabilise premium costs.

Mark Jacobs: We foresee more 831(b) tax court decisions handed down that will likely mirror existing cases, and put further stress on 831(b) captives. We'll likely see more push back from captive managers and captive associations to counter some of the negatives resulting from these 'bad captive' cases. Risk management and captives have a tremendous part to play in securing company risk and captives are a valid tool of risk management. The Internal Revenue Services (IRS)'s blanket refusal to accept even legitimate arrangements is counter-productive.

David Kirkup: We'll likely see more mergers of captive management firms, or simple takeovers of captive books as it gets harder to build growth on 831(b) captives. Industry analysts suggest that an increased tolerance for risk is driving the expansion of the larger captives market. Several emerging risks, like cyber liability and specialty/catastrophic risks, are also influencing interest in expanding the captives market.

What obstacles could you see affecting captives in 2019?

Rhodes: The recent media stories related to both 831(b)s and the Washington/Microsoft case will likely serve as a potential obstacle to companies considering captive formation. In addition to this, we have received feedback from clients indicating a possible trend away from the 831(b) structure, an increase in IRS-related challenges and the need for captives to focus on stronger protection of personal data related to claims.

SIGMA is an analytics firm and we believe a key obstacle in both the present and future of the captive industry lies in the data collection and parameter assumptions related to new risks—particularly those risks classified as low frequency/high severity. More specifically, the lack of data poses an obstacle to the initial pricing and subsequent reserving of these risks. For non-traditional enterprise risks, implementing enterprise risk management processes such as identification, qualification, and the subsequent data collection/quantification and monitoring may be difficult.

Finally, we have noticed a potential obstacle beyond 2019 being the lack of young professionals in the captive industry. Our experience has shown that many younger members of the insurance workforce have very little knowledge or awareness of captive insurance, which will need to be alleviated if the industry is to continue to thrive.

Gilbert: I do not believe there will be any major obstacles. Many captives have already renewed their reinsurance programmes, effective 1 January 2019 and while there was some reinsurance premium increases pricing was broadly stable. Rate increases were restricted to classes of business suffering sizable losses or where performance has deteriorated, namely the property catastrophe market.

Jacobs: We'll likely see continued negative coverage on 831(b) captives which will constrain the industry growth generally. With more than 800 831(b) captives supposedly headed for tax court, the political pressure will start to build for an equitable solution that allows valid captives to thrive. Industry associations, like Self-Insurance Institute of America and Captive Insurance Companies Association, will extend lobbying efforts for reasonable direction and safe harbor rules from the IRS.

Kirkup: A potential economic downturn and recent tax changes will continue to provide some uncertainty for business owners and many prospective captive owners may take a "wait and see" approach.

Do you think it could be a landmark year for insurtech in the captive industry?

Gilbert: Insurtech will become somewhat the norm as its existence brings about the need for the current insurance market to be more cost-effective and automated. This will happen through the implementation of advanced data analytics. Fraud and cyber attacks are a global problem. Using data analytics can maximise fraud detection and optimisation with reduced efforts.

Kirkup: Startups in all sectors of insurtech have attracted an enormous amount capital; it's going to be time for these companies to start delivering on their promise. There may still be more hype than substance around InsurTech and captives but use cases are emerging that might show the direction.

While captives tend to be targeted at larger companies and conventional coverages, the promise of InsurTech is to break down coverages by time and element, so that ever smaller "just in time" transactions can be self-insured. Some interesting emerging areas we foresee are business cyber coverage, drone coverage by the hour and flight delay coverage for travelers.

Jacobs: One area that is important is the cost and efficiency of creating and running a captive. CapAlt has made great strides in this area and will continue to explore the process of providing private insurance facilities to ever smaller units—through the use of technology.

2018 saw the continued emergence of cannabis and blockchain, what do you think we will see the emergence of in 2019?

Rhodes: We have had three cannabis prospects investigate the use of a captive to cover related risks, most of whom are still in the exploratory phase. In addition to this, we have seen an increase in the use of captives to cover cyber risks and anticipate that trend to continue along with a greater focus on privacy protection. In our own practice, we have seen an emergence of company-specific non-traditional risks such as property maintenance risks, product recall, and disease related risks.

Along with the aforementioned emerging risks, SIGMA also believes that weather risks (including those related to property) will gain more attention with captives. As such, we recently partnered with a weather risk analytics firm, Weatherlogics, to collaborate on a weather risk analytics blog detailing the unique challenges posed by weather-related risks. We have seen zero interest in blockchain.

Gilbert: I believe this trend will continue for some time to come as more and more jurisdictions look to legalise both medical and recreational cannabis.

Kirkup: Further recognition of the existential risks posed by cyber risk, brand damage and regulatory changes for business enterprises.

This will lead to a search for both risk financing solutions and threat management applications.

More solutions for back office processes as insurtech companies look for profitability. Likewise, the use of artificial intelligence, big data and related technologies to streamline underwriting processes, while providing ever more rationale for premium coverage and pricing.

This will be seen in things like the adoption of chatbots for simple requests or quoting, to application acceptance and real-time underwriting. We may also see more intelligent insurance solutions, like replacing landlord security with subscription insurance.

Do you think we are likely to see any regulatory changes?

Rhodes: Yes, we do see possible regulatory changes in 2019. Specifically, various domiciles will be choosing whether to follow the Solvency II route, as European countries have, or to create their own systems which may evolve away from Solvency II standards.

Gilbert: I am still not convinced that the IRS will leave 831(b) as they are. I expect there will be some tightening of regulations around these types of captives.

Kirkup: Regulators may find it challenging to develop a comfort level with insurtech innovations and their proposed uses. Also, they may have trouble monitoring and assessing the effect of insurtech use.

The National Association of Insurance Commissioners has established an Innovation and Technology Task Force to monitor new insurtech developments and help regulators stay informed.

Jacobs: Some states will be looking at the Washington state decision to assess direct procurement taxes on Microsoft. Also, new Base Erosion and Anti-Abuse Tax and Foreign Account Tax Compliance Act regulations will clarify application to captives.

This may result in movement between domiciles as Bermuda and other offshore locations start to feel the heat of the alternative minimum taxes. **CIT**

Advantage, Delaware

Delaware backed up an ace 2017 with steady growth last year, and with the recent addition of the conditional licensing leglisation the domicile's growth looks set to continue

Ned Holmes reports

Amongst its many nicknames, Delaware is known as the 'small wonder'. A handle that seems appropriate where its recent performances in the captive market are concerned. The state licensed 46 captives last year, impressive in the current market conditions but a drop compared to 2017, when 117 new captives were licensed in the state, leaving the number of active captives in the state above 1,000. Steve Kinion, director of the bureau of captive and financial insurance products, Delaware Insurance Department, emphasises, however, that it is not just quantity that is important to the state.

Kinion explains: "We have a commitment to licensing captive insurers with sound business plans formed by reputable individuals. Measuring a captive domicile is not just the number of captives; it is also the size of captives, and the amount of premiums they receive."

"In 2017, Delaware's captive annual premiums increased to $12.5 billion dollars from $4.5 billion in 2016. That makes Delaware the second largest captive domicile in the US in terms of total premium."

The Delaware Advantage

The state prides itself on the 'Delaware Advantage', a collection of benefits that it offers to businesses. These include: flexible and modern business entity statutes, respected courts, exceptional service, stable environment, significant case law decisions, and unsurpassed corporate law expertise.

It offers a flexibility in terms of the captive structures that can be formed, licensing pure captives, agency captives, association captives, branch captives, industrial insured captives, risk retention groups, sponsored captives (for example, 'protected cell captives' or 'rent-a-captives'), and special purpose financial captives.

Additionally, the state is one of few US domiciles to offer series captives, which are structures that are owned by a parent company with individual captives or cells. They differ from segregated cell captives as rather than treating the cells as accounts, a series captive allows those individual members of the series to be treated like a captive.

These 'series business units' (SBU) differ from a segregated cell captive in that SBUs exist in accordance to alternative entity laws and not pursuant to the captive insurance statutes that define protected cells.

This has a number of notable advantages. It means series captives are not subject to the minimum premium tax requirement or a standard minimum capitalisation, are more flexibility to define its governance mechanisms, and can be designed for simpler administration than a protected cell captive. Another advantage, is that series entity law protects the assets of one SBU from the debts and obligations of other SBUs.

Regulation

One of the key recent changes to the Delaware market is the conditional licensing legislation that was passed in October last year. The speed-to-market programme, which is operated through a web-based protocol system, allows for selected captives to receive a conditional license on the same day an application is submitted to the Delaware Insurance Department, with six months to establish a permanent licence in the state.

Captive's are required to provide with "evidence of the minimum capital and surplus required by chapter 69 and a certification from the captive owner that the application materials comply with the requirements of chapter 69" and carries a $100 fee.

This allows captives in Delaware to conduct business while the regulator reviews their application, and has been well received, as 30 of the 46 captives licensed last year were on conditional licenses.

He states: "It permits the issuance of a conditional license to a captive insurance applicant on the same day as application submission. Only Delaware offers a conditional licensing method prescribed in law."

Joanne Shaver, president of the Delaware Captive Insurance Association and senior vice president of the Intuitive Companies, agrees with Kinion on the importance of the legislation, and notes that it has been a "positive move for the domicile".

She adds: "Throughout 2018, the regulators and the association worked closely together to ensure the legislation would be well received by the industry. The Delaware Department of Insurance feels as if the new legislation has given it a competitive edge over other US domiciles because of the captive's ability to write coverage immediately."

"The Delaware Department of Insurance is anticipating continued growth throughout the year due to the success of the conditional licensing process."

Another recent regulatory change was the move to extend the annual filing and tax payment deadlines from 1 March to 15 April, which according to Kinion, "allows the captive insurance industry an additional six weeks to better prepare a financial statement".

Relationship

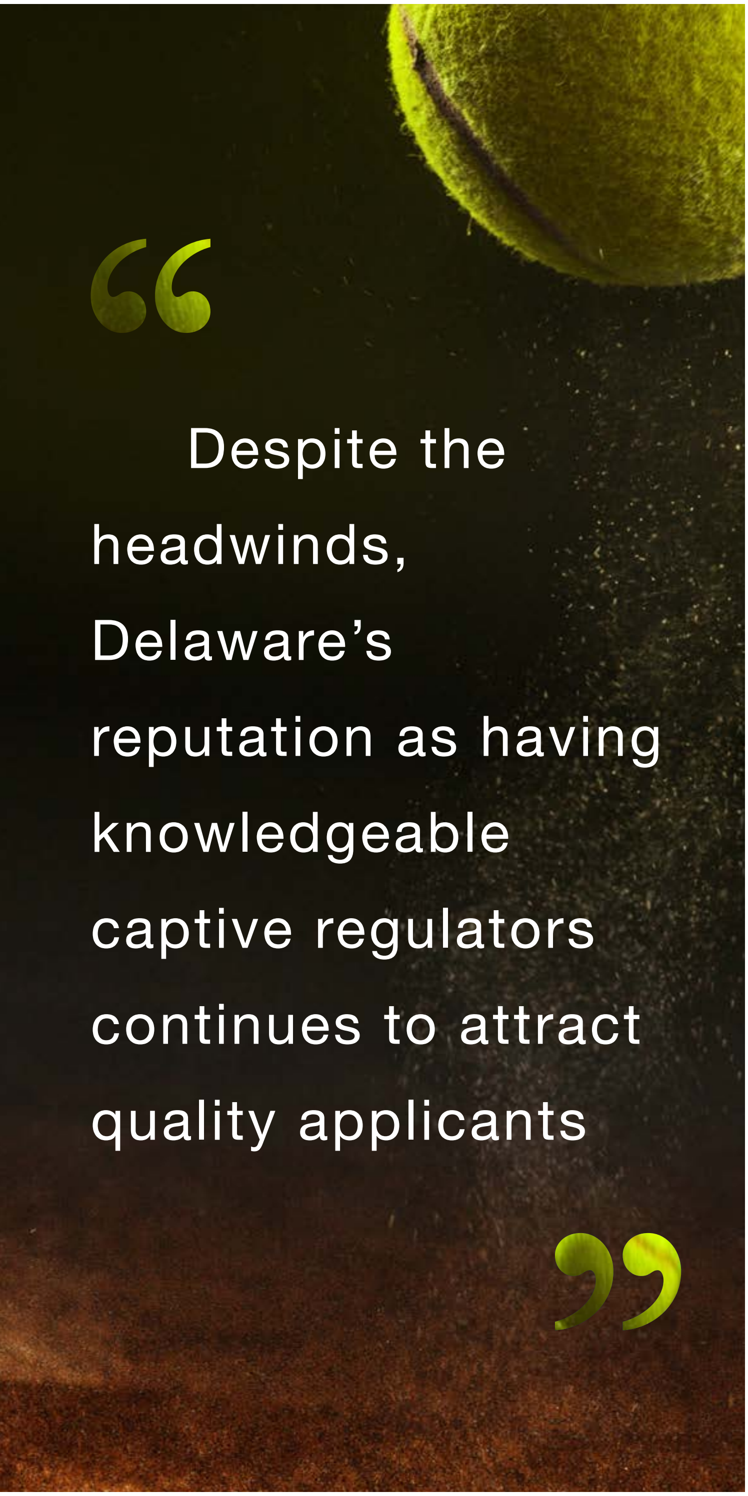
The strength of the relationship between the captive insurance industry and the regulator, which is evidenced by the collaborative work done on the both conditional licensing legislation and filing date extension in 2018, is one of the domicile's key strengths.

Shaver says this collaboration sets Delaware apart from other US markets. She explains: "The regulators in Delaware are very receptive to discussions and open to ideas to improve the way that captives are regulated here."

"At the same time, the regulators are not afraid to say no when it is necessary, which leads to a level of mutual respect between the regulators and the association that has benefited the state for many years."

Kinion echoes Shaver's comments and says that the "good relationship" is upkept by frequent communication between the two parties. He adds: "The DCIA serves as the eyes and ears for the regulators because it provides valuable information about what is occurring in the industry. We want to hear what the industry has to say."

Jerry Messick, CEO of Elevate Captives, says during a long relationship with the state, it is the regulator's attentiveness and willingness to evolve that has set Delaware apart.



"They're very responsive every time we make a request," states Messick.

"That's not just convenient for us, but it means our clients can execute on their risk financing objectives much quicker."

"What differentiates them is their willingness to be open to new ideas and spend time to learn. Elevate put together the first statutory trust captive in Delaware for adverse party legal risk. After several meetings, they embraced the concept and the captive was born."

Looking ahead

Messick suggests that moving forward, this progressive attitude will be key to continued growth for Delaware.

He expects the state to remain a leader in the space and to continue to excel, but highlights its need to maintain sufficient resources to service its current captive portfolio, in addition to being open to new ideas, such as cannabis.

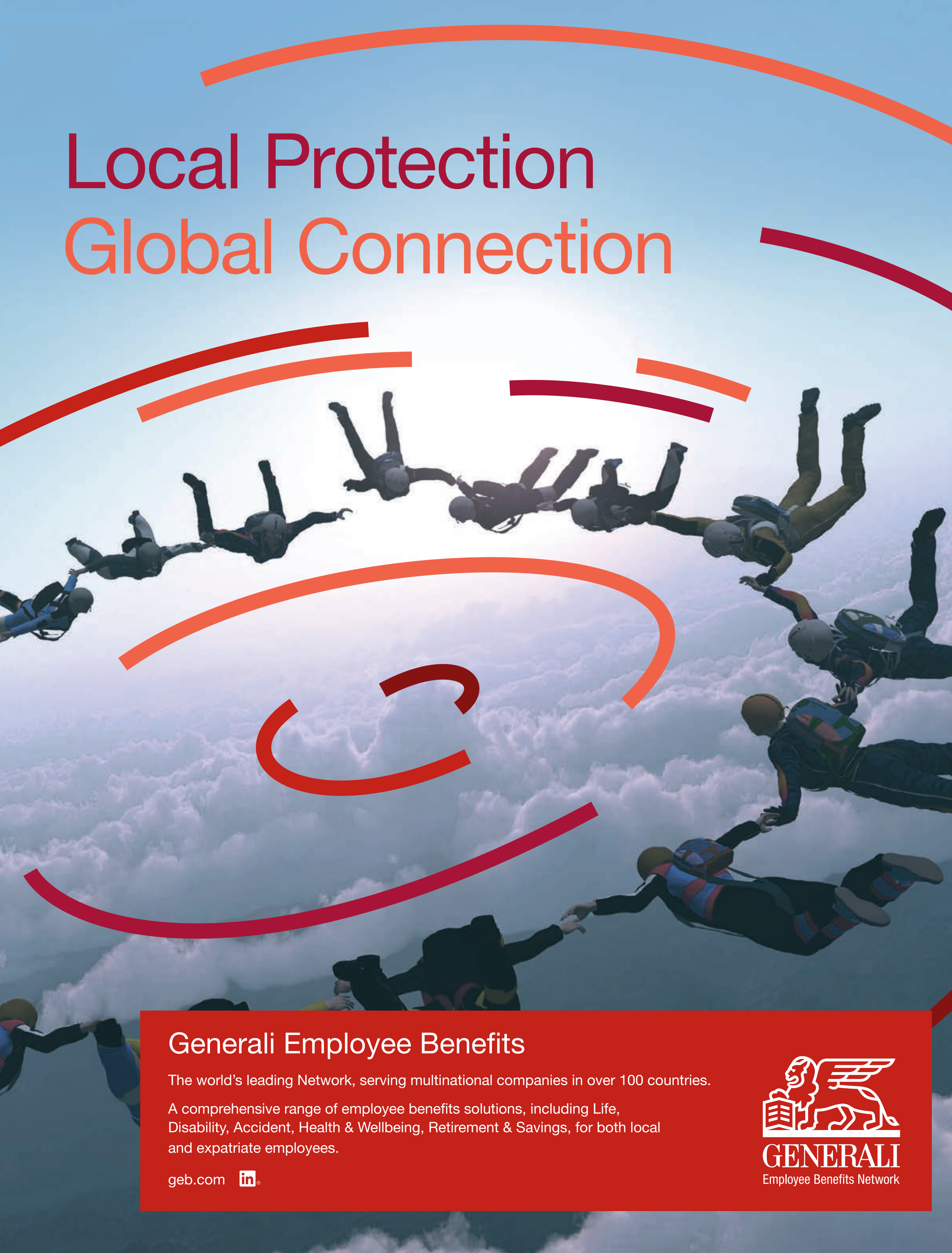
Additionally, he highlights the need to continue to weed out abusive captive structures. Messick refers specifically to section 831(b) micro captives, which have been the target of continued scrutiny from the Internal Revenue Service (IRS) in recent years.

Over the past two years, two key US Tax Court decisions, Reserve Mechanical and Avrahami, have ruled against the structures, which were also included on the IRS' dirty dozen list. Kinion says that these decisions, in addition the federal law changes imposed by the Protecting Americans from Tax Hikes Act, must be taken into consideration from a regulatory standpoint.

He says: "Captive insurance regulation is evolving. I have been the chief captive insurance regulator in Delaware since 2009. 10 years ago we regulated captive insurance differently than today. Delaware's regulation is evolving to these and other changes."

Kinion remains optimistic about the outlook for captives.

"Captive insurance formations faced a number of challenges in 2018. Despite the headwinds, Delaware's reputation as having knowledgeable captive regulators continues to attract quality applicants.Despite the headwinds, the fundamentals of captive insurance remain the same. Captive insurers formed for risk transfer purposes should overcome the headwinds." **CIT**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A convenient truth

Climate change is rising up the risk agenda, and as with other emerging risks in the past, Ned Holmes explores the reasons why captive insurance is well set to offer a solution

Climate change is a threat that is becoming impossible to ignore. Last October, a UN body on climate change warned that the world has just 12 years to limit global warming to a maximum of 1.5 degrees centigrade, or face significantly increased risk of hazards, such as droughts, floods, poverty and extreme heat.

For a third consecutive year, environmental risks dominated the Global Risks Perception Survey in the World Economic Forum's 2019 Global Risks Report.

In the report, environmental risks accounted for the top three risks by likelihood (extreme weather events, failure of climate-change mitigation and adaptation, and major natural disasters) and four of the top five risks by impact (failure of climate-change mitigation and adaptation, extreme weather events, water crises, major natural disasters).

Climate change and its impact is becoming an issue that must be addressed by businesses and risk managers. Stuart King, president and CEO of Strategic Risk Solutions (SRS) Europe, suggests that first and foremost it is important to view it from a risk management standpoint. He explains: "Climate change is high on the risk agenda, and irrespective of how you look at it from an insurance or a corporate standpoint, businesses have to do something."

Ellen Charnley, president of Marsh Captive Solutions, explains: "From extreme weather events to water crises, the effects of climate change are increasingly exposing businesses to new and unpredictable risks."

She explained: "Sometimes these effects are catastrophic in nature or interfere with an organisation's ability to do business, which in turn increases operational costs impacting organisations."

She adds: "But for every global uncertainty that leads to gaps in traditional coverage, there is a captive solution that can be used to mitigate the risk and improve the parent company's climate resilience."

What can captives do?

The flexibility of captives means they're well suited to providing solutions for emerging risks, which may be unquantified and lack risk data, be difficult to price, and lack commercial market solutions.

Alex Gedge, business development and captives executive at JLT Insurance Management, explains that coverages for emerging risks like climate change are becoming more common in the captive market.

She says: "Traditional property, casualty and liability still make up the majority of captive insurance coverage written, but more so they are used for cyber, supply chain, employee benefits and other coverages which represent a big risk to businesses."

King outlines the role captives can play in supporting a company's management of climate change risk. He says: "Climate change is an emerging risk, which is very hard to quantify. The captive can act as an incubator for that unquantifiable and difficult to price risk. Companies already have that risk in their balance sheet, so, the captive just formalises it, understands it, and quantifies it."

"The captive can then act as a conduit to transfer that risk to the insurance or reinsurance market."

Charnley highlights: "For every global uncertainty that leads to gaps in traditional coverage, there is a captive solution that can be used to mitigate the risk and improve the parent company's climate resilience."

"Captives can improve organisations' climate change resilience through multiple solutions, including access to coverage, funding for catastrophic losses, insurance-linked securities, and coverage for wind, flood, and business interruption."

She offers an example: "Pollution and smog in China that shuts down a large city for days can lead to some contingent business interruption losses that are insurable, but coverage can be difficult to secure through commercial markets."

"These limited options can be a driver for captive formation."

An opportunity

Clearly captive insurance has a lot to offer businesses who are looking to better mitigate their climate change risk, but what sort of opportunities does this emerging risk offer the captive industry?

Charnley believes it provides proving grounds within which captives can show their effectiveness as a risk management tool, especially for emerging and unquantified risk–perhaps a timely opportunity, with the number of lawsuits brought against or involving captives (mostly micro captives) in recent years.

She says: "Any new risk that is difficult to insure becomes an opportunity to demonstrate the versatility of captives. In the past, captives may have focused on writing traditional or predictable risks but as utilisation has increased over the years, we see many captives writing high-severity, low-frequency risks too."

"Climate change is one of several trends that may alter captive owners' strategies and while this is certainly a challenge, there is also opportunity here to demonstrate the inherent flexibility that a captive can provide when addressing emerging risks."

King highlights the opportunity the captive industry has to help businesses take action against climate change, and to be a force for good.

He explains: "On a macro level, the insurance industry is doing a lot to support climate change, in terms of natural weather and hazards. That is the work that companies such as Munich Re and Swiss Re do through the governmental bonds that they issue."

"At a granular level the insurance industry needs to be taking action. The insurance industry cannot just be the last resort, we need to address the risk."

Carbon Risk Solutions

A practical way of addressing that risk is to aid companies with their overall reduction in carbon, something which King is doing through Carbon Risk Solutions (CRS), a programme launched in 2015 by SRS to identify how risk management techniques can support corporate commitments to becoming carbon neutral.

CRS developed a risk identification methodology in 2016 that included the use of captives.

The methodology was a response to a comprehensive analysis undertaken by CRS on the impact an unforeseen increase consolidated carbon emissions might have on a multinational's ambitions to become carbon neutral.

Following on from launching awareness for the programme last year, CRS are putting on a number of workshops with sustainability directors and risk managers in 2019. King's ambition is to partake in an innovation sandbox and have multiple clients by the end of the year.

He comments: "We are talking with a regulator at the moment to be part of an innovation sandbox. We then would take the clients from theory, to case study, to execution. In a years time I would hope that we have 10 customers in the innovation sandbox."

Ahead

Despite the suitability and opportunity discussed, climate change remains an emerging risk that is rarely covered by captives. Gedge, however, suggests this is beginning to change.

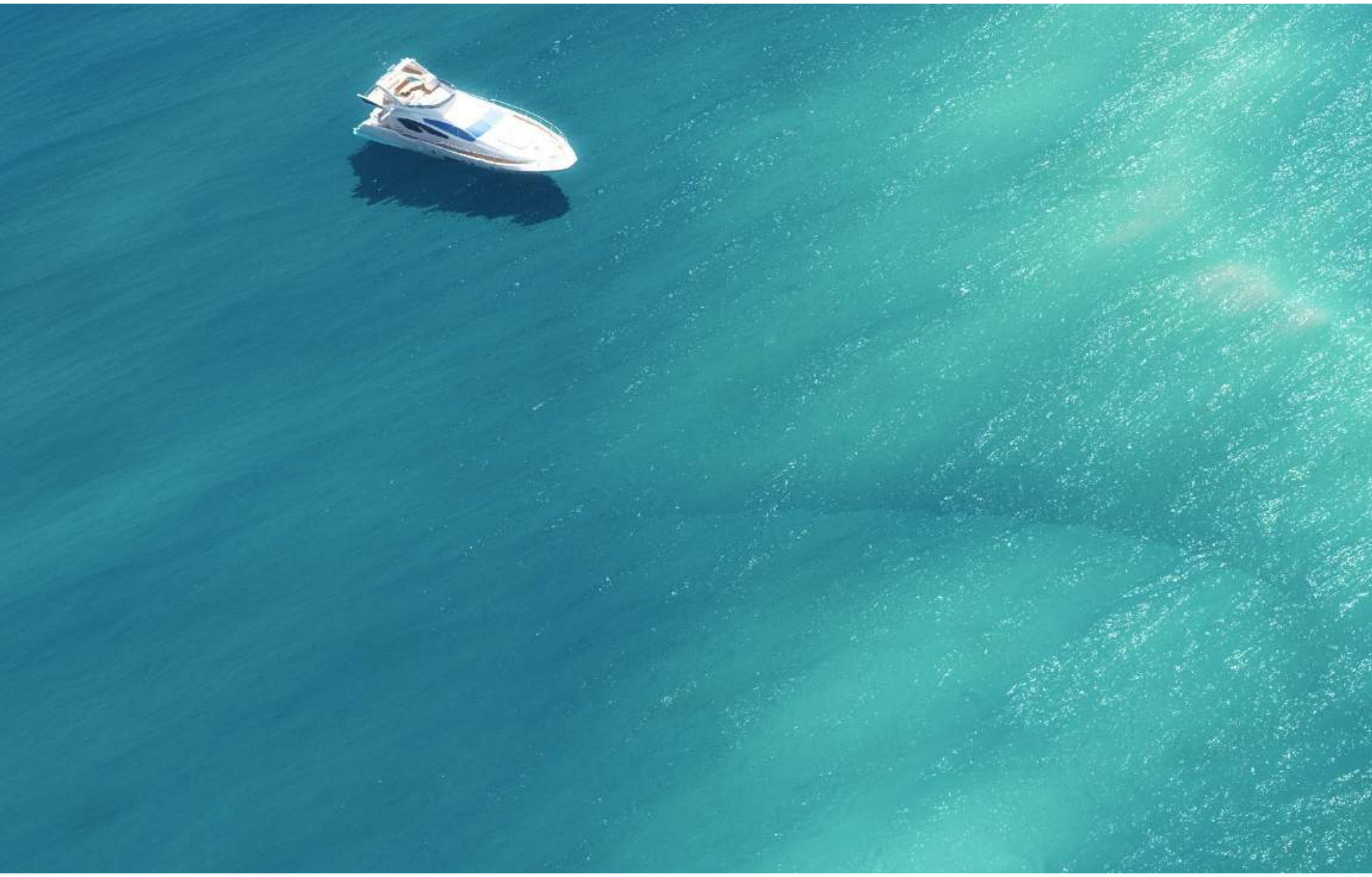
"With increased data and analytics capabilities captives are able to expand their remit to a wider variety of risks," says Gedge.

"Environmental risks have increased in profile and frequency in recent years, so these risks are increasing in relevance for businesses who are exposed to the impacts of climate change."

"It's not a risk that is commonly covered in captives, but it's something that is getting higher up risk managers' agendas."

Charnley concludes that as climate change rises up risk managers' agendas, captives need to be considered as an appropriate risk management tool.

She notes: "Current and prospective captive owners should consider the advantages to writing property, wind, flood, business interruption, and supply-chain coverage into their captives in order to protect against these climate-related risks." **CIT**



An island of substance

Kim Willey, senior legal counsel at ASW Law, breaks down the economic substance legislation adopted 1 January 2019, and explains why Bermuda's captives are well-positioned to satisfy its requirements

A wave of economic substance legislation has been adopted, effective 1 January 2019, across the British Overseas Territories (including Bermuda, the Cayman Islands and the British Virgin Islands) and the Crown Dependencies (including Jersey, Guernsey and the Isle of Man). This legislation requires companies that are resident in such jurisdictions and carrying on certain relevant activities (which includes insurance) to evidence that they have adequate substance in their respective jurisdictions.

This new legislation will have significant implications for those doing business in these jurisdictions, particularly those entities that hold their intellectual property assets through entities resident in such jurisdictions. The impact on captive insurers is, however, moderated, as captive insurance business already generally has a substantive connection in its jurisdiction of regulation.

Pressure for greater economic substance

Economic substance legislation is the result of a commitment made in 2016 by the Council of the EU to prioritise policy efforts to combat tax fraud, evasion and avoidance, and money laundering both at an EU and a global level. The EU Code of Conduct Group was tasked by the EU Council in 2016 to undertake a screening process in which certain non-EU

jurisdictions were comprehensively assessed against standards of tax transparency, fair taxation and compliance with anti-base erosion and profit shifting (BEPS) measures (the Organisation for Economic Cooperation and Development's initiative to combat BEPS).

As a result of this assessment, the code group expressed concerns in 2017 that the jurisdictions assessed did not have a legal substance requirement for entities doing business in or through the jurisdiction. In 2017, the code group also published 'The EU List of Non-Cooperative Jurisdictions for Tax Purposes'. In order to remain off of the list, governments in the jurisdictions assessed by the code group committed to adopting economic substance legislation by 31 December 2018.

As a result of this commitment, economic substance legislation has been adopted in many of the British Overseas Territories and Crown Dependencies which service the captive industry.

The code group is assessing the strength of this legislation and its implementation and failure to satisfy this assessment could result in a jurisdiction being placed on the list. Consequently, further refinements to the legislation adopted and the regulation and guidance provided in each jurisdiction is expected.

Bermuda–a leader in the captive world

As home to almost 750 captives at last count in 2017 (not including programmes run in segregated accounts of rent-a-captive structures), Bermuda is the largest captive domicile in the world. Bermuda, along with the Cayman Islands, Guernsey and the Isle of Man amongst others, have each adopted economic substance legislation.

Each act is slightly different, and this article focuses on the Bermuda legislation given its significance to the captive industry.

Application of economic substance to Bermuda captives

The Bermuda Economic Substance Act 2018 (ESA) provides that all registered entities, which includes Bermuda companies, limited liability companies and partnerships that have elected to

> The Bermuda insurance industry has long encouraged a substantive connection to the Island. As a result, Bermuda captives are well placed to meet the newly adopted economic substance requirements

Kim Willey, senior legal counsel, ASW Law

have separate legal personality, engaged in relevant activities must maintain a substantial economic presence in Bermuda.

A relevant activity is defined in the ESA as "banking, insurance, fund management, financing, leasing, headquarters, shipping, distribution and service centre, IP and holding entities". Insurance is specifically included in this list as a relevant activity.

To comply with the substance requirements in the ESA, each Bermuda captive (called a non-commercial insurer in Bermuda) will need to demonstrate that: it is managed and directed in Bermuda; its core income generating activities are undertaken in Bermuda; it maintains adequate physical presence in Bermuda; there are adequate full time employees in Bermuda with suitable qualifications; and there is adequate operating expenditure incurred in Bermuda, which requirements are further expanded upon in the Economic Substance Regulations 2008.

The term 'adequate' has not been defined, however, the regulations further provide that the economic substance requirements are satisfied if the Bermuda captive complies with the corporate governance requirements in the Companies Act 1981, as amended and the Insurance Act 1978, as amended, and its related regulations (the Insurance Act) including the Insurance Code of Conduct (the Code).

Each Bermuda captive is already required to provide an annual statutory financial return including a declaration of compliance with the Bermuda Monetary Authority confirming that it is in compliance with the Insurance Act and the Code.

Bermuda captives are also required to file an annual declaration with the Registrar of Companies confirming compliance with the Companies Act. Consequently, Bermuda captives should, in practice, not need to adopt any significant changes to comply with the ESA, other than to file an additional annual declaration confirming compliance with the economic substance requirements.

The economic substance requirements apply immediately to any newly formed Bermuda captives, but existing captives have until 30 June 2019 to comply.

This would be an excellent opportunity for Bermuda captives to assess their governance and operational structures. There are significant penalties for non-compliance with the ESA, including civil penalties and/or the Bermuda captive being dissolved.

To ensure ongoing compliance, the Bermuda captives should ensure that:

- A suitably qualified Bermuda resident director is on the board of the captive
- Board meetings are physically held in Bermuda on a regular (at least yearly) basis
- Key management decisions are made in Bermuda, specifically decisions relating to core activities, namely, predicting and calculating risk, insuring or re-insuring against risk, providing client services, and preparing regulatory reports are conducted in Bermuda
- Corporate and financial books and records are maintained in Bermuda

The Bermuda insurance industry has long encouraged a substantive connection to the Island. As a result, Bermuda captives are well placed to meet the newly adopted economic substance requirements. **CIT**

Reinsurance Collateral Trusts

The limitations and costs associated with traditional collateral options such as Letters of Credit have dramatically fueled the growth of alternative risk transfer strategies amongst insurers, reinsurers, captives and corporations. Fluid regulatory, financial and risk management environments demand lower-cost collateral solutions – solutions that afford maximum flexibility with minimal effort to set-up and maintain.

It's a need that has given tremendous traction to the insurance-linked securities (ILS) market and in particular the emergence of reinsurance collateral trusts.

The SunTrust advantage

SunTrust has a long history of escrow, trust and risk management excellence and expertise, with both domestic and international coverage. We work with large and small carriers alike to help mitigate risk for their insurance business needs.

Our collateral trust product at SunTrust can help you with the following insurance needs:

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- Captives
- Surety Bonds
- State Statute Trusts
- Collateral/Depository Accounts

Our expertise, however, is only one aspect of what differentiates our reinsurance trust business from other firms. Additionally, we excel because of:

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- **Rapid Response Times** – while other banks can take weeks to respond, SunTrust can typically resolve covered loss requests in a matter of 24-48 hours; and because we're a custodian for the collateral that secured the contract, insurers get paid immediately.
- **Operational Efficiencies** – from pre-arranged agreements with major insurance carriers to streamlined onboarding and KYC processes, our knowledge of the reinsurance trust business helps ensure that things are done right and done fast.

To find out more about how SunTrust can support and enhance your reinsurance business, please contact:

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Why choose an Insurance Trust?

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WORLD CAPTIVE FORUM

SPEAKERS' CORNER

The World Captive Forum 2019 will tackle some the of the industry's biggest topics and host some of the its best talent. We handpicked a few of our favourite speakers and asked them a question each, to give you a taste of what to expect during their sessions.

WHAT TRENDS DO YOU EXPECT TO SEE IN EMPLOYEE BENEFITS IN 2019?

Due to revised federal regulations, many 831(b) cell captives have been wound up or restructured in order to comply with the new regulations and the Internal Revenue Service (IRS) has ramped up their audits of these arrangements.

We are seeing brokers, managing general underwriters, and carriers become more active in building or expanding cell captive operations to support their clients and prospective clients.

Additionally, we are seeing emerging risks such as elder care and cannabis favour the cell captive space.

Courtney Claflin, executive director of captive programmes, University of California, Office of the President

HOW HEALTHY DO YOU THINK THE MICRO CAPTIVE MARKET CURRENTLY IS?

For the last several years, the micro captive community has been highly scrutinised by the IRS. As a result, many micro captives' tax status has been challenged. There are hundreds of cases pending with micro captives arguing they qualify as insurance companies for federal tax purposes.

As of mid-December 2018, only two opinions have been released, both cases held for the IRS, and there is much concern within the micro captive community.

Companies considering creating a micro captive should make certain that there are strong business reasons to support the captive. Tax benefits should not be the primary consideration.

Sheryl Flum, managing director, KPMG

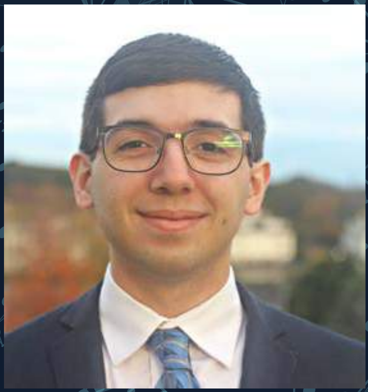
IS THE INSURANCE INDUSTRY UNDERESTIMATING CYBER RISK?

In some cases, policies have been conservative given cyber risk is a relatively new topic and amorphous in nature. The conservative approach is due to several factors, including the lack of historical data, an inadequate understanding of policyholders' cyber risk management practices, and the inability to anticipate new types of losses.

However, we believe the industry can improve estimating cyber risk by building more cyber expertise internally, developing better industry information sharing mechanisms, developing new cyber risk quantification models, and leveraging outside-in assessment approaches to understand the policyholder's risk profile.

Derek Maki, associate partner, McKinsey

DO YOU THINK 2019 COULD BE A LANDMARK YEAR FOR BLOCKCHAIN IN THE CAPTIVE INDUSTRY?



Blockchain technology is still developing, and the captive industry may not be ready to adopt it in 2019. However, 2019 may be the landmark year in which the emerging blockchain industry adopts captives.

A number of blockchain companies and startups explored the idea of (re)insuring different risks into a captive in 2018. As this trend grows and evolves, it will only be a matter of time before captives are benefiting from the use of distributed ledger technology.

Rocco Mancini, vice president, Marsh Captive Solutions

WHAT TRENDS DO YOU EXPECT TO SEE IN EMPLOYEE BENEFITS IN 2019?

Employee benefits (EB) captive programmes continue to be on the agenda of many companies. We see the market continuing to push the boundaries. Four trends we clearly observe are:

- A big push with these financing structures in helping cost management through EB risk pricing strategies
- Enhanced prevention and cost management interventions through the use of enhanced management information
- Advanced use of preferred providers as fronts and administrators
- Support of the delivery of a best in class benefit to the ultimate customer, the employees

Mark Cook, director, Willis Towers Watson

Comings and goings at Butler Snow and more

Butler Snow has appointed Benjamin Whitehouse as senior counsel in its Nashville office.

Whitehouse, the former supervising attorney and assistant general counsel for insurance at the Tennessee Department of Commerce and Insurance, will practice with the firm's regulatory and business group.

In his previous role, Whitehouse served as legal advisor to the Department's captive insurance section providing legal advice on the regulation and formation of new captives in the state.

Additionally, he worked regularly with local industry groups, venture capital firms and private industry to promote and encourage the formation of captive insurance companies throughout Tennessee.

Whitehouse has significant experience in insurance regulatory matters and also held the role of assistant general counsel at the Tennessee Department of Commerce and Insurance.

Prior to joining the Department in 2013, he also held positions at the Tennessee Office of the Attorney General and Reporter, the Naval Safety Centre, and the US Navy.

Donald Clark, chairman of Butler Snow, said: "Benjamin Whitehouse will be a tremendous asset to our firm and to our regulatory and business group, and we are excited he has joined our team."

"His unique captive insurance and tax issues knowledge and government leadership experience will prove valuable in helping our clients successfully navigate insurance matters."

Willis Towers Watson (WTW) has appointed Steve Arrowsmith as executive vice president, head of client services for Bermuda.

An insurance industry veteran with more than 25 years of management experience, Arrowsmith joins WTW from JLT Insurance Management (Bermuda), where he spent 18 years, most recently in the role of CEO.

In his new role, Arrowsmith will be responsible for leading client service and delivering the WTW's value proposition to Bermuda captive and insurance management clients, and the company's for business development.

Prior to joining JLT, he held roles at International Risk Management Group and Coopers & Lybrand.

Paul Bailie, head of WTW's Bermuda captive practice, said he was "really excited" to have Arrowsmith join the team.

He added: "Steve Arrowsmith brings a wealth of experience that will enable us to further enhance our client service offerings and drive innovative risk finance solutions to help clients meet their evolving needs."

Paul Owens, head of WTW's global captive practice, commented: "Arrowsmith's appointment further underlines our commitment to Bermuda and strengthens our team not only locally but globally."

Employee Benefit Management Services (EBMS) has appointed James Vertino as CEO.

Vertino joined EBMS as chief information officer in 2017 and has since been instrumental in contributing to the company's strategic vision and growth. Additionally, he has designed and guided the transformation of the company's technology, meaning the company can better serve members, employers and brokers with a highly differentiated approach while expanding across the US.

Vertino has almost 25 years of leadership experience and expertise in developing technological architectures to improve products and services.

Prior to joining EBMS, he held executive roles at HealthPlan Services, CareSource Management Group, MetLife, and Lehman Brothers.

Kevin Larson, who has held the role of EBMS president since 2010, will continue to contribute his knowledge and guidance as he takes on the role of vice chairman and joins the board of directors.

Vertino will lead an executive team that has seen a stream of recent additions, including Andrew Murray as chief medical officer, Alex Schott as CFO, Ronald Walters as COO, Rob Carr as vice president of technology and client implementation, Matt Johnson as corporate counsel, and Justin Moser as president of ebmsRE.

Vertino said he was “honoured” to be taking on the role.

He added: “I feel well prepared to take us forward into the kind of growth we’re anticipating.”

“Our goal is to become a fully integrated healthcare management company with a national presence, expanding on the legacy programs that made us a respected leader in the third-party administration industry.”

Chris Stormer, shareholder with Bauknight Pietras & Stormer, has been elected to the Delaware Captive Insurance Association (DCIA) board of directors.

Stormer, who joins a 14-member strong DCIA board, will serve a three-year term.

Insurance has been a key part of Stormer’s practice since he joined Bauknight Pietras & Stormer in 1992, and today the firm is recognised as a leading firm in the captive industry.

Currently, he leads the firm’s services to regulated insurance carriers, risk retention groups, association captives, and pure captive insurance companies throughout the US.

Additionally, Stormer is the former chairman, president, and treasurer of the South Carolina Captive Insurance Association, and a member of the Vermont and North Carolina captive associations.

Stormer said he looks forward to being an active board member and helping to lead the state’s captive insurance initiative.

He added: “Captive insurance continues to be highly attractive to companies and associations that want greater control over their insurance programs, their coverage, and costs.”

Joanne Shaver, DCIA president, described Stormer as “a highly regarded member of captive community”.

Shaver continued: “The DCIA is looking forward to having him serve on the board of directors.”

Zurich North America has appointed Jason Meador as the new head of group captives for its Alternative Markets’ business unit.

Meador moves over from his previous role of COO for Alternative Markets and will be responsible for the management of the group captives business, in addition to ensuring strong relationships with captive consultants and boards.

Having joined as strategic business partner in October 2013, Meador has been at Zurich North America for five and a half years.

Prior to joining the company, Meador spent more than eight years at the Boston Consulting Group.

Meador will continue to report directly to David Putz, head of Alternative Markets at Zurich North America.

Putz commented: “Jason Meador’s deep business experience, focus on strategy and innovative mindset position him well for leading our captives business.”

The Self-Insurance Institute of America (SIIA) has named its 2019 volunteer leadership team.

Adam Russo, CEO of the Phia Group and a long-term active SIIA member, has been named as chairman of the board.

Russo will be concluding five years of service as a director.

David Wilson, president of Windsor Strategy Partners, has been appointed as chair-elect.

Gerry Gates, president of stop-loss insurance services at AmWins, will serve as treasurer and corporate secretary.

John Capasso, president and CEO of Captive Planning Associates, has been named as chair of the captive insurance committee.

Other committee chairs appointments include; future leaders committee chair Craig Clemente, COO of Specialty Care Management; international committee chair Liz Mariner Ford, senior vice president of Re-Solutions, a Risk Strategies Company; TPA best practices task force chair Ron Dewsnup, president of Allegiance Benefit Plan Management; and workers’ compensation committee chair Mike Zucco, business development, ATA Comp Fund.

Six non-directors have also joined the board; Kari Nibklack, CEO of ACS Benefit Solutions; Mary Catherine Person, president of HealthSCOPE Benefits; Peter Robinson, managing principal of Integro Re; Kevin Seelman, senior vice president of Lockton Dunning Benefit Company; Jeff Simpson, attorney at Gordon Fournaris & Mammarella; and Robert Tierney, president of StarLine.

A statement from SIIA said: "This outstanding group of senior industry executives will work closely this year with the association's professional staff to further SIIA's mission of protecting and promoting the business interest of companies involved in the self-insurance marketplace."

Independent legacy acquirer Compre has appointed Simon Hawkins as CFO, effective immediately.

Hawkins succeeds Paul Matson, who has played a vital role in Compre's substantial growth over the last three years, completed a four-month handover to Hawkins before he left the company at the end of 2018.

A legacy sector veteran with more than 20 years experience, Hawkins joined the company as COO in July 2018 and will retain his responsibilities for the claims function and the integration of new acquisitions.

Managing director of operations Rhydian Williams will assume responsibility for all other operational areas of the group. Prior to joining Compre, Hawkins held multiple roles at QBE and PWC.

Mark Lawson, co-CEO of Compre, said he was delighted to announce the appointment.

Lawson commented: "Simon Hawkins' experience and expertise will be invaluable in the further development of the group."

"On behalf of the board, I would also like to extend our thanks to Paul Matson for his significant contribution and our best wishes for the future."

In December last year, Compre completed their largest portfolio acquisition to date by acquiring two portfolios from Assicurazioni Generali.

Beecher Carlson has promoted Peter Kranz to executive managing director, captive practice leader.

Kranz has been at Beecher Carlson for almost 14 years, joining the risk management broker in February 2005, and most recently holding the position of managing director in which he oversaw US East Coast captive operations.

Prior to joining the company, Kranz had roles at Bilodeau Wells & Company and Grippin Donlan & Roche.

Kranz will continue to be based in Burlington, Vermont.

The Risk Management Society (RIMS) has appointed Gloria Brosius as its president for the 2019 term.

Brosius, who is director of risk management and insurance for Pinnacle Agriculture Distribution, will lead the society, effective 1 January.

A member of RIMS for 22 years, Brosius joined the board of directors in 2014, and has also held multiple board positions with the RIMS Rocky Mountain Chapter, including service as president from 2005 to 2006.

Steve Pottle, director of risk management services at Thompson Rivers University, will retain his role as vice president.

Replacing Brosius as secretary for the 2019 term is Laura Langone, senior director of Global Risk Management and Insurance at Paypal.

Barry Dillard, director of risk strategies, insurance and compliance at Walt Disney World Resorts, has been named as the new RIMS secretary.

In addition to 13 incumbent board members, there are two additions to the board for the 2019 term, David Arick, assistant treasurer of global risk management, International Paper Company, and Gary Nesbit, senior director of risk management, Young Life.

Brosius commented: "I'm excited to lead this global association, to build on the successes of my predecessors and to continue to create opportunities for risk professionals to make brave decisions, both personally and professionally."

"Expectations have never been higher for risk professionals."

She added: "Business leaders are turning to their risk management teams to deliver enterprise-wide intelligence and dynamic strategies that support organisational goals."

"My presidency will focus on ensuring that RIMS provides a path for the world's risk management community to meet and exceed these great expectations." **CIT**

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