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When virtual becomes reality

Richard Smith discusses VCIA's first virtual conference, what the association has been working on and more

Emerging Talent

Michael Rubalcaba

Senior account manager

Strategic Risk Solutions

Labuan Insight

Farah Jaafar-Crossby reveals there are further developments in the pipeline for its captive market


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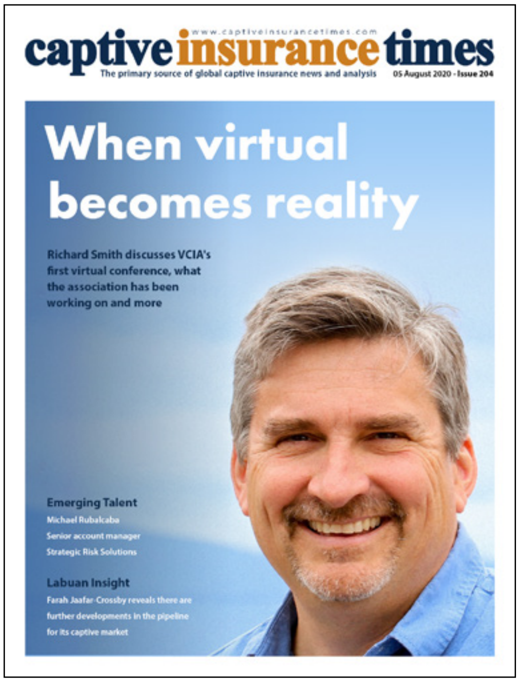

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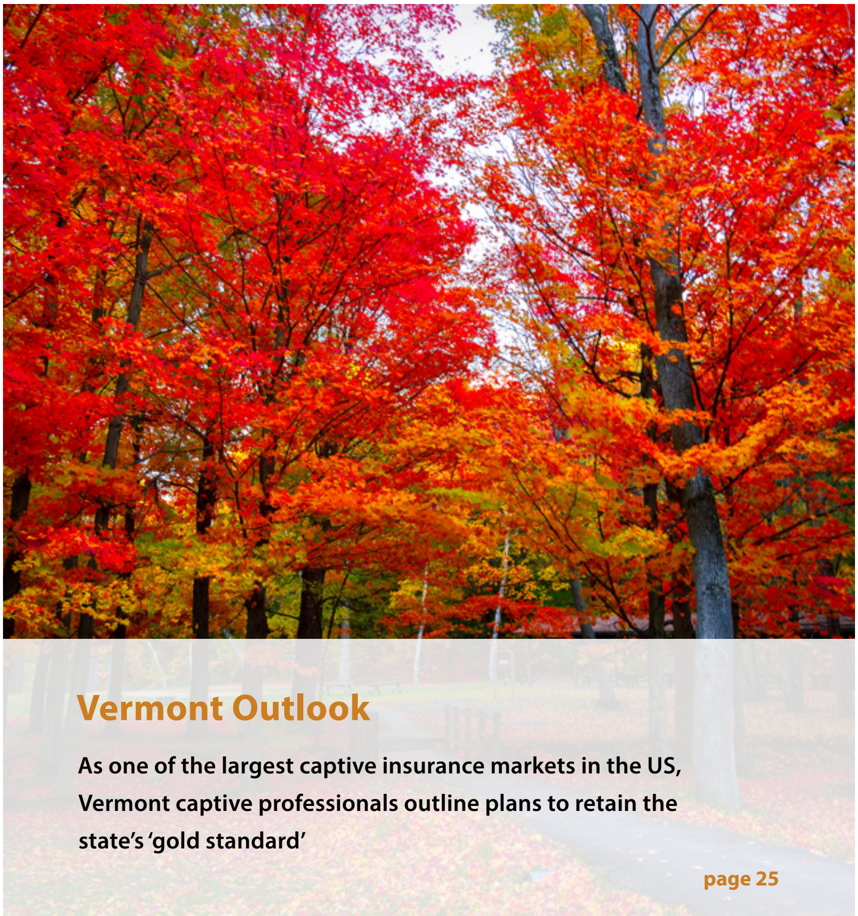

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Captive organisations form coalition to file brief for IRS Supreme Court case

Nearly two dozen national and state organisations in the US have filed a joint amicus brief before the US Supreme Court in the case of CIC Services LLC v. Internal Revenue Services (IRS).

In May this year, the US Supreme Court agreed to hear CIC Services' case against the IRS regarding IRS Notice 2016-66.

The coalition is comprised of leading national, state and territorial captive domicile associations, including Alabama, Arizona, the Captive Insurance Company Association (CICA), Connecticut, Delaware, the District of Columbia, Georgia, Hawaii, Kentucky, Missouri, Montana, Nevada, New Jersey, North Carolina, Oklahoma, Puerto Rico, the Self-Insurance Institute of America, (SIIA), South Carolina, Tennessee, Texas, Utah, the U.S. Virgin Islands and Vermont.

The coalition was formed to demonstrate through an amicus brief to the US Supreme Court the concerns of the larger captive insurance industry with recent actions by the IRS and in support of the CIC Services case.

The 23 organisations stated that while the industry continues to support "appropriate IRS actions to curb abusive practices, it objects to the unnecessary regulatory burdens being imposed on taxpayers without a formal rule-making or appeal process, contrary to law and Congressional intent".

The brief focuses on three key arguments at issue including the heavy regulatory burden and harm being caused to taxpayers, the Administrative Procedures Act (APA), and the Anti-Injunction Act (AIA).

The captive organisations argued that the court should consider the heavy regulatory burden and harm being caused to taxpayers, namely the captive insurance industry.

It explained that Notice 2016-66 requires taxpayers to report duplicative information and imposes an undue financial burden to small- and medium-sized businesses, all for little to no benefit to the IRS.

"These requirements have come at a tremendous cost to taxpayers," it added.

On the APA, the brief explained that it requires federal agencies to allow for a meaningful opportunity for public comment on proposed rules.

Additionally, the brief argued that the IRS did not comply with the APA, rather issuing the notice without offering public comment and review.

It stated: "Despite the lack of a formal comment and review process, coalition members nonetheless provided comments to the IRS that went unheeded."

Reflecting on the AIA, it stated that this prohibition on preventing challenges to the IRS should not extend to reporting requirements, such as are imposed by the notice.

The case is set to be heard at the beginning of October.

The coalition members stated that it is important to note that while the CIC Services case is specific to captive insurance companies electing under IRC 831(b), the unnecessary and overbroad regulatory actions of the IRS are of concern to both the broader captive insurance industry and US business in general. ■

Davies Group expands offering with Citadel Risk acquisition

Davies has acquired Citadel Management Bermuda and Cedar Consulting (Citadel Risk).

Led by CEO Steven Crabb, Citadel Risk will become part of Davies' insurance services practice. As part of the deal, the businesses will be rebranded and will trade as part of Davies Captive Management.

Senior executives Tom McMahon and Mick Larkin, who are both based in Bermuda, and Dennis Silvia, who is based in Ohio, will join Davies and will report to Nick Frost, president of Davies Captive Management.

The deal marks Davies' third acquisition in 2020 following the acquisitions of Keoghs, a provider of dispute resolution and risk services for the UK insurance industry and Codebase8, the automation, modernisation and digital solutions provider and consultancy firm.

Dan Saulter, group chief executive of Davies, said: "I'm delighted to welcome Tom McMahon, Mick Larkin, Dennis Silvia and the wider team to Davies, and I am thrilled that we have been able to work with Citadel Risk to get this deal done. The businesses have an excellent reputation and bring a wealth of experience and deep captive expertise."

"Following the very challenging start to 2020 caused by COVID-19, many US and global insurance buyers are now grappling with capacity reduction and rate increases, making it a good time for us to increase our captive capability for those clients looking for alternative insurance solutions," he added.

Tom McMahon, president of Citadel Management Bermuda, commented: "We are delighted to be joining Davies and look forward to integrating our team and client base into an expanding and dynamic global business."

Tony Weller, group CEO at Citadel Risk, noted: "The Citadel Management team is a great asset for any group, and we're delighted that McMahon, Larkin and Silvia will continue to provide their exceptional captive experience and expertise to Citadel Risk, with the added resources of the wider Davies team: our own group captive, segregated cells and clients will benefit from the pooling of resources."

"Citadel Risk's ongoing commitment to Bermuda is unaffected, and we look forward to working with the new[ly] integrated team to ensure that all our segregated accounts clients continue to receive the high level of service they expect," he added. ■

Registration opens for Bermuda's virtual captive conference

The Bermuda Captive Conference has opened registration for its virtual event, which is set to take place on 9 to 11 September.

The Bermuda Captive Conference committee cancelled the original due to continued uncertainty from the ongoing COVID-19 pandemic.

This year's virtual event aims to bring new opportunities for participants to engage in thought-provoking sessions, resources, participate in sponsor webinars and live-network with other attendees one-to-one and discussion forums.

It will also feature educational sessions, a keynote speaker and a trade floor showcasing industry support services and related organisations.

The event is expected to attract new captives, as well as captive insurance managers, brokers and service providers, corporate risk managers, and owners of captive insurance companies. ■

TJ Strickland launches CPA firm

TJ Strickland has launched a new certifed public accountant (CPA) firm in a joint venture with Travis Hardee.

The new firm, Strickland Hardee, provides audit, taxation, and advisory services to captive insurers across the US and launched in April.

In his new role, Strickland serves as the managing member, based in the firm's Lexington, North Carolina office.

Previously, Strickland worked as audit manager at Rives & Associates. His experience includes providing assurance and advisory services to a wide variety of industries including insurance, employee benefit plans, local governments, and not-for-profit organisations.

Hardee has more than 30 years of audit experience in the area of governmental education agencies, including local education agencies, charter schools, institutes of higher education, and extensive experience in single audits.

He has expanded his expertise over the past five years into auditing insurers including traditional and captive insurance companies. His experience covers life and property and casualty lines of business.

Strickland said he is "excited" to continue serving the captive insurance industry.

"We are committed to building strong relationships with captive management companies and captive owners which transpires from effective communication, old school work ethics, and innovative approaches. These basic principles will be the foundation to our company," he added.

Micro captives not listed on IRS' 'Dirty Dozen' list for first time in five years

Micro captives were not listed on the Internal Revenue Service's (IRS) 2020 'Dirty Dozen' list of tax scams for the first time in five years.

The annual list is a compilation of a variety of common scams that the IRS suggests represent "the worst of the worst tax scams" and should be avoided by taxpayers.

For the last five years, the IRS has referred to micro captives as an "abusive tax shelter" and suggested that certain micro captive "structures, promoters, accountants or wealth planners persuade owners of closely-held entities to participate in schemes that lack many of the attributes of insurance".

Ryan Work, vice president of Self-Insurance Institute of America (SIIA), said that although the removal of micro captives was a positive step forward, "it by no means signals a weakening or slow down in IRS activities aimed at 831(b) transactions, exams and audits".

Work noted that the IRS' use of descriptive terms in its past 'Dirty Dozen' listings of captives, phrases such as 'tax scams' and 'esoteric, implausible risks,' were thrown around like they were the rule in the industry, rather than the exception.

He explained: "That has simply not been the case. The fact remains that, considering the other priorities and the limited resources the IRS has, 831(b) captives should have been removed from the list years ago. This industry is not what it was 10 years ago, where the service seems to be stuck at. To the contrary, it has evolved and advanced during the time through improved practices, management and procedures. While the IRS will continue its oversight and focus on micro captives, and delisting will certainly help with perception, the industry should continue to do what it does best — growing and developing captive insurance structures that mitigate against real evolving risks," he added.

Also commenting on the removal of mirco captives was Peter Kranz, executive managing director and captive practice leader at Beecher Carlson, who noted that it is "encouraging" to see the IRS' 2020 'Dirty Dozen' list did not include 'abusive micro captives' this year.

However, Kranz said: "This is still part of the industry which needs to be cleaned up. It's encouraging because the vast majority of all captives have been established the right way and for the right reasons – sound risk management and financing purposes."

Although micro captives were not mentioned on the IRS' official list, it did state that an upcoming series of releases will be published on topics such as abusive micro captives and fraudulent conservation easements.

The IRS said that these releases "will emphasise the illegal schemes and techniques businesses and individuals use to avoid paying their lawful tax liability".

Kranz noted that those players who continue to promote the abusive structures should not feel too much relief due to the upcoming series of releases by the IRS. He stated: "They will emphasise the illegal schemes and techniques businesses and individuals use to avoid paying their lawful tax liability."

Reflecting on upcoming releases that will focus on 'abusive micro captives', he emphasised that the IRS is going to "continue to pursue the bad actors".

Kranz suggested that this year's 'Dirty Dozen' list focuses on scams that target taxpayers', and noted that the 'abusive micro captives' don't fall into that category.

He added: "So it's not so much their being dropped from the list as it is the list's focus being changed.

Ultimately, if you set your captive up for the right reasons and in the right way, have your transactions reviewed by competent tax professionals to provide guidance on how they should be treated, you should have a level of comfort. It

 images by rrodrickbeiler/stock.adobe.com never means the IRS won't challenge a position, as this possibility to do so has always existed. You just need to do things right."

Alan Fine, tax partner and captive insurance industry group leader at Brown Smith Wallace, also weighed in: "While the fact that the IRS left micro captives off the 'Dirty Dozen' may be perceived as positive news, it should not be interpreted as indicating they are giving up their fight or changing their position."

Commenting on the upcoming releases from the IRS, Fine added: "This language, in concert with the January 2020 release announcing the creation of 12 new teams formed to audit micro captives, makes it clear that the IRS intends to continue its dogmatic pursuit of this segment of our industry."

The IRS has had a number of tax court successes against micro captives over the past few years.

In the Avrahami case in 2017, the US tax court disallowed the "wholly unreasonable" premium deductions the taxpayer had claimed in a micro captive arrangement and concluded that the arrangement was not insurance under long-established law.

Last year, in the Reserve Mechanical case, the tax court determined that the transactions in another micro captive arrangement were not insurance.

Prior to those two rulings, the IRS issued guidance that micro captive transactions have potential for tax avoidance and evasion in 2016, and established reporting requirements for them via Notice 2016-66.

More recently, the IRS mailed a time-limited settlement offer for certain taxpayers under audit who participated in 'abusive' micro captive insurance transactions last September. The IRS announced earlier this year that 80 percent of taxpayers who received offer letters elected to accept the settlement terms. ■

When virtual becomes reality

VCIA president Richard Smith discusses what attendees can expect from the association's first virtual conference, what it has been working on and more

What is the current climate of Vermont's captive insurance market?

The current climate for captive insurance in Vermont is strong. Even before the pandemic emerged, the hardening insurance market produced a spike in interest in captive insurance companies toward the end of last year and into this year. While the pandemic obviously put a lot of discussions on pause as organisations scrambled to deal with the situation, the fact that Vermont saw a marked increase in captives being formed in the beginning of the year shows that enterprises of all stripes are looking at ways to gain more control over their risks in these uncertain times.

What has the Vermont Captive Insurance Association (VCIA) been working on so far this year?

Early in the year, we had already begun to put into motion the programmes for our annual captive conference held in August. With the pandemic coming onshore in late winter, we made the decision to go 100 percent virtual for the conference – and as hard as it was to decide not to hold the conference in person, I think in hindsight it was absolutely the right move.

Moving into this new environment has taken a lot of our time and energy here at VCIA, but not at the expense of our mission: to provide members with legislative leadership, education, opportunities for information-sharing and a network of mutual support with others who share objectives in order to ensure an environment favourable to the continued growth and health of the captive industry and the Vermont captive community.

How challenging has the COVID-19 pandemic been for VCIA?

Moving staff to a work-at-home model went relatively smoothly. Luckily, we are all quite mobile with laptops and cell phones. As with every organisation going through this, it took a little while getting used to working from my kitchen table daily, as well as all that video conference calling!

After putting on a live conference for the past 35 years the hard part for staff was learning how to build a virtual conference while continuing to marshal all the content we provide the industry. The company we chose for the 2020 conference platform has made the transition as straightforward as one can hope for. However, the playbook we used to put on our successful conferences had to be rewritten as we went along. We are very excited to be able to present the type of educational and even networking experiences the captive industry comes to expect with this new platform.

What other challenges has the state's captive industry faced?

The State of Vermont has had to pivot quickly to provide the same robust regulation and guidance to the Vermont captive insurance it is known for. It has done so without missing a beat. There have been no major delays or disruptions with licensing or regulatory issues as the Department of Financial regulation flipped to a work-at-home model back in early spring.

The captive insurance industry still faces many of the same threats it did before the rise of COVID-19. Pressure brought on by a mix of ignorance regarding captives by other state regulators (and in some federal corridors) along with a growing need for states to find revenue will exasperate the situation for the captive industry for some time.

One hopeful sign was at the National Association of Insurance Commissioners. The NAIC's Risk Retention Group task force took several actions to resolve problems RRGs have been having when they register in non-domiciliary states. Overall, the goal was to encourage more communication between domiciliary and non-domiciliary states. Under the leadership of Vermont's Director of Captive Insurance, Sandy Bigglestone, and with VCIA support and input, the Task Force adopted the revised Q&As, Best Practices, and the Uniform RRG Registration Form.

Have you seen an increase in interest around captives because of the ongoing COVID-19 pandemic?

As I mentioned earlier, there definitely has been an increase in interest. Not only has the State of Vermont already licensed more captives this first quarter than they have in a while, speaking to our members across the board I have been told about the surge in interest at all levels. Captive insurance solutions thrive when there are serious shifts in the risk environment – its what they were made for. We saw that after 9-11 most recently. The pandemic presents many, many challenges to all of us and we will be learning lessons regarding the best ways to mitigate such risks for months to come. But there is no other industry better prepared to learn and adopt new risk strategies to help businesses and society handle such events then ours.

You will be hosting the first virtual conference in the captive industry - how will this work and what can people expect from the event?

When we made the decision to go virtual we decided we needed to do it with the most robust 3D digital platform we could find in order to provide our attendees as much of the look and feel of being at our conference as we can.

Upon entering VCIA Virtual, attendees can access education sessions and forums in the theatre, meet virtually with exhibitors in the exhibit pavilion and engage in live discussion with other attendees via the captive lounge. Our resource centre provides materials from the educational sessions, captive press, and more. And just like an actual event, the virtual event has a dedicated help desk to answer any questions you may have and direct you to where you need to go.

> "The current climate for captive insurance in Vermont is strong"

As always, VCIA offers the highest quality captive insurance education, including panellists who are captive owners from some of the most prestigious organisations in the world. Attendees will learn from the best and brightest. The conference will span three days, and it will be possible for participants to attend more sessions than ever before. There will be the 'live' concurrent sessions you choose, as well as the opportunity to stream alternative sessions at a time convenient for you. Attendees can choose to step in and out of the conference throughout the three days. They will be able to ask panellists questions in real-time or save correspondence for a later occasion after the conference.

Because all sessions will be readily accessible, attendees can gain more professional education credits than at an in-person event. CPE, Vermont CLE and CRE credits are available to those who participate in the virtual conference webcasts. Attendees may earn up to 10 credits attending the three-day live event, and an additional 11 credits are possible attending the repeat sessions on 14 and 15 August.

A virtual exhibit hall means that attendees literally have exhibitors at their fingertips. Attendees can navigate the floor, access exhibitors' materials, and make introductions (via a live chat function) in a more time-efficient manner. The energy and visual appeal of a live expo hall will be represented virtually, and exhibitors will have a chance to shine.

Face-to-face meetings, luncheons and happy hours are not the only way for attendees to meet new people or continue building relationships. Participants will be able to have meaningful discussions with other attendees and speakers at our captive lounge, either as part of a group or in private, using the lounge chat function.

Whether within the realm of the captive lounge, exhibit hall, during session Q&As, or through additional open forums, people will be able to easily access their peers and get connected to potential business partners.

By eliminating the time, expense, inconvenience, and the current potential danger of travel, going virtual makes the conference more accessible to a larger swath of people.

What are you most looking forward to about the event?

At the risk of looking like I am picking out favourites (which I am not!) here are a few that I think will be very interesting. 'Using Your Captive to Protect Your Balance Sheet' is very timely as every organisation is coping with the stress induced by the pandemic. Another session that is forward thinking is 'Digital Transformation and Opportunities: What the Captive Market Will Look Like in 2025'.

Completing the first day of the virtual conference will be an insightful keynote address from economist Dr. Robert Hartwig, clinical associate professor of finance and director of the Risk and Uncertainty Management Center in the Darla Moore School of Business at the University of South Carolina, who will speak on the current state of affairs, and the transitioning insurance market, incorporating themes that will resonate through the rest of the conference, such as the impact of the pandemic on the industry.

'Cloud Security and National Association of Insurance Commissioners (NAIC) Data Model Security Law' will educate attendees on what the new security requirements are, educate on what cloud security is, and answer questions on the steps you need to take to be a modern, secure, and legally compliant captive. Our own captive insurance thespian troupe will 'perform' a dramedy that explores the reactions, interactions, strategies, and machinations that are all set into motion when a captive or risk retention group (RRG) has significant adverse development in our session 'Crisis Management - A Case Study Dramedy'.

To top it all off, our final event at the conference is a panel with Dave Provost, Vermont's Deputy Insurance Commissioner, and our other highly experienced panellists, for an engaging and interactive discussion on current hot topics impacting the captive insurance industry.

VCIA Virtual will be a great opportunity for the captive world to meet up, socialise, learn, earn professional education credits, hear great keynotes, and have fun in this time of uncertainty and isolation. We are very excited to present an excellent experience for the captive industry, and have people leave at the end knowing their time was very well spent!

What plans do VCIA have for the next 12 months?

VCIA will look to analyse what worked well and what didn't work quite as well from the virtual conference experience. We will take that experience into our world-class webinars and events throughout the coming year. We are already planning webinars on speaking the insurance language, group medical stop loss, and our always informative captive taxation. Added in there is the ever-popular state of the union for captives with Vermont's Dave Provost.

We will also continue with the other parts of our mission, including being one the primary advocates for the captive insurance industry in the US With over three decades of effective legislative results, VCIA has been successful in providing continual modifications to Vermont's captive statutes, as well as fighting for the interest of the industry in Washington and at the NAIC. Our advocacy efforts ensure that the voice and interests of our membership are heard.

And finally, we will be listening to our members. 2020 has been an extremely challenging year for everyone. Huge shifts in the economy due to the pandemic followed by the sheer uncertainty of what is to follow means we, as a member organisation, need to be asking our members what we can do for them – things like specific educational needs and changes to captive statutes to accommodate the needs of our members are certainly on mind. And finally, what changes does VCIA have to make to match this new reality.

We are very hopeful that the industry can meet again in person on the shores of Lake Champlain in Burlington, Vermont, next summer. However, we with the experience we will gain from this year's conference, VCIA will be ready for whatever comes our way! ■

The IRS Summons to the Delaware DOI

Elevate Risk Solutions' Cassie Bachman discusses the IRS' recent petition to the US Court for the District of Delaware to issue a summons against the Delaware Department of Insurance for documents related to its micro captive investigation

In an attempt to enforce a summons against the Delaware Department of Insurance (DDOI), the Internal Revenue Service (IRS) has recently petitioned the US District Court for the District of Delaware. Their ultimate goal – to allow a federal agency to override a state agency's laws – has serious implications as a precedent.

While the summons is for documents related to the IRS investigation of Artex Risk Solutions and Tribeca Strategic Advisors (as of 2010 fully owned by Artex), there are a few statements included by the IRS that I have not yet seen be directly addressed.

To understand how events have transpired to reach the point of the IRS requesting a court to enforce its summons, it is worth taking a minute to consider what exactly is the purpose of the DDOI's captive bureau. As any authority granted to a regulatory body, we look to the statutes.

For Delaware this is 18 Del.C. § 6901 'Finding Purpose', which states as follows:

- It is determined and declared as a matter of legislative finding that captive insurance companies can serve a valuable risk management function and that their responsible utilisation and the growth of the captive insurance industry in the State of Delaware are in the best interests of this state.

- It is further determined and declared that the purpose and policy of this chapter shall be:

    1. To provide for the regulation of captive insurance companies consistent with their nature and purpose;

    2. To provide flexibility and opportunity to captive insurance companies and to persons utilising them; and

    3. To foster economic development in this state through the growth of the captive insurance industry.

The 'Finding Purpose' statute is comparable to the mission statements of many other large US domiciles but is far more explicit in its goals. The Delaware General Assembly instructs the DDOI to create an environment that facilitates the growth and flexible regulation of captive insurers so that it fosters economic development. Based on these criteria, the DDOI is extremely successful. Today Delaware ranks as the world's fifth-largest captive domicile and the third-largest in the US. A 2016 study prepared by the University of Delaware shows the captive programme contributing nearly $360 million annually to the state's gross domestic product. In 2019, the DDOI's captive insurance programme contributed $4 million of surplus revenue to the state and its largest city, Wilmington.

Some domiciles, but not all, have associations to support the industry, but these associations are in no way tied to the departments and act independently. The associations participate in the industry in various ways. Because the attraction of captive insurers to a state is very competitive, captive insurance regulators must attend industry events to network and attract captive insurers. To provide an example of the different activities of captive domiciles and associations and this industry's competitive nature, for the 2020 Captive Insurance Companies Association conference, captive regulators from 13 domiciles registered to set up and run booths, while two state associations also registered.

On a detailed examination, there are two sections in the declaration of IRS revenue agent Bradley Keltner that I find interesting. The first is on page 2, paragraph 5(a), which states: "In email correspondence that occurred on 25 February 2013, the DDOI agreed to issue certificates of authority to an Artex client with a certificate date of 31 December 2012".

Factually, the captive application approval process in place in 2013 (and through 2018) allowed for a completed application to be submitted up to 11:59 pm on the 31 December. If a full application was submitted and all requirements had been reviewed and met, the applicant was given legal authority to issue policies as of the date of the application's submission, or at a later date if requested. If the application was not approved the company did not receive its license. The process is comparable to file-and-use law and is a common practice among domestic and international domiciles.

Over time it led to the formalisation of the DDOI conditional license process which has been emulated in North Carolina, Vermont, and several other states. As states compete for the quality insurance business, an overburdensome or confusing application process is a good reason for a captive call somewhere else "home".

The ease of availability and communication with a regulator is also a key part of the decision-making process for determination of a domicile and it leads to the second section I find interesting.

In paragraph 5(b) on page two of the declaration states in part: that in another email, the director of the Bureau of Captive and Financial Insurance Products declines a dinner invitation from Artex. As the director explains, "[it's] not that we don't want to, but we've already accepted the invitation of another captive manager for dinner" that evening. The Artex employee and the director then schedule a breakfast at the green room in the Hotel Du Pont with six DDOI employees the following morning.

To place it in context, the breakfast was during the Delaware Captive Insurance Association's Spring 2013 Forum. Conference schedules are tight with board meetings, speaking engagements, and sessions to attend. When everyone is in the same place for a limited period you take meetings whenever there is availability for all parties, including at breakfast.

The registration cost for most conferences includes the cost of food and beverages for attendees. If you're going to talk about captives for more than a few minutes you absolutely need sustenance and preferably gallons of caffeine. All attendees, including the DDOI staff, pay a fee for attendance.

Regarding the breakfast itself, the DDOI is subject to financial disclosure in 20 Del.C. § 5813(e) which requires the reporting of 'gifts' of more than $250, and the Delaware Public Integrity Commission which allows gifts up to $250. I confirmed independently the breakfasts were not reported in any financial disclosure(s). Based on the average cost of breakfast in 2013, unless gold caviar was served it's safe to assume each meal was under $250.

Captive managers, like Artex, are the liaison with captive owners and regulators. There are numerous reasons one would want to meet with the regulators in person. On a most basic level, regulators can answer questions with authority, give sound advice relating to their laws and expectations, and are people you will be working with on an ongoing basis.

One of the first things I did when I joined the industry was attend a conference to meet people. For a person just breaking into the captive industry or new to a company like Artex, the variety of positions and service providers is immense, confusing, and takes years to understand. Getting to know the regulators is crucial and it takes years to develop these relationships. Knowing the regulators on a personal level means you learn who to call for a specific question, how to submit a request correctly, can more easily keep up with changes and better understand expectations, among many other benefits. Efficiency benefits all parties. If the regulators are accessible, and they are in Delaware, then a captive manager becomes comfortable with recommending that domicile to their clients. Captive managers, like any other professionals, do not want to be embarrassed before their clients. That is why they seek out domiciles where they have access to and get straight answers from the regulators.

Clients and industry professionals want to work with a domicile who has a credible reputation and are reliable in their communication. They certainly want to create their insurance company in a state where they and their confidentiality will be respected and defended.

While the above topics were interesting to me based on what Keltner may be implying, the email messages about having breakfast are an easily dismissed distraction. At the core of the summons, the IRS is asking the DDOI to ignore its confidentiality law and provide documents that the captive insurer has not expressly given permission to share.

In part, 18 Del.C. § 6920 requires: All portions of license applications reasonably designated confidential by or on behalf of an applicant captive insurance company, all information and documents, and any copies of the foregoing, produced or obtained by or submitted or disclosed to the commissioner and all examination reports, preliminary examination reports, working papers, recorded information, other documents, and any copies of any of the foregoing, produced or obtained by or submitted or disclosed to the commissioner…must, unless the prior written consent (which may be given on a case-by-case basis) of the captive insurance company to which it pertains has been obtained, be given confidential treatment, are not subject to subpoena, may not be made public by the commissioner, and may not be provided or disclosed to any other person at any time.

To the extent of the applicable law, the DDOI has complied with the IRS. It provided 18,331 pages of documents on behalf of 16 captives because they were given permission by those captives. The IRS is not stating the DDOI has not cooperated and required enforcement, it is requesting the DDOI be forced to breach its own laws. In this case, the DDOI would be violating not only the law it is required to enforce, but the trust of all captive managers, their clients, and future clients. Captive managers and their clients want the documents submitted to the DDOI to be confidential and there are many reasons why.

"At the core of the summons, the IRS is asking the DDOI to ignore its confidentiality law and provide documents that the captive insurer has not expressly given permission to share"

> **"If Delaware is forced to disclose the confidential information, it means that any other domicile holding confidential information sought by the IRS may be forced to do the same"**

The majority of small captive insurers, which are the IRS targets, are owned by privately held companies. Privately held companies are not subject to the financial disclosure laws applicable to publicly traded companies.

When a privately held company forms a small captive insurer in Delaware, it may have many reasons to seek the confidentiality offered by Delaware's captive insurance laws. An obvious reason is that they do not want their competitors to know. Perhaps the captive is insuring the product liability for the research and development of a new product, a joint venture with a new business partner, or providing cyber insurance for software and hardware systems the captive owner does not want to be publicly known.

One of the reasons § 6920 exists is to protect trade secrets when a captive insurer is insuring trade secrets.

What is important to note is that § 6920 allows the DDOI to share confidential information with other state and federal government agencies.

However, the DDOI may only do so if the other agency "agrees in writing to hold it confidential and in a manner consistent with this section". Nowhere within the IRS' petition does it claim to have offered such an agreement.

That raises the possibility of the confidential information sought by the IRS being publicly disclosed in a tax court case.

This case is currently to be determined, so hopefully, the next steps in the situation will be for the judge to ask the DDOI to lay out its case.

The judge must weigh the argument of the IRS which is that the IRS believes the DDOI must provide what they ask for.

On the other hand, there are multiple interests to weigh. First, those of the State of Delaware and the City of Wilmington in protecting a captive insurance programme that generates revenue and economic development; second, the interests of the DDOI in not being forced to violate the same law it is charged with enforcing; and finally, the interests of captive insurers who submitted their information to the DDOI with the expectation of confidentiality.

There is a lot at stake. If Delaware is forced to disclose the confidential information, it means that any other domicile holding confidential information sought by the IRS may be forced to do the same. ■

Sharing a vision

Recently appointed Belinda Fortman discusses her new role as director of the captive insurance section at the Tennessee Department of Commerce and Insurance and provides an update on the Tennessee captive insurance market

I am thrilled about recently joining the Tennessee Department of Commerce and Insurance (TDCI) in the role of captive insurance section director.

I appreciate the wonderful leadership, dedication and service to the captive section from my predecessors, and I look forward to carrying on their great work and expanding on the growth of captives in Tennessee under their tenure.

I moved to Tennessee from Vermont in 2013 for the sole purpose of supporting the growth of captive insurance in Tennessee.

Through my decades of experience, being recognised on the national and international level as a leader in the industry, and leading my own captive management firm, I look forward to fulfilling my vision of helping Tennessee grow from an emerging captive domicile to climbing the ranks of a respected captive industry leader. I believe that Tennessee has a bright future ahead and will be recognised as a top domicile globally.

Through my experiences with a client base that has included Fortune 100 companies, large non-profit organisations and mid-sized closely held firms, and managing all forms of captive insurance companies in a variety of fields, I will now be able to focus my industry knowledge to help Tennesseans. As a director for the Tennessee Captive Insurance Association, I saw the Volunteer State modernise its captive statute first-hand. That legislation, and continued legislative efforts, have enabled Tennessee to grow the number of captive insurance companies from two companies in 2013 to more than 200 today.

I look forward to contributing to our continued growth through meetings with business leaders, held virtually now, and in-person when safe again, across our state and expanding relationships as we become a gold standard of the captive industry.

Captive insurance is an option for companies to self-insure certain aspects of their business. Captive insurance is growing overall, and it is an important part of Tennessee's thriving economy. Specifically, the captive insurance sector at the department has an estimated economic impact in Tennessee of $31 million in direct annual spending, employs more than 100 full-time professionals and our captives write about $1.5 billion in premium annually.

All these successes are in large part due to the great leadership Tennessee has enjoyed at the department and the association. I applaud Tennessee's past and current leadership for having the vision to expand the state's captive statute, and I look forward to working with Governor Bill Lee's administration, Commissioner Hodgen Mainda, and business leaders from around the world to continue to build on Tennessee's position as a global leader in captive insurance.

Tennessee has recently grown to become one of the top-tier captive domiciles due to our business-friendly environment, responsive regulatory team, and low operating costs. Tennessee is also such an attractive domicile because of our centralised location. Specifically, Nashville is close to the supermajority of the population in the US and it serves as one of the top travel and tourist destinations in the US.

Additionally, we have a flexible regulatory environment, competitive premium tax rates, options for capitalisation, flexibility for investments and experienced service infrastructure for captives including attorneys, accountants and actuaries. Further, an incentive for having a captive re-domicile to Tennessee is that any alien captive will receive a one-year premium tax holiday. A business can be headquartered anywhere in the world and still choose to have their captive based in Tennessee. Our state welcomes the creation of new captives and captives moving to Tennessee from other national and international domiciles.

Lastly, this is a banner year for the captive industry due to the hardening of the insurance market as companies self-insuring with a captive have experienced less of a business impact than those companies insuring solely in the traditional market.

Forming a captive insurance company has now become a mainstream alternative risk tool to mitigate traditional and non-traditional risks. Furthermore, following the COVID-19 pandemic, many companies are now considering captives to help mitigate business interruption risks, including interruptions caused by pandemics.

Overall, Tennessee is a serious domicile with high standards, a business-friendly environment, an accessible regulatory team and a competitive cost structure.

Our team looks forward to the future growth of captive insurance companies domiciled in this state and to serving you, Tennessee. ■

"The captive insurance sector at the department has an estimated economic impact in Tennessee of $31 million in direct annual spending, employs more than 100 full-time professionals and our captives write about $1.5 billion in premium annually"

Vermont Outlook - By Maria Ward-Brennan

A sweet treat

As one of the largest captive insurance markets in the US, Vermont captive professionals outline plans to retain the state's 'gold standard'

Located on the east coast of the US, Vermont is recognised for the creation of Ben & Jerry's ice cream brand and is the largest producer of maple syrup.

Perhaps the sweet treats on offer have attracted so many businesses to domicile their captives within the state. Vermont's captive insurance industry was first established in 1981 by then-governor Richard Snellings who signed the Special Insurancers Act.

Almost 40 years later and it is now home to 559 captives, as of the end of 2019.

So far this year, Vermont has been busy in terms of captive formations, with 20 new licenses and several applications in process.

According to industry participants, one of the primary reasons for new formations is the hard market cycle businesses are facing, making the renewal of coverage tough in terms of pricing, capacity, and availability.

With a positive start to the year, how will the ongoing COVID-19 pandemic affect the state?

Coping with COVID?

Each year, the state welcomes attendees of the Vermont Captive Insurance Association (VCIA) conference. However, due to COVID-19, VCIA made the decision to host this year's conference virtually.

At the time of writing the US has over four million cases of COVID-19. But how has the pandemic affected the captive insurance industry in Vermont?

Dustin Partlow, senior vice president at Caitlin Morgan Captive Management, suggests that Vermont's captive insurance has "coped very well with the ongoing pandemic".

Given how rural Vermont is as a state, Partlow suggests that much of the industry, including service providers and the regulators, were already set up to work remotely and many were already working remotely on a regular basis.

Partlow explains: "As things have started to open up again and we have seen how the commercial insurance market has reacted to increased premiums, lower capacity and continued reductions in coverage terms and additional exclusions, it has led to more interest in analysing alternative risk solutions such as captives."

One of the worst-hit industries during the pandemic has been nursing homes. Partlow says: "We have started to see increased interest in this industry of utilising captive structures as part of their risk financing solution as the few remaining carriers in the space have ceased writing coverage, have significantly increased their premium pricing, and have added various exclusions for exposure related to communicable diseases such as COVID-19."

Also discussing how Vermont's captive industry has coped during the pandemic, Sandy Bigglestone, director of captive insurance, Vermont Department of Financial Regulation (DFR), says the state has seen almost "no disruption" doing business remotely.

She says: "We understand that while all businesses will be impacted by the pandemic in various ways, we recognise that some will be affected more than others."

"Through our solvency monitoring processes, we will prioritise cash flow and liquidity risks, and expect to see certain results, including investment income declines, decreases in premiums, increases in claims for specific lines of coverage, or a slow-down of claims if operations ceased for a period of time," she explains.

Bigglestone notes that the Vermont DFR established a COVID-19 task force to research and gather information relevant to the pandemic, to evaluate and monitor possible impacts on captives and their owners.

"Undoubtedly, businesses are already experiencing operational and liquidity strains due to the pandemic. Formation of a captive to finance and manage risk at reasonable rates is an attractive proposition. Whether or not companies will seek to address future pandemic risk or expansion of business interruption coverages remains to be seen," Bigglestone adds.

Billing on changes

Early in June, Vermont's governor Phil Scott signed new legislation to strengthen the state's captive insurance laws, increasing efficiencies as well as adding flexibility to regulatory policy and procedures. The captive bill includes new policies related to Vermont's captive protected cells. The changes in the law include providing simplified disclosure for agency captive owners; allowing regulatory discretion in setting the capital of an uncapitalised dormant captive to keep their captive intact at minimal cost, for future reactivation in Vermont; and reducing the minimum core capital for a sponsored cell captive from $250,000 to $100,000.

The bill also allows flexibility to insure unaffiliated business in a cell under the same circumstances as might be allowed in a stand-alone captive and will help keep the captive option open.

Additionally, it explicitly allows cells to form separate accounts within a given cell. The provisions mirror those applicable to standalone captives and extend the protections of statutory clarity.

Other changes to the bill include; flexibility in investments by giving sponsored captive companies, and the cells within said companies, the option to follow the old rules or develop a plan for Department of Financial Regulation approval; and specifying the timing of examination reports for risk retention groups to align with the National Association of Insurance Commissioners accreditation standards.

Commenting on the new legislation, Mary Desranleau, senior vice president, captives, Vermont at Artex Risk Solutions, says: "The key changes are related to sponsored cell legislation. Cells have been in place a few years now and as they develop over time regulations adjust to allow them to be more effective and efficient."

"The reduction in the sponsored cell captive minimum core capital has also allowed Vermont to remain competitive with other domiciles, while still insuring proper levels of capital," she adds.

Richard Smith, president of the VCIA, also suggests that the enhancements included in this year's bill highlight the VCIA's "ability to work closely in partnership with Vermont's Governor and state legislature to ensure its captive law remains the industry benchmark".

Commenting on the protected cell legislation, Smith noted that protected cells are a popular alternative risk transfer mechanism worldwide and are a growth area for Vermont.

He adds: "Cells are more and more often operating like stand-alone captives, addressing similar issues and opportunities. One of the key changes recognises the importance of cells in the captive industry and makes it clear that a cell can operate – and should be regulated – much the same as an individual captive."

Trends

Reflecting on the trends that the state's captive industry is currently seeing, Patricia Henderson, director, operations and compliance at Strategic Risk Solutions (SRS), suggests that during the current unprecedented times, existing Vermont captives are being tapped to loan back dividend surplus funds and/or to defer/waive premium payments to support core initiatives, growth or even survival itself back at the parent.

Henderson explains: "They are being asked to explore new lines and bridge coverage gaps, as well as to absorb larger self-insured retention and write higher excess to lower the impact of commercial insurance and reinsurance premium increases."

Patrick Theriault, managing director SRS East operations, reveals that the demand for new captives has seen a marked increase over the last six months as companies try to proactively predict and adjust to this new normal environment of uncertainty and change.

"Meanwhile, interest in using captives to address healthcare costs via medical stop-loss insurance involving captive insurers has continued to remain of significant interest," he adds.

Bigglestone suggests another trend is companies are favouring increases in their risk retention because of the hard commercial market.

She notes that Vermont is experiencing growth in terms of new captive formations and upsizing of existing captives through approved business plan changes. The rise in business is with more of the traditional/commercial type property and casualty coverages.

"I am hoping the shift in the market will help group programmes retain and attract new members," she adds.

Smith suggests that even before the COVID-19 virus spread worldwide, the insurance market had begun to harden in several lines, impacting the overall industry.

She explains: "Higher prices, more exclusions, and a lessening of capacity creates the kind of environment where risk managers look at the alternative market to manage their organisations' risk. Talking to many of my members at the end of last year and the beginning of this year highlighted a growing interest in the captive insurance market."

"Sure enough, Vermont has already licensed 17 new captives as of a few weeks ago and their pipeline of activity is still full. As a matter of fact, notwithstanding the pause in activity COVID-19 has caused across the economy, Vermont expects a robust end-of-the-year with feasibility studies and formations," Smith adds.

Obstacles

One of the biggest challenges Vermont faces is how to ensure the state holds its 'gold standard' in terms of captive domiciles, according to Partlow.

With more states in the US becoming captive domiciles, and using Vermont's captive statute to create their own captive legislation, Partlow says it's "more important than ever for Vermont to continue to find ways to distinguish itself from those other domiciles".

However, with "people such as Smith at the helm of VCIA and Dave Provost, deputy commissioner captive insurance division at Vermont DFR", he explains Vermont is in a "great position as a domicile to ensure it continues to be at the forefront of the industry".

Desranleau also suggests that although Vermont is facing the challenge of remaining competitive with other captive domiciles, and maintaining a high level of standard, it is allowing changes to compete with other captive domiciles.

"I'm not overly concerned as Vermont has been in this industry a long time and has been able to remain very competitive, with high standards," she adds.

In addition, Partlow suggests that the one significant challenge is in regards to self-procurement taxes. He states: "Should more states begin to get more aggressive in terms of their pursuit of self-procurement taxes, it may lead more companies to look at domiciling their captives in their parent company home state."

"This is one of the greatest threats to the captive industry in the State of Vermont, and unfortunately with the extensive financial ramifications of the virus, it is believed many states may step up their pursuit of additional tax revenue", he adds.

Future

Looking towards the future, Smith believes that Vermont will continue to see increased interest in the captive industry for the next 12 months or more – and the state will continue to play a leading role in the space.

"Although captives will play an increased role in risk management and risk finance, there will also need to be time to reflect and analyse the impact of the pandemics to see where captives can play a constructive role in the future," he notes.

Desranleau and Partlow also predict that the captive industry will have significant growth in Vermont over the next 12 months in terms of new formations.

Partlow explains: "The current commercial market conditions which I expect to only intensify in the coming months will lead to an increase in interest in captives."

"I firmly believe Vermont will continue to see an increase in interest in the formation of cells, single-parent captives and also risk retention groups."

Elsewhere, Henderson highlights that Vermont will need to "remain vigilant" in its COVID-19 response, especially as the predicted second wave hits and countermeasures playout/expire.

She explains: "Regulators and captive service providers alike need to institute safeguards against employee burnout and be able to address other stress factors outside the usual captive and insurance realms."

"We expect DFR to continue to offer flexibility such as they have done with waiving in person Vermont board meeting attendance and deferring notarisation requirements, in addition to the various business plan approvals concerning loans, dividends, return of capital and premium waivers/holidays etc," Theriault concludes. ■

Labuan Insight - Maria Ward-Brennan reports

Celebrating 30 years

As the jurisdiction celebrates its 30th anniversary, Labuan IBFC's CEO Farah Jaafar-Crossby reveals there are further developments in the pipeline for its captive insurance market

How has Labuan's captive market changed since its launch?

Believe it or not, 2020 is our 30th year as a jurisdiction. Labuan International Business and Financial Centre's (IBFC) recognition as a captive jurisdiction has been relatively recent, although we have been offering captive solutions since the passing of the Offshore Insurance Act 1990.

Historically, Labuan was predominantly a Malaysian-centric IFC and as such the majority of our captives were Malaysian. The first Labuan captive was established in 1998 and is still operational today. We now have over 50 captives. Originally in 2010, 75 percent of the premiums were Malaysian-based, and now the ratio is 65 percent foreign. There has been a tilt between domestic-based captives and foreign captives in Labuan, as the recognition of Labuan IBFC as a regional reinsurance and risk management domicile has taken off. Today we are home to more than 220 insurance-related licensed entities, representing the largest group of licenses in the jurisdiction.

We are home to Asia's only rated captive, Energas, and to the world's first Islamic captive in 2014, which is owned by a Sri Lankan entity. Our range of self-insurance vehicles is also wide, ranging from single-parent captives, to association captives, and we are the only jurisdiction in Asia with the protected cell company (PCC), which we have seen a lot of demand for recently.

So essentially, being domiciled in Labuan IBFC means you are part of a much larger ecosystem, providing a comprehensive landscape from which operationalising a captive is possible with ease. Our banking industry with more than 50 banks also assists towards this aim, as do our insurance managers. The other thing to note about Labuan as a captive domicile is the wide range of structures we offer. We also have a single point regulator, Labuan Financial Services Authority, which has a proportional approach to regulation. As a wholesale financial and risk intermediation centre, I think all of this adds to the attractiveness of Labuan IBFC as a jurisdiction.

What trends are you currently seeing in the Labuan captive insurance sector?

With the COVID-19 pandemic, it is has been very hard to predict trends. A lot of people are saying it is a hardening market and we can expect to see a strong take up of captives. Obviously, I would love to agree, however, I think we are looking at very harsh economic climate conditions, which will mean that, while it is an ideal time for us to share the benefits of a self-insurance vehicle the actual set up of such vehicles, it might take longer to fruition. The people that have been very far-sighted in setting up captives before the pandemic are the ones that will fully benefit from having a captive now, especially if there is a healthy cash reserve within the captive which may be drawn from.

I think a lot of companies are looking to set up self-insurance to a certain degree but whether it will be immediate remains to be seen. Setting up an effective captive vehicle might sound easier than it is, and the timeline for board approvals and conducting a viability study will require a fair amount of time. Even though in Labuan IBFC. the regulator has a one-month client charter for licensing approvals, the run up to that point takes a fair amount of time. So it is hard to say what we are going to see going forward in 2020-21. However, I must admit I think in 2021 we will see some growth in the captive numbers, but the current challenges surrounding the pandemic and general uncertainty, coupled with the ever hardening market, is providing an ideal environment from which the acceptability and adoption of captives will grow.

For Labuan IBFC, we are seeing a lot of interest in the protected cell company, we've seen three or four come onboard in 2020 alone, of which two are Japanese, targeted at smaller Japanese related entities, as there is the appreciation that captives can provide cheaper access to markets when there are cells involved.

Gross written premiums are increasing in Labuan - how do you see the trend continuing?

When you look at the growth of gross written premiums, I see this upward trend continuing. It is simply a sign of the depth of the reinsurance market being developed in Labuan IBFC, a sign we are proud of.

We are home to 64 reinsurers, 52 captives, 23 managers and 80 brokers, all of which have an accumulated capitalisation of close to USD800 million and enjoy an average profitability ratio of 44 percent. If that doesn't depict a strong wholesale risk intermediation hub, I am not sure what will.

What are the biggest challenges for the captive market in the region?

When we started executing our market development plans in 2020, we were looking at really pushing for further promotion of captives in Asia and expanding it to Europe due to the changes in prudential landscape there.

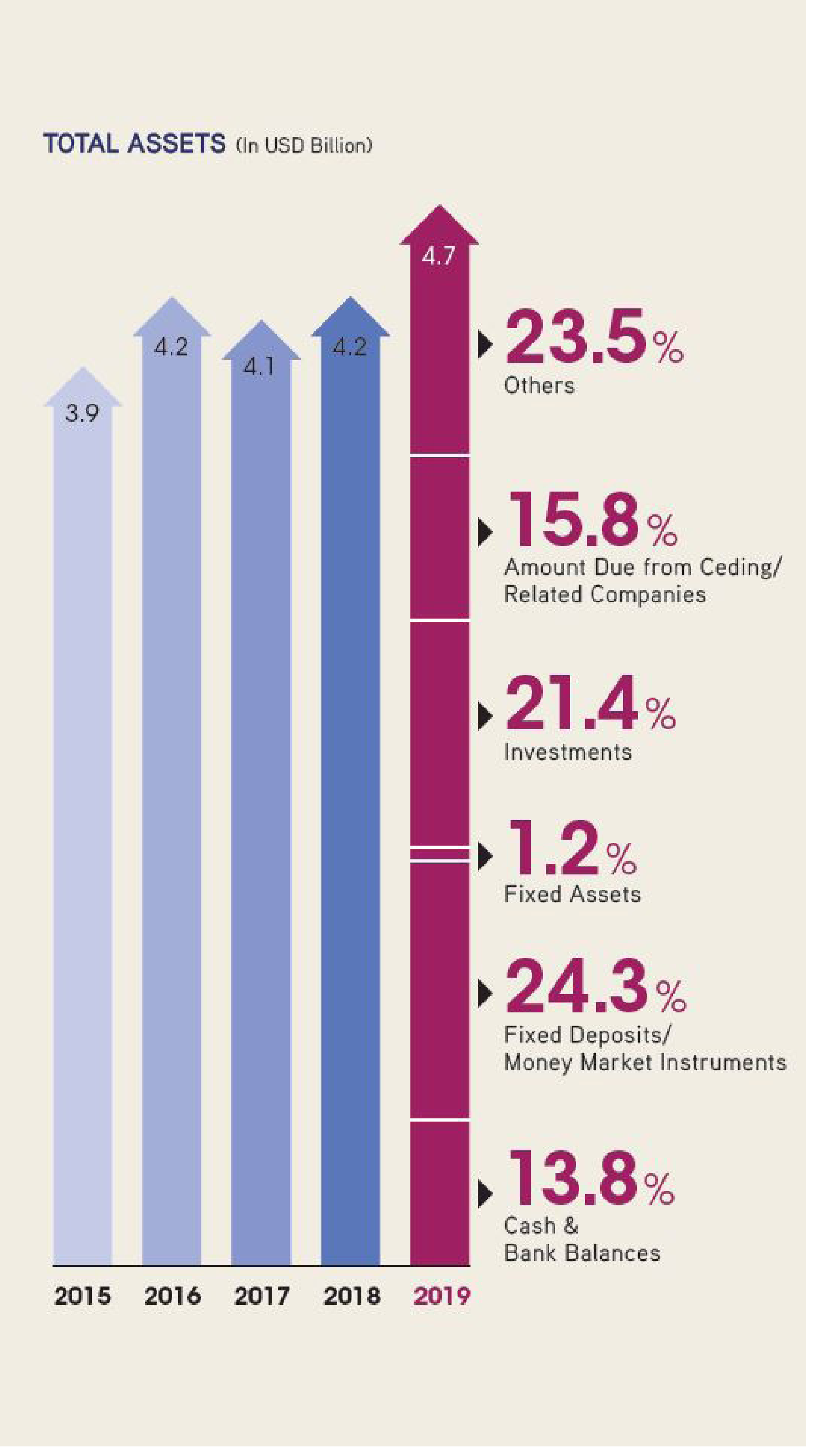
The work that we have done thus far has been about generating awareness of self-insurance and engaging with risk managers in Asia. In 2020, our original market development plan was to go deeper to offer even more beyond pure captives, such as PCCs and association captives. We felt that the market was ready to try and understand that a little bit better.

With the challenges we currently face, we have had to bring together risk managers, captive owners, and captive managers in a more sustainable environment. If anyone were to look back at 2020 in 2021, it would not be about growth and expansion, but rather sustainability.

In that sense, what we have tried to do is ensure that regulatory processes in Labuan have some flexibility. They have been extremely helpful and allowing for market players and owners to go to them and explain their situation to then gain the most benefit from the regulatory relief on offer. One of the things that Labuan thrives from is the fact that we have a business-friendly proportional regulator, that is a one-stop regulator you can speak to on a personal, one-on-one level. They have a business-friendly approach which is essential in a wholesale financial services environment.

Having said that, there is a natural check and balance between being business-friendly and being compliant. As part of Malaysia, we are bound by the international standards of the Malaysian Ministry of Finance. This is unique to Labuan and is not found in other jurisdictions. That is one of the reasons we have been very compliant and adhere to these international standards that provide for a natural check and balance system, which keeps Labuan IBFC's proposition as a midshore centre intact.

Looking forward, we are looking at a review of our captive and self-insurance frameworks, which will culminate in certain enhancements to the industry which will be launched by the end of the year. We have appointed an international specialist consultant to assist us and have been engaging with partners to determine how we can better our self-insurance proposition. So watch this space for further developments on the Labuan offering. ■



Michael Rubalcaba

Senior account manager

Strategic Risk Solutions

Personal Bio: I currently reside in central Vermont where I was born and raised. My time outside of Strategic Risk Solutions is spent doing almost anything outdoors.

In the winter months, you'll find me hunting and snowmobiling in the northern parts of Maine and New Hampshire.

Spring and summer also keep me true to my roots maple sugaring and working on my land as well as capitalising on any opportunity for competition. Being a former collegiate football athlete, I now feed my competitive spirit with running and mountain obstacle races.

Professional Profile: I joined SRS in June of 2012 after graduating from Nichols College where I received my bachelors of science in business administration with a concentration on finance and accounting. I progressed through to assistant account manager and account manager roles to earn my current position as a senior account manager for SRS.

I am responsible for the oversight and overall management of accounts. I have experience managing single parent and group captives including reciprocals, as well as captives underwriting workers compensation, professional and general liability, and medical stop loss. I have worked with both for-profit and tax-exempt captive owners.

How did you end up in the captive industry?

During my junior year in college, I interned for a public accounting firm outside of Boston. Knowing I wanted to return to Vermont after graduating I started exploring finance and accounting firms based in Vermont. My cousin who was working with Willis Towers Watson at the time got me to look at the captive industry. The exposure and opportunity to consult with business owners in every industry was intriguing. I came across SRS and was immediately intrigued by their client and employee focused approach.

What has been your highlight in the captive industry so far?

The highlight of my captive career so far is the relationships that have formed with colleagues and clients.

The people within the captive industry and captive owners are unbelievable.

They are welcoming, experienced, and have a common goal. It's one of the few industries that gives you the exposure to company executives, this makes the industry unique and provides an experience that can't be taught.

"I have had the distinct pleasure of working with Mike for over eight years, as an integral part of my captive insurance management service team. He is a quiet champion with a focus, drive and maturity that is rarely seen in someone so young."

"Mike immediately connects with staff, clients and service providers instilling a sense of trust and confidence in his abilities that has laid the foundation for many long and successful relationships."

"No matter the assignment, Mike can be counted on to approach the work with the appropriate mix of professionalism and enthusiasm, as well as respect for the tasks, timelines and complexity at hand."

"He is always the first to embrace the challenge of something new and cutting edge, taking the time necessary to obtain the education needed to succeed. He inspires us all to be our best selves."

Patricia Henderson, director of Strategic Risk Solutions

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

Strategic Risk Solutions' leadership sets a high standard for client satisfaction and employee appreciation.

I believe this model drives employees to their best self and helps create an invaluable daily experience for the client and employee.

What is your impression of the industry?

As a whole, the industry is extremely complex and constantly looking to innovate. The industry does not get complacent thus creating huge potential for growth within the industry as captive providers.

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

Having worked at SRS for a number of years, different avenues are beginning to emerge and provide a resurgence to my career at each step. I believe SRS to be a top-notch captive manager and consulting firm. I aspire to be a large contributor to SRS's pursuit of becoming the top service provider within the captive industry.

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

There will always be a new challenge. Be able to adapt and grow with each opportunity. Remain an active listener, this will create opportunities to learn and hone the skills to lead. ■

Dominic Wheatley has joined Cutts-Watson Consulting (CWC) as a consultant.

Wheatley was Guernsey Finance's CEO for five years but announced in December of 2019 that he was stepping down from the role. He left his position at Guernsey Finance on 30 June with Rupert Pleasant replacing him as the new chief executive.

CWC stated that Wheatley's appointment reflects their "ethos of acting as a trusted adviser by recruiting the very best talent in the alternative insurance marketplace and so delivering insightful counsel to stakeholders".

Commenting on his new role, Wheatley said: "After five years of promoting Guernsey, it is great to get back to my old stamping ground in risk management, alternative risk transfer and captives. Even better to do so as part of the CWC team with its established international reputation in this area."

"This is a very interesting time for captives with a lot of new risk issues and hardening international insurance markets and I am looking forward to helping clients respond to the challenges involved," he added.

Malcolm Cutts-Watson, founder and managing director of CWC, said: "Dominic Wheatley and I worked together for many years building a very successful global insurance management business."

He noted: "When I heard he was available, I jumped at the chance to have him join us and create the old magic.

Wheatley's technical expertise, strategic thinking and marketing insight will be of immense value to CWC and our clients. He is already engaged with an international client." ■

Pinnacle Actuarial Resources has appointed Kendra Letang and Christina Negley as consulting actuaries.

Both Letang and Negley are associates of the Casualty Actuarial Society, as well as members of the American Academy of Actuaries.

Negley joined Pinnacle in 2015 as an actuarial analyst, and later associate actuary at the firm's Bloomington, Illinois office. Her specialised area of business includes loss reserving, loss cost projections, and captive feasibility studies.

Based in the firm's San Francisco office, Letang joins from Uber Technologies, where she also held the position of consulting actuary and gained experience in strategic actuarial support, as well as pricing and financial analyses.

Joe Herbers, managing principal of Pinnacle, commented on the appointments: "Kendra Letang and Christina Negley are tremendous additions to our consulting team as accomplished actuarial professionals with deep knowledge of our industry."

"They also share exceptional communications skills, which will drive great value for our clients, and add to the considerable bench strength of our consulting team. Kendra and Christina will make many contributions to the success of our firm and our clients." ■

Strategic Risk Solutions (SRS) has hired Jonathan Reiss as managing director and as a member of the board.

Reiss, who is currently president of strategic partnerships at Hamilton Insurance Group in Bermuda, is expected to join SRS during Q4 2020.

Based in Bermuda but with a firmwide global remit, Reiss will assume responsibility for several expansion initiatives, primarily focused on the commercial insurance and reinsurance sector.

He brings over 27 years of experience in the insurance industry and is one of the founders of Hamilton, having previously served as its group chief financial officer.

Previously, Reiss was the leader of EY's insurance practice for the Bermuda, Bahamas and Cayman region.

He is the son of Fred Reiss, who is widely regarded as the founder of the captive insurance industry.

Commenting on his new role, Reiss said: "I am thrilled to be joining the terrific team at SRS and in a role that builds on my prior experiences."

"SRS is a leader in the captive management industry, and as the largest independent manager, is the best alternative to the broker owned managers. Because of its impressive client base and broad insurance manager and risk management capabilities, SRS is uniquely well-positioned to expand into complementary areas of the broader insurance industry," he added.

Brady Young, president and CEO of SRS, stated: "I am excited to have someone of Jonathan [Reiss]'s calibre and experience join the firm. We have enjoyed consistently strong growth in our core captive management and consulting business including the expansion of those businesses geographically."

He continued: "We also believe there are opportunities to provide more services to commercial insurers and reinsurers as well as developing new products, services and risk capital to support our existing captive client base."

"Reiss will play a lead role in helping us evaluate these opportunities and, where appropriate, to implement solutions." ■

Allianz Global Corporate & Speciality (AGCS) has appointed Grant Maxwell as global head of alternative risk transfer (ART), effective immediately.

Reporting to chief underwriting officer Tony Buckle, Maxwell has led the global ART team on an interim basis since February of this year, to provide clients with structured (re)insurance solutions.

Maxwell joined AGCS in 2008 as regional head of ART for the firm's London unit. He most recently held the position of ART head of underwriting and portfolio management.

Buckle commented: "I look forward to working with Grant Maxwell and his team to further evolve ART's client offering and global model."

"AGCS focuses on serving large multinational companies, who are increasingly seeking innovative solutions to protect their earnings and cash flow risks or to cover unusual or complex risks, where traditional insurance products are inadequate.

"Therefore, ART solutions are an increasingly important differentiator for AGCS in the market," he added. ■

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Mintz has added two new attorneys with captive insurance experience to its insurance and reinsurance practice, based in Washington DC.

Deirdre Johnson and Paul Kalish are both joining as members and have both previously practised at Squire Patton Boggs.

Johnson is a seasoned litigator who focuses her practice on representing insurers, reinsurers, and captive insurers in a broad spectrum of coverage disputes and handling domestic and international arbitration proceedings and litigation involving insurance and reinsurance matters.

She represents companies in disputes concerning life reinsurance treaties and defends public corporations in class action lawsuits, securities litigation, and US Securities and Exchange Commission (SEC) enforcement actions.

In the reinsurance/insurance litigation side of her practice, Johnson has extensive experience with all types of coverage disputes, including those involving professional liability, life and health, variable annuity, general liability, surety, product liability, first-party property, and environmental matters. She has represented numerous clients in disputes arising under policies on the Bermuda form. Her work also encompasses guiding clients through US-based, Bermuda, and London arbitration proceedings.

Kalish is a litigator with more than 30 years of experience serving the insurance and financial services industries. He focuses his practice on insurance and reinsurance matters, frequently representing clients in coverage disputes involving tort and environmental claims, class actions related to claims handling practices, international arbitrations, and liquidations.

Since 2000, Kalish has also served as counsel for the Coalition for Litigation Justice, a nonprofit established by property and casualty insurers to address abuses and inequities in mass tort litigation. He also advises insurers and captive insurers on new insurance products and policy language.

In addition to these hires, Suman Chakraborty and Ellen MacDonald Farrell also join as members, and Elaine Panagakos joins as Special Counsel of Mintz' insurance and reinsurance practice.

Commenting on the new hires, Bob Bodian, managing member of Mintz, said: "When highly accomplished lawyers such as Deirdre Johnson, Paul Kalish, Suman Chakraborty, Ellen MacDonald Farrell, and Elaine Panagakos decide to come to Mintz, we think it makes an important statement about our firm, both in terms of our growth trajectory and our exceptionally collaborative culture."

"This group has practised together for years with great success and complement and augment our existing capabilities. We are pleased to welcome them to support our clients' complex insurance and reinsurance needs," he added. ■