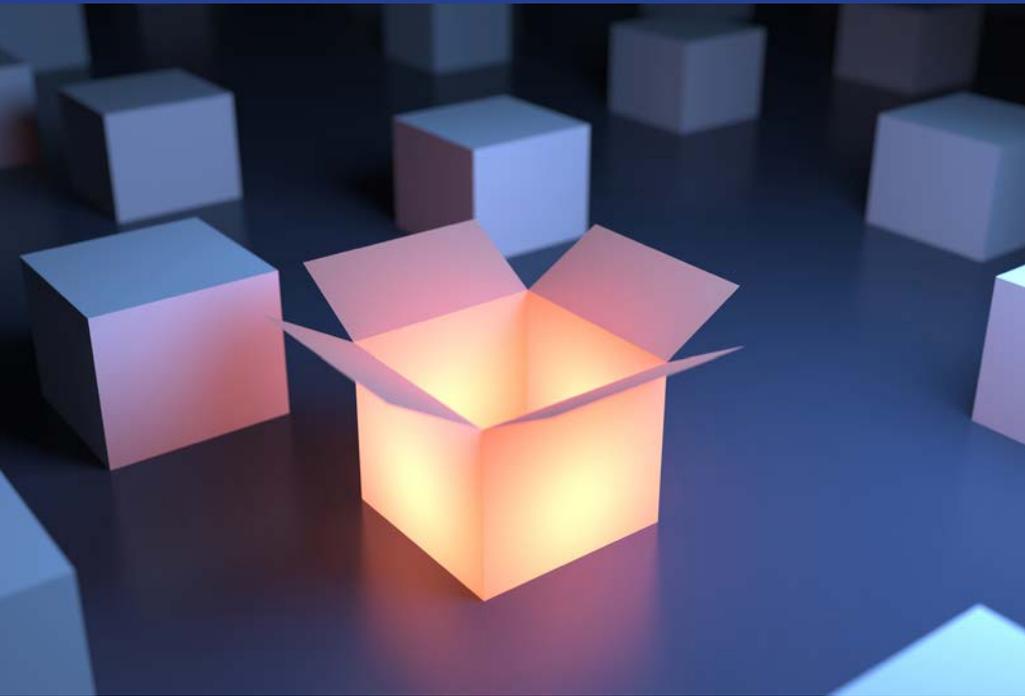


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UK consults on ILS framework

The UK has opened a consultation on a new regulatory framework for insurance-linked securities (ILS) business.

A document issued on 1 March outlines the benefits that an ILS business would bring to the UK, as well what the possible framework would look like once implemented.

Chancellor George Osborne confirmed in 2015 that the government would begin working with the insurance industry and regulators to develop competitive tax and corporate structures to allow ILS deals to be conducted in the UK.

Property and casualty cat bond issuances totalled \$5.91 billion last year, with outstanding risk capital reaching \$22.64 billion, according to GC Securities.

According to the consultation document, London could be well-placed to carve out a significant slice of the ILS pie.

It says: "The government believes that, with the right framework, London can make a major contribution to the continued growth and development of ILS business."

"London is the largest global hub for commercial and speciality insurance risks and can offer a cluster of specialist insurance and capital market expertise that is unmatched in the global market."

"By supporting innovation within a trusted and robust regulatory framework, London should be well placed to become a leading market for alternative risk transfer," according to the consultation document.

[Continued on page 2](#)

JLT Facilities joins forces with JLT Towner

JLT Facilities has partnered up with JLT Towner Captive Management to offer new solutions.

Guy Ragosta, president and CEO of JLT Towner, commented: "JLT Towner has been growing its group captive and pooling business, so our relationship with JLT Facilities comes at the right time in our company's growth."

JLT Facilities develops insurance programmes, on an open-brokerage basis, to licensed insurance professionals in all states.

Programmes are developed with the industry's insurance carriers and reinsurers.

The firm, with 25 years of experience, combines underwriting and processing skills with reinsurance expertise designed for group and single captive business.

[Continued on page 2](#)

Citadel Risk buys majority share of Cedar

Citadel Risk has purchased a controlling share of Cedar Management, a captive and insurance manager based in Bermuda, and Cedar Consulting, the captive insurance consulting firm.

The existing management team, including Tom McMahon, president of Cedar Management, Mick Larkin, vice president of Cedar Management and Dennis Silvia, president of Cedar Consulting, will remain as substantial shareholders.

They will work together with the rest of the team to ensure continued client service and delivery throughout the integration.

[Continued on page 2](#)

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UK consults on ILS framework

Continued from page 1

Any proposed framework would need to meet the “overarching” requirements of the Solvency II Directive, which took effect on 1 January and “recognises ILS cover provided by special purpose vehicles (SPVs) as a risk mitigation technique available to insurance and reinsurance firms”.

“[The Solvency II SPV framework] is designed to ensure the prudent authorisation and supervision of SPVs used for insurance purposes and we believe that this framework can be applied in a way which meets the needs of market participants and delivers a trusted framework within which the market can operate.”

A Grant Thornton report pointed out in November 2015 that the UK would also need to introduce protected cell companies (PCCs) in the same vein as key ILS domiciles.

The consultation document explains: “We understand that it has become standard market practice to use a bespoke form of corporate entity. This type of entity is most commonly called a ‘PCC’, but other names are used, such as an ‘umbrella company’ and a ‘segregated account company’.”

It continues: “The UK therefore proposes to amend companies and insolvency law in the UK to allow for the creation of PCCs. Use of PCCs will be limited to ILS deals and will be optional for market participants. In other words, multi-arrangement ISPVs may use PCCs but are not required to.”

The consultation will run until 29 April, with a view to draft regulations for a new ILS framework being drawn up later this year.

JLT Facilities joins forces with JLT Towner

Continued from page 1

John Conroy, CEO of JLT Facilities, said: “We specialise in helping producers who need insurance solutions not readily available in the market.”

“We create fully insured and partially self-insured programmes for different risks, and we work with only the best carriers in the industry—including the top specialty insurers. We will design programs that also include reinsurance and captive insurance,” he added.

“We have multiple solutions to fit varied risk challenges, whatever they might be.”

Citadel Risk buys majority share of Cedar Management

Continued from page 1

Both companies will continue to trade under their current names.

Tony Weller, group CEO of Citadel Risk, commented: “We are delighted that we can now bring the organisation into the Citadel Risk Group and begin to develop the synergies which naturally exist. The cooperation during the due diligence and negotiation process between both parties was exceptional, but at the same time unsurprising.”

Silvia added: “I am very excited about how this new partnership will bring together the services and knowledge base of two alternative risk providers in a way that will be hugely beneficial to our clients.”

Cyber plan is needed, says Willis Towers Watson

A multi-dimensional approach is needed to tackle cyber security risk, according to Dominic Casserley, president and deputy CEO of Willis Towers Watson.

In a speech at the Commonwealth Club of California in San Francisco on 19 February, Casserley set out an integrated plan for building cyber security.

He urged organisations in the public, private and social sectors to adopt this proposal as a package, rather than relying on a sub-set of actions in response to growing cyber threats.

Casserley said: “We are in the middle of an extraordinary technological revolution in the way we live and do business.”

“Alongside the amazing cyber opportunity, there are substantial risks. By bringing together technological solutions, by influencing human behaviour, and by developing the insurance market, we can distribute cyber risk in order to enjoy the potential of a connected future.”

In his plan, Casserley addressed governance, technology, people-based challenges and capital allocation.

On governance, Casserley called for oversight of cyber security at the most senior executive level of organisations, and on boards’ risk committees.

On technology, he said it should be assumed that hackers already have access to data on the inside of an organisation.

The average time between a breach and its owner noticing is more than 200 days, so



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Is your Manager listening?

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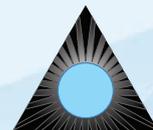
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cyber professionals should perform regular checks on the integrity of information inside systems, he said.

Casserley also encouraged institutions to see technology as a very necessary, but not sufficient, line of defence against cyber threats.

On workforce strategy, Casserley called on organisations to invest in making their employees “cyber-smart”, noting that two thirds of data loss incidents are caused by people within, or close to, the company.

He also observed the link between workforce morale and cyber breaches, where companies with higher morale record fewer accidental or deliberate breaches.

In addition, Casserley highlighted that the role of cyber insurance to cover potential losses, noting that available capital for cyber risk is currently constrained as the markets continue to find it hard to quantify the risks.

According to Casserley, the current estimates put cyber insurance capacity between \$500 million and \$2 billion per risk. However, he believes that the insurance market will deepen when all the stakeholders are engaged in finding solutions to manage cyber risk.

SRS sells stake to Coverys

Coverys has bought a minority stake in Strategic Risk Solutions (SRS).

Under the agreement, Coverys will have a representative on the SRS board but will have no day-to-day operational involvement.

SRS will benefit from Coverys to help expand its growing client base.

Brady Young, president and CEO of SRS, commented: “Remaining independent is paramount to our business for both staff and clients alike.”

“Coverys’s investment provides us with not only an effective option to perpetuate our independence but a tremendous opportunity to build on what we have developed. Like SRS, Coverys has a long-term perspective and is very focused on building strong relationships with its clients.”

Gregg Hanson, Coverys CEO and president, added: “We are excited to have an ownership stake in SRS which we view as the premier captive management firm.”

“Our investment will ensure continued access to SRS’ expertise for Coverys clients interested in using captive insurance options as part of their overall risk financing strategy.”

GC Securities oversees XL Catlin cat bonds

GC Securities has completed the placement of three catastrophe bonds to the tune of \$300 million through Galileo Re for XL Insurance in Bermuda.

The cat bonds, which all apply to XL Catlin subsidiaries, provide annual aggregate protection from named storms affecting the US, earthquakes affecting Canada and the US, and windstorms affecting selected European countries.

They all have an expected maturity of 8 January 2019.

Chi Hum, global head of insurance-linked securities distribution at GC Securities, commented: “The strong market support for each class within the Galileo Re Ltd. Series 2016-1 Notes provides yet another example of the expanding relevance and competitiveness of capital markets capacity including for higher risk profile placements.”

“Execution was also aided by XL Catlin’s reputation and track-record as an intelligent utiliser of non-rated capital sources throughout its risk transfer programme.”

USA Risk heads into ILS market in Malta

USA Risk Group has launched the first securitisation cell company (SCC) in Malta to be set up as a reinsurance special purpose vehicle (RSPV).

Exchange Re, which will be managed by USA Risk’s Malta office, will operate as an open architecture system allowing third-party insurance managers to manage their own cells for clients within the SCC, which allows for the launch of multiple securitisation transactions without incurring any risk of cross-contamination between the different sets of creditors and investors.

USA Risk vice president Jennifer Hawkins wrote in a blog post: “Clients are expected to come from multiple sources, including European insurers, captives and corporates.”

“USA Risk looks forward to leading the way with RSPVs in Malta.”

Malta moved to capitalise on the insurance-linked securities (ILS) sector in 2013 by allowing the formation and domicile of RSPVs.

It was also among the first European jurisdictions to make cell structures available for ILS transactions.

The Kroger Company captives rated ‘excellent’

Queen City Assurance and Vine Court Assurance Incorporated, captives of The Kroger Company domiciled in Vermont, have been assigned financial strength ratings of “A (Excellent)” and issuer credit ratings of “a” by A.M. Best.

The ratings are based on Queen City and Vine Court’s individual and combined profiles as single parent captives of The Kroger Company.

According to A.M. Best, the ratings are also based on both companies’ excellent risk-adjusted capitalisation, substantial net income and underwriting profitability, a growing capital base, conservative investments and a strong adherence to the parent’s robust risk controls and overall risk culture.

These significant strengths are partially offset by their risk concentration, which, A.M. Best said, is the result of being single parent captives of The Kroger Company coupled with a substantial aggregate limit retained by the captives.

Pool Re increases reinsurance capacity for further three years

Pool Re, a mutual reinsurer of insurers and Lloyd’s Syndicates offering commercial property insurance in the UK, has renewed its 2015 reinsurance cover purchased for a further three years.

The renewed cover, which now includes an additional layer, provides £1.95 billion of commercial reinsurance, compared to £1.8 billion previously.

The two-layer programme, placed with a panel of reinsurers led by Munich Re and brokered by Guy Carpenter, mirrors the cover currently provided to Pool Re members, including chemical, biological, radioactive and nuclear risks.

Steve Coates, chief underwriting officer of Pool Re, said: “I’m pleased to announce that Pool Re has bought an additional layer of reinsurance from the commercial market, above the cover that inceptioned last March.”

“This is an important step which reflects an increasing appetite in the reinsurance market for UK terrorism risk and brings us closer to our continued goal of re-engaging global capacity in the provision of terrorism cover in Great Britain. It also further diminishes the UK government’s exposure and distances the UK taxpayers from any potential liability.”

“We will continue to examine ways to secure more capacity from insurers and reinsurers, so as to increase the scheme’s resilience and to ensure that Pool Re only provides capacity that the market is unable to,” added Coates.

BDA hits the road

The Bermuda Business Development Agency (BDA) will reach out to executives in the Southeast US in March to promote the benefits of Bermuda-based captive insurance.

The CFO Forum roadshow is part of a new programme of regional US business development tours to be conducted by the BDA this year.

The roadshow includes representatives from the agency, the island’s insurance sector, the Bermuda Monetary Authority (BMA), plus US-based corporations that benefit Bermuda captives.

The BDA will visit Atlanta, Georgia, on 15 March and Raleigh, North Carolina, on 17 March.

BDA business development manager Jereme Ramsay said: “BDA-led forums are an opportunity for delegates to gain first-hand knowledge of Bermuda’s captive solutions to risk-management challenges.”

“This roadshow includes a panel of captive insurance managers, regulatory experts, plus testimonials from active captive owners representing Fortune 500 companies.”

Apogee captive strong and solid

The Vermont-based captive of glass manufacturer Apogee Enterprises has had its financial strength and issuer credit ratings affirmed.

A.M. Best has affirmed the “A- (Excellent)” financial strength and “a-” issuer credit ratings of Prism Assurance, giving them stable outlooks.

The ratings reflect Prism’s strong capitalisation and solid operating performance, according to A.M. Best, acknowledging its strategic role as the captive insurance company of Apogee and the substantial financial flexibility that it enjoys as a result.

Prism also benefits from its low overhead cost structure and extensive loss control programmes, which have resulted in a decrease in claim frequency and loss expenses across Apogee’s business units.

Partially offsetting these positive rating factors are Prism’s relatively large retained

insurance limits and its limited market profile as a single parent captive, according to A.M. Best.

Vale’s captive ratings downgraded

Moody’s has downgraded the insurance financial strength of Monticello Insurance, the captive of Vale SA, to “B1” from “Ba1” with a negative outlook.

Monticello is the captive reinsurance subsidiary of Brazil-based Vale, a metal and mining company.

The downgrade comes after Moody’s downgraded the captive’s parent company from “Ba3” to “Baa3”.

Moody’s believes that Monticello’s insurance financial strength rating benefits from the support provided by Vale, reflecting Monticello’s close integration with the global risk management function of the group.

The lowering of the parent company’s ratings has resulted in both a diminished fundamental credit profile, and a weakened level of support for Monticello, which caused Moody’s to downgrade the captive insurance financial strength rating.

Monticello is a core part of Vale’s risk management programme and the sole insurance captive utilised in Vale’s property insurance and business interruption programme worldwide.

According to Moody’s, an upgrade is unlikely, but a return to a stable outlook for Vale’s rating could lead to a stable outlook for Monticello.

Securis launches new cat bond fund

Securis Investment Partners has launched its Securis Catastrophe Bond Fund, allowing investors to participate directly in pure catastrophe event risk.

This is the firm’s first UCITS compliant fund launched by Securis, a specialist investment manager of insurance risk-related assets, including insurance linked securities (ILS).

The new fund will be a sub-fund of the Northhill Global Funds ICAV, and will target a net return of 4 to 5 percent.

It will invest in a portfolio of cat bonds, with investments spanning a range of securities and geographies.

The fund will focus on long-term value, charging only an annual management fee, related to returns and liquidity available.

According to Securis, the launch of the fund is related to an expected growth of the reinsurance market, as it expands in to new lines of business.

Securis also noted the increase in catastrophe risk due to ‘coastal urbanisation’ and volatile climate change trends, plus emerging risks such as terrorism, cyber risk and flood risk, which are all adding to growth of the ILS market.

Rob Procter, CEO of Securis Investment Partners, said: “We believe the cat bond market has reached a state of maturity which makes this an opportune and exciting time for Securis to bring its first UCITS-compliant fund to market.”

“So doing enables us to make best use of our strong cat bond market presence and leverage our existing analytical and portfolio construction capabilities, whilst broadening our investor base.”

“As the supply of collateralised protection via cat bonds continues to prove attractive to both existing and new buyers of reinsurance protection, the application of ILS is widening as a risk transfer solution for issuers and investors alike. We believe that ILS will continue to favourably compensate investors for the risks they take on.”

Pinnacle is ‘excellent’

A.M. Best has affirmed the financial strength rating of “A (Excellent)” and the issuer credit rating of “a” for Pinnacle Consortium of Higher Education, a Vermont reciprocal risk retention group.

In addition, A.M. Best has withdrawn the ratings of Genesis Limited, an affiliated Bermudian insurer, as a result of the merger of Genesis into Pinnacle.

According to A.M. Best, the ratings reflect the company’s capitalisation, strong operating results and niche market expertise.

The positive ratings are also derived from the discontinuation of the Genesis operation and the transfer of all of its assets and liabilities to Pinnacle.

The positive rating factors are partially offset by the company’s susceptibility to infrequent but significant losses.

A.M. Best believes that this has led to occasional underwriting loss results in recent years.

The company also has a stable but small number of insured members, which limits its risk distribution.

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Bigger is always braver

Captives are expanding their horizons like never before, heard attendees of the CICA International Conference in Scottsdale, Arizona

The Captive Insurance Companies Association (CICA) board of directors chair Scott Beckman opened the 2016 International Conference in Scottsdale, Arizona, by explaining the reasoning behind the event's 'expand your horizons' theme.

"[It was designed] to challenge people to reach deep inside and push their creative buttons and find a place to enhance the value of their captive operations," explained Beckman, quoting author Claude Bristol when he said: "You have to think big to be big."

CICA's latest Captive Market Study, released every year during the international conference, revealed that captives are indeed thinking big, with 48 percent of respondents planning to cover cyber at some point in the future, making it the most popular non-traditional risk.

A further 36.4 percent already provide cyber cover through their captives, while a resounding 76.3 percent said it is the hottest emerging risk at the moment.

Speaking at conference, Peter Joy, executive vice president at Aon Insurance Managers, said of cyber risk cover: "There is certainly a lot of discussion, however, after only three people in the audience raised their hand when asked if they use it, there is a concern. There is a lot of conversation, but not a lot of action."

Other popular emerging risks to receive notable mentions in the market study were supply chain at 42.5 percent and medical stop-loss at 39.1 percent.

Sean Rider, who serves as a managing director of consulting and development in Willis Towers Watson's global captive practice, commented: "We are seeing people use medical stop-loss in captives and reinsurance on the back end because of cost."

Ken Arguello, risk manager for claims and captive programmes at Dow Corning Corporation, went on to discuss the study's other findings, claiming that the figures were not surprising.

The study showed that 73.7 percent of respondents believe that a captive's ability to plug holes in an insurance programme makes it valuable. Arguello added: "Another reason is its tax benefits."

Some 36 percent of respondents believe that not being able to obtain useful information is the biggest barrier to optimising a captive, followed by 32.3 percent who believe communicating the value of captive to management is a barrier.

The biggest challenges faced when attempting to set up a captive are time and resource management, said 36.1 percent, and a lack of management approval and interest, according to 21.5 percent of respondents.

Arguello believes that captives managers can overcome these challenges with "more communication and involvement with and between all service providers; support and stronger representation by CICA; and by demonstrating the value of adding captive programmes".

In another session, focused on cyber risk solutions, cyber risk was likened to a bar of soap because it's "always slipping away".

Panellist Michael Douglas, director of business development for captive insurance at Aon Risk Solutions, made the comparison as the panel discussed how the cyber threat is transforming from simple credit card fraud into major data breaches at large corporations.

The example of the recent attack on the power grid in the Ivano-Frankivsk region of Ukraine was given. During that cyber attack, hackers planted a virus that erased the programmes that engineers used to monitor equipment.

The virus left 103 cities without power for six hours and another 186 cities partially in the dark because devices that route power and change voltages had been disconnected from the grid.

Despite the obvious criminal element to cyber attacks, it's worth bearing in mind that the threat can come from within.

Stephanie Snyder Tomlinson, national sales leader for Aon's professional risk solutions practice, explained that the cyber threat is further complicated by the identity of bad actors, who aren't always external criminals but are often employees of the business.

Peter Mullen, CEO of captive and insurance management within Aon's global risk consulting group, said captives have reacted accordingly. "In our last survey, 1 percent of clients were putting cyber into their captives, however, that has since increased to 2.5 percent."

He went on to reveal that 60 percent of Aon clients do not buy cyber coverage. In addition, he said that the number of clients that are considering accessing cyber coverage through captives has increased three-fold.

Alec Cramsie, in charge of underwriting US risks for Beazley Group's technology, media and business services team in London, offered up information as the key to figuring out the right cyber solution.

He explained that data and analytics can provide guidance on the financial impact of the decisions about cyber risk and insurance, including on how different programme structures can affect specific organisations.

Douglas discussed the current state of the cyber marketplace, pointing out that capacity fluctuated in 2015 both domestically and abroad. He also explained that coverage has continued to expand in both breadth and limit availability for middle market accounts, but not large accounts.

He added that stronger data is being gathered as more breaches are reported and retentions remain stable and varied for middle market accounts, but noted some material increases for larger accounts. He also said that pricing is continuing to trend upwards, especially in those industries that are most affected. "Some industries are seeing increases of 100 percent to 400 percent and those figures are not uncommon."

The conference would not have been complete without a discussion on the state of play of micro captives, whose presence on the Internal Revenue Service's (IRS) 'Dirty Dozen' tax scam list for a second year running has forced them back into the limelight.

The 'Dirty Dozen' list calls out tax scams that the IRS will be targeting in the coming year, and micro captives using the 831(b) tax code election, whose premiums equal less than \$1.2 million per year, remain within its sights.

Conference attendees heard that making the 831(b) tax election is not always the right choice for micro captives. Daniel Kusaila, tax partner at Crowe Horwath, noted during a comprehensive session on these captives that meeting the \$1.2 million premium limit did not automatically qualify an insurer as a candidate.

Net operating losses can't be carried forward or back from a year in which the company elected 831(b), he explained, while underwriting losses can't be used to offer consolidated taxable income. "If your company has huge losses, you may end up getting hurt," added Kusaila.

But Kusaila did concede that micro captives are gaining in popularity, thanks to a greater understanding of alternative risk mechanisms, catastrophic events, the financial crisis and the abundance of US states catering to captive insurance.

This has led to the increased scrutiny of aggressive captive structures that do not have a non-tax business purpose, explained Kusaila.

Tim Tarter, partner at tax law firm Woolston & Tarter, said: "There is no surprise that 831(b) captives are under IRS scrutiny."

Tarter noted that the captive industry is under the impression that all micro captives are under IRS scrutiny, however, it is just a select number, he assured attendees.

"Just because the IRS is conducting an audit does not mean that anyone has done anything wrong," said Tarter.

The Protecting Americans from Tax Hikes Act of 2015, which passed into law in December 2015, reins in certain micro captive abuses that the IRS is currently combatting.

Those provisions are effective for the taxable year beginning after 31 December 2016.

He also discussed what has remained the same, noting: "The amendments don't have anything to do with the definition of insurance."

"The arrangement that qualified as insurance before the amendments remains a good insurance arrangement after the amendments."

Anne Marie Towle, vice president and senior captive consultant in Willis Towers Watson's global captive practice, went on to discuss the most publicised amendment, which will increase the premium limit for 831(b) qualification.

She explained: "The increased premium limit now creates opportunities for captives between \$1.2 million and \$2.2 million to consider the 831(b) election."

"The premium limit increase also creates opportunities for groups to develop captives to address key exposures with \$2.2 million providing a material amount of funding."

Another popular session discussed the evolving horizons of employee benefit captives, hosted by Peter Bandarenko, a senior consultant and head of new market development at Spring Consulting Group.

Bandarenko revealed the most popular lines of coverage to put through an employee benefit captive are group life and disability, although attempts are being made to broaden their horizons.

He used his panel session to analyse the results of a survey that his firm has conducted to find out how clients such as Coca Cola and Deutsche Bank are using their employee benefit captives.

According to Bandarenko, 57 percent of respondents are considering the inclusion of additional coverage lines in their captives.

The most popular was cyber risk. Other lines included product warranty, terrorism risk, reputation risk, product recall and credit risk.

This follows results that showed that 86 percent of surveyed companies are meeting their financial objectives with their employee benefit captives, which are allowing them to regroup carrier underwriting profits and introduce third-party risks to obtain better distribution and drive tax efficiencies.

The remaining 14 percent of respondents cited "merger and acquisition activity fundamentally changing [their] captive strategy" as one reason for not meeting their objectives.

Bandarenko pinpointed the biggest challenges to expanding the use of an employee benefit captive, including "regulatory hurdles, the US Department of Labor process [for obtaining coverage approval], and fronting/insurance carrier reluctance".

He added that "building organisational alignment between risk and HR" remains a problem, as does "obtaining [the] approval of senior leadership for adding employee benefits to your captive".

He finished by explaining how far benefit captives have come in the last 15 years.

He noted that 15 years ago captives were not common for benefits financing, companies also often perceived obstacles, there were territorial restrictions and there were only a few employee benefits reinsured by captives.

He suggested that people now feel more involved and aware of benefit captives, and that there has been enterprise risk financing movement, an expansion in domicile choice, and that regulatory hurdles are being minimised.

He concluded his session by adding that he believes companies are now looking at captive solutions as the next step in cost savings and control. **CIT**



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Regulatory prospects

The NAIC, the IAIC, and a ban from the FHLB system – captives have their work cut out for them, as Rachel Coan of Locke Lord explains

What is the NAIC's current focus in terms of captives?

The National Association Insurance Commissioners (NAIC) has mainly focused over the past three years on the use of captives by life insurers in connection with reserve funding transactions under regulations XXX (for term life policies with guaranteed level premiums) and AXXX (for universal life policies with secondary guarantees).

After studying actuarial models, consulting with outside advisors, compiling data on these transactions and examining the underlying deal documents, the NAIC in November 2014 adopted a draft of Actuarial Guideline 48 (AG 48), which set forth rules for new life reserve funding transactions after 1 January 2015, subject to certain grandfathering provisions.

The NAIC has tried to assure life insurers that it was not seeking to outlaw their use of captives and special purpose vehicles (SPVs), or to prevent them from employing structured finance to implement their funding goals, but rather to: (i) provide greater transparency to consumers on how life companies used these entities; (ii) assure greater consistency in how state insurance departments review and regulate these financings; and (iii) enhance the protection of policyholders of the underlying contracts by requiring more liquid collateral and increased solvency margins in order for the ceding company to obtain credit for reinsurance.

AG 48 was intended to be a temporary solution for reserve financing transactions until principle-based reserves requirements become effective. AG 48 will be superseded by individual state laws after the NAIC finalises a new Credit for Reinsurance Model Regulation and the states adopt responsive regulations of their own.

In 2015, the NAIC began a process to modify rules governing reserves, capital and hedge accounting for variable annuities to address issues that led insurers to establish variable annuity captives. It is anticipated the NAIC will develop its Variable Annuity (VA) Framework for Change in 2016 so the changes can be implemented in 2017. However, unlike AG 48, which applied only prospectively, the VA Framework is expected to apply to all variable annuity business issued since 1 January 1981.

AG 48 and the NAIC's VA Framework will probably result in fewer captives being formed in the short term for use in connection in Reg. XXX and AXXX transactions and the issuance of variable annuities. The adoption of AG 48 complicates mergers and acquisitions involving companies with Regulations XXX and AXXX captives that now may require restructuring and may lead to tricky negotiations as to whether the buyer or seller assumes the regulatory risk of noncompliance. The VA Framework may impose significant burdens on existing variable annuity captives.

What are the implications of international regulatory oversight, specifically from the IAIS, on the regulation of US captives?

The International Association of Insurance Supervisors (IAIS) is a voluntary membership organisation of insurance supervisors and regulators from almost 140 countries. As a member of the Financial Stability Board, it serves as the international standard setting body responsible for developing principles, standards and supporting material for the oversight of the insurance industry and assisting in their implementation. In November 2015, the IAIS issued its detailed Application Paper on the Regulation and Supervision of Captive Insurers.

Along with tighter regulation of life insurance captives from the NAIC and stricter Internal Revenue Service (IRS) rules on the deductibility of premiums paid to small property and casualty captives reflected in recent amendments to IRS Code Section 831(b), the renewed attention paid to captives by the IAIS reflects a trend towards greater regulation of US captives generally.

While it is unclear whether the IAIS application paper will have a direct effect, its scope, incorporating 18 of the 28 IAIS Insurance Core Principles, is far-reaching, covering virtually all aspects of a captive's operations. To the extent the IAIS application paper sounds themes, such as regulatory consistency, capital adequacy and greater accountability of captive owners, that echo those of the NAIC and the IRS, the IAIS guidelines will strengthen the impetus behind more stringent regulation of US captives.

What do you make of the the recent ban on captives having membership in the Federal Home Loan Bank system?

Federal Home Loan Bank (FHLB) members are eligible for low-cost mortgage loans. Under the FHLB Act, the Federal Housing Finance Agency (FHFA) is charged with regulating membership in the FHLBs. Under the act, traditional insurance companies that underwrite business for the general public have been eligible for membership. However, beginning in 2010, the FHFA became concerned about the practice whereby entities such as real estate investment trusts (REITs) that, themselves, do not qualify as FHLB members, established captive insurance subsidiaries as conduits to gain membership and low-cost FHLB funding.

In 2014, the FHFA issued a proposed rule that would amend its regulations on FHLB membership and, after considering more than 1,300 comment letters, released its final rule in January 2016.

In explaining why the final rules effectively exclude captives, the FHFA stated that, in contrast to traditional insurers: "The primary business of a captive ... is underwriting insurance for its parent company or for other affiliates ... and captives are generally easier and less expensive to charter, capitalise and operate."

The FHFA noted that the practice of otherwise ineligible entities using captives to gain membership had been expanding and that it was concerned that it could "grow to include entities other than REITs, such as hedge funds, investment banks and finance companies".

Although the FHFA noted that REITs play an important role in the residential real estate market, their use of captives was not authorised by or consistent with the FHLB Act.

It stated, in essence, that if Congress wanted to change the rule to expand access to FHLB membership, it could amend the FHLB Act.

What does this rule change mean for captives seeking access? And what about captives that currently hold FHLB membership?

The FHFA's final rule would affect existing captives that are members of a FHLB in several ways.

For captives that became members before the FHFA published its proposed rule in 2014, they can remain members for five years following effectiveness of the final rule, though they are subject to limits on outstanding advances to 40 percent of their assets and on new advances and renewals with maturities beyond the five-year point.

For captives whose membership took effect after publication of the proposed rule, they must terminate membership within one year following effectiveness of the final rule, during which period they must pay existing advances and cease obtaining new advances or renewals of outstanding advances. **CIT**

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The IAIS guidelines will strengthen the impetus behind more stringent regulation of US captives

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Rachel Coan, Partner,
Locke Lord LLP



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People moves

Shake-ups at XL Catlin, Markel and AGCS

XL Catlin has appointed **Daniel Brookman** as senior vice president of alternative capital.

Brookman previously served as head of capital markets at Montpelier Re, where he developed and managed account investment strategies for institutional investors.

In his new role, Brookman will report to Wenzel and will coordinate XL Catlin's alternative capital activities in Bermuda, including oversight of XL Underwriting Managers.

XL Catlin's alternative capital unit was formally launched in 2013, led by Craig Wenzel, head of alternative capital. This unit is focused on developing third-party relationships and assisted with the launch of New Ocean Capital Management.

Brookman will assist New Ocean in its continued build-out of investment opportunities for institutional investors and product design.

Wenzel commented: "Brookman's hiring is a direct reflection on our ambitions to continue to grow our capabilities in the ILS and alternative capital space."

"I am confident that he will immediately make an impact at New Ocean while enhancing our long-term alternative capital strategy."

Markel International has appointed **John Spencer** as non-executive director.

Spencer, who has more than 30 years of experience in the insurance industry, previously served as CEO of Lloyd's insurance and reinsurance broker BMS Group.

William Stovin, president of Markel International, said: "We are looking forward to Spencer being part of our board as we drive our wholesale business forward and significantly grow our national markets businesses here and overseas."

Allianz Global Corporate & Specialty (AGCS) has appointed **Andrew Whitehouse** as regional unit London head of Marine.

In his new role, Whitehouse reports to Brian Kirwan, AGCS CEO for the UK, and Paul O'Neill, head of marine and energy.

Whitehouse has served at AGCS since 2010 when he joined as senior cargo underwriter.

Kirwan commented: "Whitehouse has been a key member of the marine team and I am pleased to see him move into this new role. Through his knowledge of the market and experience I know he is the ideal person to lead the team."

Bruce Wright, captive tax and legal expert and partner at the law firm Sutherland Asbill & Brennan, was presented with an award at this year's Captive Insurance Companies Association (CICA) International Conference.

Wright accepted the 2016 CICA Distinguished Service Award.

He received the award based on his experience in the insurance tax and legal issues, and his knowledge shared at sessions during captive insurance events. **CIT**



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