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Florida lures captive insurance companies with new law

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A new law that lowers capital requirements and is predicted to boost captive insurance business in the US State of Florida became effective on 1 July.

Florida captive insurance legislation became effective in 1982, but the state currently hosts no captive insurers. Up until this point, state law allowed for the creation of captive insurers and industrial insured captive insurance companies.

During a 2012 regular legislative session, the Florida legislature passed Committee Substitute for House Bill 1101. Florida's governor, Rick Scott, signed the bill into law on 24 April 2012.

It specifies criteria for the formation, incorporation, coverage, capital and surplus, reporting, licensure and reinsurance of captive insurers.

"We welcome captive insurers to Florida's insurance marketplace. The new law will encourage the formation of new captive insurers, which will promote increased investment in our insurance marketplace. I thank governor Scott for signing this bill and the Florida legislature for passing this important piece of legislation," said Kevin McCarty, Florida's insurance commissioner.

The legislation aids the formation of captive insurers interested in providing various types of property and casualty insurance. Life and health insurance are specifically excluded from the permissible uses of a captive insurer.

It could have a positive economic impact in Florida through the costs and fees that are associated with the legislation's various captive-specific requirements, such as state licensing, maintenance of a principal place of busi-

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CIT IN BRIEF

ACE updates platform with captive tracking

The ACE Group has updated its Worldview platform after suggestions from clients and brokers.

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MDS Group launches protected cell company

European and Latin American insurance and reinsurance brokerage MDS Group has launched a Protected Cell Company (PCC).

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Florida lures captive insurance companies with new law

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ness in Florida or maintenance of the branch operation's principal place of business in Florida.

It also requires captive insurers that are based in Florida to hold at least one annual board meeting in the state and appoint a registered resident agent to act on their behalf in Florida.

According to Captive Insurance Companies Association figures, a capital requirement of $100,000 is needed for pure captives in the state, and $200,000 for industrial insured captives.

Captive reinsurance companies are required to have a minimum of the greater of $300 million or 10 percent of reserves in capital and surplus.

As for local office requirements, pure captives are required to have minimum surplus of $150,000 while industrial insurers that are incorporated as stock companies are required to have $300,000 in minimum surplus. Industrial insured captives that are incorporated as mutual insurers are required to have at least $500,000 in surplus.

The state faces stiff competition for captive insurance business from dozens of US states, including Vermont, Delaware, South Carolina, Hawaii, Missouri and Montana.

Approximately 30 jurisdictions have enacted captive insurance laws over the past decade, with one of the distinguishing features of the various laws being the premium tax rate that is charged.

Vermont was one of the first states to enact a captive law, and charges a sliding scale tax based on the amount of premiums that the captive collects. Tennessee uses a flat rate of 1 percent of gross premiums that are collected. The Florida law provides for a premium tax rate of 1.75 percent on gross premium receipts.

ACE updates platform with captive tracking

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The platform, which enables risk managers and their brokers to monitor and manage their multinational insurance programs, now includes captive premium payment tracking for both locally and centrally invoiced multinational insurance programmes.

The new captive premium enhancements to Worldview include premium tracking, which allows users to follow the collection of premium payments across ACE's global network, and reinsurance summary, which tracks the status of reinsurance payments to the captive and reinsurance panel.

"We are driven to respond to the needs of our clients and brokers in the multinational insurance market, and captive premium payment tracking represents the third round of investment in the ACE Worldview tool, to be followed by many more," said Tim Benson, senior vice president at ACE Multinational Client Group.

MDS Group launches protected cell company

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A statement from MDS said that HighDome PCC will simplify the captive concept that is used by large corporations, enabling organisations to reduce, and have long-term stability in, their insurance costs.

HighDome will primarily target medium-sized enterprises and larger organisations with an individual strategic risk. It is a 100 percent subsidiary of MDS Group and is fully authorised and regulated by the Malta Financial Services Authority to conduct both insurance and reinsurance business in short tail risks.

Lee Memorial leans towards captive model

The Lee Memorial Health System is considering a captive insurance model to safeguard itself against payouts such as the $15 million claims bill that it had to settle earlier this year.

Traditional insurance is also on the cards, from Chartis, with a $1.2 million premium to AWAC/Torus, with a $952,000 premium.

Hospital spokeswoman Mary Briggs said that a third alternative, the captive model, would mean "alleviating the middle man", whether it meant forming an insurance company and paying premiums to the internal company, or joining a group that has an existing captive insurance group.

Richard Akin, Lee Memorial's board chairman, added that the board's current preference for the captive model may alter after going through the costs.

"The biggest reason for trying to pursue the captive model is we have heard you can buy reinsurance for up to 30 percent less but it is risk-specific. You must define your risk," he said. "For a company the size of Lee Memorial, I think potentially it could save a lot of money. I don't know, but that will drive our decision."

TPCC looks positive, says A.M. Best

A.M. Best has revised the outlook of Canada-based Transportation Property and Casualty Company (TPCC) from stable to positive and affirmed its financial strength rating as "A-" ("Excellent") and issuer credit rating as "a-".

TPCC is a pure captive insurance company that provides automobile physical damage, general liability and property insurance coverage for TransLink (the South Coast British Columbia Transportation Authority).

Its ratings are based on its "excellent" capitalisation and operating performance, and a strong enterprise risk management programme, said A.M. Best. It added that "inuring to the benefit of the ratings is the captive's favourable profile as part of TransLink".

TPCC has demonstrated its "usefulness and effectiveness" to TransLink over many years as it provides flexibility for insurance programme structuring and substantial insurance cost efficiencies, added the ratings agency.

A.M. Best said that TPCC's ratings could improve if it maintains a stable underwriting performance and reduced overall net exposure over the next few years.

"Factors that could lead to a negative outlook or a downgrading of the company's ratings are a material loss of capital from either claims or investments, a reduced level of capital that does not support the ratings or an increase in net retention."

"TPCC's ratings are somewhat linked to the rating of TransLink; therefore, unfavourable operating performance or material loss of capital could result in changes to the captive's ratings."

Five title underwriters form alliance with Lloyd's

Five title underwriters have formed a reinsurance alliance with Lloyd's of London.

The American Title Reinsurance Alliance (ATRA) was formed to ensure that the participating companies have a secure source of reinsurance for large transactions.

The participating title underwriters are: Agents National Title Insurance Company, Missouri; Alliant National Title Insurance Company, Colorado; Attorneys' Title Guaranty Fund of Colorado, Colorado; Connecticut Attorneys Title Insurance Company, Connecticut; and Security Title Guarantee Corporation of Baltimore, Maryland.

Rich Patterson, the president of Connectiuct Attorneys Title Insurance Company, said: "This programme enhances our ability to insure large transactions while reducing our exposure to loss."

"In addition, it allows us to obtain reinsurance on very favorable terms. This will enable us to be more competitive for multi-million dollar transactions."

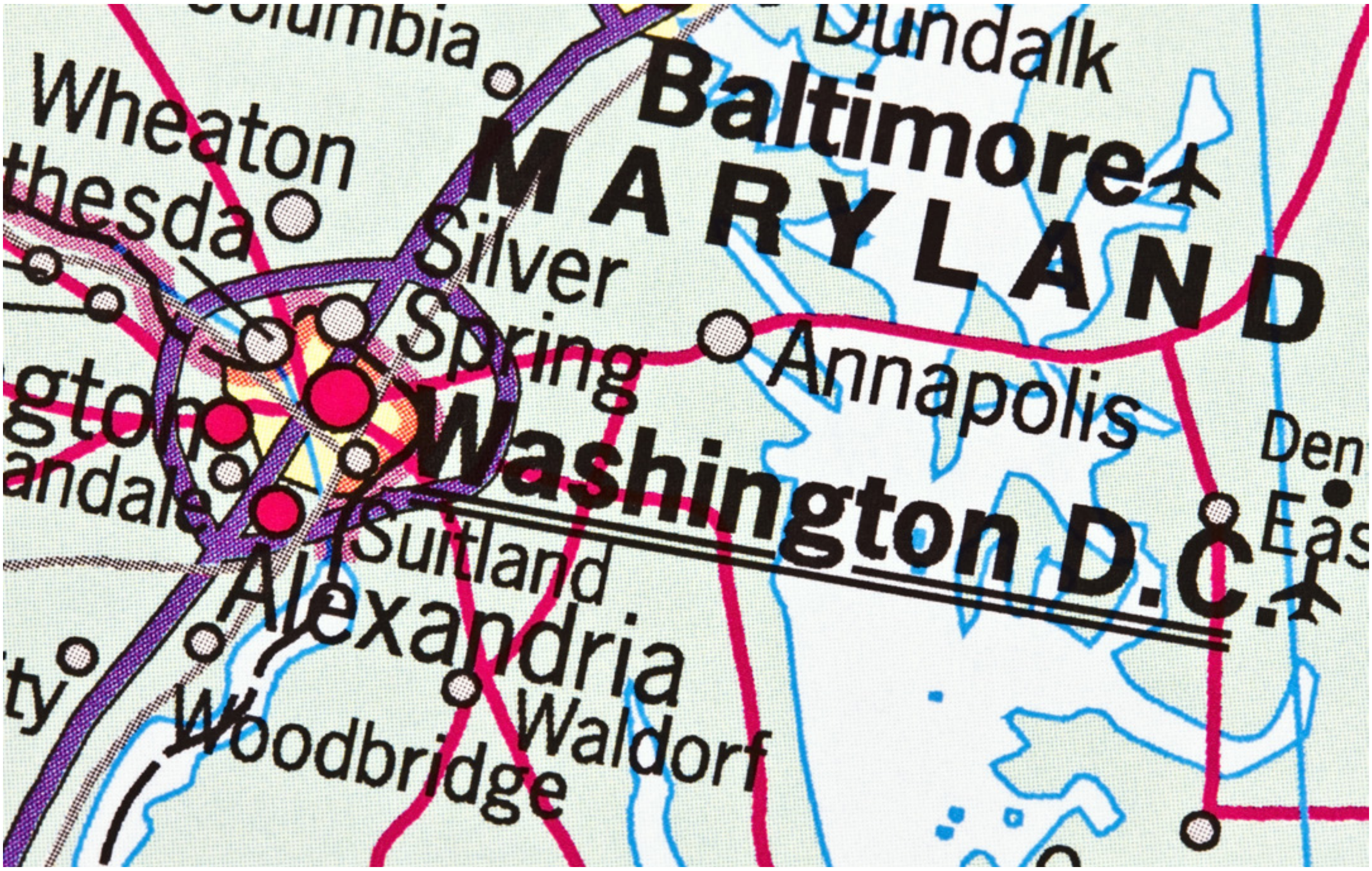
Demotech president Joseph Petrelli said: "Lloyd's of London has a legendary track record of backing up its promises. Members of ATRA will likely pass our reinsurance review with flying colours."

Former E.W. Blanch employees form new business

Dan Koshiol, formerly of Guy Carpenter & Co., John B. Collins and Associates and E.W. Blanch Company, has formed new company StoneHill Reinsurance Partners.

Koshiol, a 15-year veteran of major reinsurance brokerage firms, is joined in the venture by Lindsay Ginter, senior vice president, who also held positions at Collins and E.W. Blanch, most recently managing a reinsurance captive for Wells Fargo.

"We see a marketplace need for a broker who will solely invest time and resources on their clients," Koshiol said. "As brokers consolidate and look for additional revenue growth, some clients are being asked to purchase, at an added cost, products and services which historically have been included in the brokerage relationship."



New US bill could create captive insurer

Proposed reform of the US Defense Base Act insurance programme would create a captive insurer to cover defence contractor employees.

Elijah Cummings, who is the US Representative for the State of Maryland's 7th congressional district, proposed the Defense Base Act Insurance Improvement Act of 2012 to the House Oversight and Government Reform Committee, of which he is the ranking member, in early June.

The Defense Base Act, which was enacted in 1941, requires defence contractors to purchase workers' compensation insurance for employees who work overseas from private insurance companies. This allows contractors and insurance companies to negotiate their own rates.

A 2009 US Pentagon study found that $250 million a year could be saved if a government self-insurance programme was used instead of the existing one.

The study said: "In the long run, the self-insurance alternative may have the greatest potential for minimising Defense Base Act insurance costs, and it has several administrative and compliance advantages as well."

A House Oversight and Government Reform Committee investigation also found that insurance companies providing insurance under the Defense Base Act in Iraq and Afghanistan have made underwriting profits that are significantly higher than those of traditional workers' compensation insurers, according to the committee.

"There is absolutely no reason American taxpayers should be lining the pockets of private insurance companies," said Cummings. "This bill would save billions of dollars while improving the ability of contractor employees who risk their lives in war zones to obtain the medical care and support they deserve."

Cummings's bill would make the defence and labour departments establish a self-insurance programme in which the government would pay directly for medical and disability benefits.

The defence and labour departments would have 12 months from enactment of the bill to implement a captive insurance programme.

New office for Kane in Malta

Kane (Malta) has moved its operations to new premises in Zebbug.

Joseph Bannister, the Chairman of the Malta Financial Services Authority, officially opened the office.

More than 40 local dignitaries and representatives from local and international businesses in Malta, as well as members of Kane's senior executive team, including Kane group's CEO Simon Hinshelwood, attended an opening party that was held to celebrate the occasion.

Kane's team of practitioners in Malta provides a range of life, pension and insurance (LPI) administration and captive insurance management services.

The new office is located in the Central Business Centre, Mdina Road, Zebbug, Malta.

Graziella Vella, the managing director of Kane (Malta), said: "The new premises provide us with an excellent platform not only to continue to deliver, but also to enhance and expand our range of LPI and captive management services. To support our efforts to achieve this, we expect to announce a number of new appointments to our team in the coming months."

Hinshelwood added: "Malta plays a key role in the overall strategic goals of Kane. We have an extremely dedicated team here which encompasses a wealth of talent and experience, and Kane is keen to build upon the successes they have achieved. By moving to these new premises, we aim to demonstrate our clear commitment to expanding the range of services we offer from our Malta operation."

New Jersey's Iron Horse is a+

A.M. Best has affirmed the financial strength rating of A (Excellent) and issuer credit rating of "a+" of Iron Horse Insurance Company. Iron Horse is a direct captive subsidiary of Chevron Corporation.

These positive rating factors are partially offset by Iron Horse's high net loss exposures, as the coverages provided tend to result in claims that are characterised as low frequency but high severity.

In its role as a captive insurer, Iron Horse, along with Heddington Insurance, currently provides insurance products for Chevron and its subsidiaries. The insurance needs of Chevron are supplied through these captive operations, where appropriate, and the commercial market.

Iron Horse and the other Chevron captives provide comprehensive coverage above Chevron's internal retentions.

Eastern Re is "excellent"

A.M. Best has affirmed the financial strength rating of A (Excellent) and issuer credit rating of "a" of Eastern Re, SPC. The outlook for both ratings is stable.

The ratings recognise Eastern Re's strategic affiliation with its holding company, Eastern Insurance Holdings (EIHI) and the member companies that make up the Eastern Alliance Insurance Group (EAIG), historically profitable operating results, and sound standalone capitalisation.

These positive rating factors are partially offset by Eastern Re's exclusive reliance on EIHI and EAIG for production of all of its business.

Eastern Re is a cell captive, whose general cell is a wholly owned subsidiary of EIHI and utilises the expertise of Employers Alliance, a Pennsylvania-domiciled insurance services provider and member of EAIG that acts as the third party administrator and provides services for all of the cells of Eastern Re.

Eastern Re issues preferred shares to its cell owners, which are agent or group captives that purchase workers' compensation coverage from EIHI. These agent and group captives participate in the profits and losses of the cell for which they are the owners.

This dynamic provides added incentive to the agent or group captive to prevent adverse selection for the business being assumed by Eastern Re.

Toyota's captive rating goes from stable to positive

Toyota's captive rating was revised from a stable to a positive outlook and the financial strength rating of A- (excellent) and issuer credit rating of "a-" was affirmed.

Iowa-based Toyota Motor Insurance Company's (TMIC's) revised outlook suggests solid capitalisation and strong underwriting results.

However, TMIC's outlook could be altered if its operating performance depreciates below expectation.

Looks can be deceiving, says Willis Re

Rate increases in North American and international reinsurance markets are due to modest losses and poor results—not a hardening market, found a report by Willis Re.

The report, entitled Looks can be Deceiving, finds that in spite of headline figures predicting rate increases, there is enough volume in the market. The targeted underwriting approach taken by most reinsurers to manage, analyse and, in some cases, de-risk their portfolios, has been rewarded with differential pricing, the report found. This approach has been welcomed by cedents, but does not support a generalised market hardening.

"The reinsurance market is stable and orderly, but the reality is that it is not hardening," said Peter Hearn, chairman of Willis Re. "In fact, some buyers with loss-free programmes, even in areas of peak exposure, have managed to obtain risk-adjusted rate reductions at the 1 June and 1 July renewals."

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Standing out in a crowd

CIT talks to Jason Flaxbeard and Matthew Takamine of insurance brokerage and consulting firm Beecher Carlson about being different in captive insurance

MARK DUGDALE REPORTS

How do you view the onshore versus offshore debate?

Jason Flaxbeard: Bermuda and the Cayman Islands were the quickest to market and came into being before the US, so a lot of the legacy accounts are still in those jurisdictions. The deciding difference between domiciles offshore and onshore is often that offshore domiciles have a much better capitalisation structure. It is possible to write more premiums with less capital offshore than it is onshore. Having said that, there are taxation issues in offshore domiciles. Unfortunately, there is also a perception issue offshore too. Companies have been known to ask whether keeping money offshore is an appropriate use of American dollars.

However, offshore domiciles are beginning to really flourish and their growth is continuing. They tend to be the largest domiciles and they have become very good at regulating and looking after captives. Generally, as long as captive domiciles are well run, they tend to equal out. What you have to look for when selecting a domicile are the nuances. For example, the NRRA, which is a part of the US Dodd-Frank Act, may levy a tax on companies providing insurance coverage outside of their headquartered state. If you are headquartered in New York, you may look at New York over Vermont as a domicile for your captive so that you can manage that tax liability.

How do you work with your clients to evaluate these nuances?

Matthew Takamine: We do it on a client-by-client basis. We look at each client's specific circumstances, which are key to them, and we carry out a domicile analysis comparing what we think would be the top domiciles for that company. We weigh a variety of factors, including geographical proximity to the parent company, the working relationship with the regulator, the cost of doing business, taxes and other relevant factors. We assess all issues and make a recommendation to the company on where they should be domiciled. For our existing clients, we have a duty to periodically review their current domiciles to see if they are client appropriate.

How does Beecher Carlson differentiate itself from its competitors?

Flaxbeard: Beecher Carlson's history lies in alternative financing solutions and captive management. For more than 30 years, we have helped clients to explore and understand the many alternatives to traditional insurance, having pioneered many of the most innovative captive design concepts that exist in the industry. I would say that our key differentiator is that we are a captive manager and a consultant. We try to look at a captive and consult on new uses of a captive, better uses of assets that are in a captive and better ways of viewing a captive. Our competitors can be transactional in the sense that their consulting services do not join up with their other services, such as accounting. Each one of them has a consulting practice, but what we do differently is present all of our services together. Matt Takamine is capable of doing all of the consulting and all of the accounting for a particular client, as can most of the people on my captive team.

Another differentiator is that we are able to meet the SSAE 16 reporting standard for reporting on the internal controls in our organisation. It is very useful for public companies because it allows them to know that they can rely on the financials that we give them as our controls are being audited by an external party and they can consolidate those financials into their consolidated numbers without additional control work. Indeed, the SSAE 16 Type II report may even reduce external audit fees for our clients.

Takamine: There are some excellent managers out there, so we try to hire the best possible people as a means of differentiating the services that we provide. We are willing to spend more on hiring people who are qualified CPAs and are experienced professionals in the captive insurance industry. Some of our competitors outsource their accounting and back office operations to reduce their costs of labour, but to us, such practices result in a product that is more transactional rather than consultative, and that is where we can truly provide value-added services to our clients and reduce their overall cost of risk.

How does Beecher Carlson integrate its insurance brokerage and captive management services?

Takamine: Of the 30 or so captive accounts that we take care of in Hawaii, I would say that 40 percent are brokerage clients as well. We spend a considerable amount of time working with our brokerage team to properly service those accounts. The remaining accounts are clients who we only provide with captive management services, although we will often provide actuarial and other consulting services to them too.

There is a high degree of coordination between captive management and the other services that we provide. This is all of the time, whether we are building their captive, running it, fitting it in with their overall brokerage operations, or anything else. When these services are provided in an integrated, seamless manner, we can provide a better product.

Flaxbeard: Beecher Carlson is unique in that we offer a single profit centre model so that our clients have access to all of our national, top-tier resources without complicated political or local profit center mentalities. We understand that your exposures are different and work diligently to provide appropriate alternatives, across our service spectrum, to match your needs.

From a philosophical perspective, we try to offer the best services that we possibly can. Any skills that we have or products that we offer give us that extra ability to consult. **CIT**

Jason Flaxbeard
Senior managing director
Beecher Carlson

Matthew Takamine
Senior vice president
Beecher Carlson

Competitiveness is the mother of invention

Since Malta's accession to the EU, the captive insurance domicile has turned to innovation as a means of differentiating its offering, as CIT finds out

MARK DUGDALE REPORTS

The captive insurance industry is getting mightily competitive. There are more than 60 active domiciles, according to CICA's domicile listings. Domiciles from the US, Europe and the Caribbean contribute the greatest share to this figure, while domiciles from Canada, South America and Asia also feature. New domiciles are also entering the captive business—the US State of Florida's captive legislation became effective on 1 July. With so much choice, captive insurance companies will look to match a domicile to its individual needs, meaning that one-size-fits-all domiciles could be overlooked.

This underlines the importance of domiciles differentiating themselves. Each jurisdiction needs a unique selling point, and while it may not be the only reason why a captive insurance company chooses a particular domicile, it acts as an additional benefit that a captive insurance company will not be able to get anywhere else.

Malta is a domicile that understands the importance of differentiating factors. When it became a member of the EU in 2004, it moved quickly to implement Protected Cell Company (PCC) legislation.

Clive James, the COO of Kane, which recently moved its Malta office to new premises as it looks to expand its captive and life and pension administration businesses on the island, says: "PCCs were first established in Guernsey in 1997. A number of domiciles quickly recognised that they provided an alternative market potentially for smaller captives, but also that they were a much more efficient way of using capital. The upfront costs and running costs are less in a PCC, and also they've proven to be robust structures. Malta recognised that if it wanted to differentiate itself from its competitors in the EU, the PCC legislation could help achieve this."

Dr Matthew Bianchi, a partner in the insurance and pensions practice at Malta-based law firm Ganado & Associates, Advocates, explains that a PPC is a normal trading company with the ability to establish 'cells' within itself, so that assets that are attributable to the cell (cellular assets) can be segregated from assets that are not attributable to the cell (non-cellular assets).

He adds: "The liabilities of the core—as the non-cellular assets are known—may not be satisfied out of the assets of the cell. Seen the other way, creditors of a cell have their claims insulated from claims of creditors of the core and of creditors of other cells. Our law provides for mechanisms which ensures this principle remains satisfied at all times."

Captive owners subscribe to cell shares that are issued by a PCC in order to establish cells in that PCC. Bianchi says: "The proceeds of the cell share issue constitute the first cellular assets attributable to the cell. While the core of the PCC is capitalised to meet minimum capital requirements in terms of current solvency legislation, the cell is capitalised with any additional capital that will be required in order to carry on the proposed operation through the cell. Compared to standalones, cells may present a less capital-intensive alternative. This prospect may be particularly attractive to small and medium-sized captive owners."

Although Malta has differentiated itself from its European competitors and focused on its captive insurance offering, this does not mean that the island will rest on its laurels

"PCCs are used for financial products and insurances, ranging from financial warranties right through to smaller captives," adds James. "We've also seen some transformer business and life business go through PCC structures as well. The reason they are so capital efficient is because the capital is in the core. You don't need to put two or three million euros in to actually set up the business. This is one of the reasons why they are becoming increasingly popular in Malta."

Malta's PCC ability is the tip of the iceberg. As a part of the EU, it also offers captive owners easy access to the EU through the passporting regime, an available regulator and lower costs when compared to other EU domiciles. It also enables captive owners to establish Incorporated Cell Companies (ICCs) through regulations that were enacted in 2011, says Bianchi.

James adds: "What Malta has sought to do is capitalise on the many benefits it can offer from a captive perspective in what is a relatively competitive market place, and has put in place a regulatory structure which is focused on captive insurance rather than the broader general insurance market."

To stay competitive, Malta has to get innovative, according to Bianchi. He says that innovation is a key component to the success of captive insurance, especially in light of the current economic and regulatory scenario.

"Though innovation may consist of incremental improvements as for instance improvements to pricing and the understanding of risks, innovation of the disruptive type is also key. We understand that the application of Solvency II will likely herald a period of innovation in the insurance market at large including in the captive insurance and alternative risk transfer sphere. Malta has already confirmed its aptitude to innovation: It is the only EU member state with protected cell and incorporated cell legislation on its statute books."

Although Malta has differentiated itself from its European competitors and focused on its captive insurance offering, this does not mean that the island will rest on its laurels. James points to Munich Re's decision to set up in Malta—"from a reinsurance perspective, [that] is a fairly big move"—and the fact that the island is looking at insurance-linked securities (ILS), as indications that Malta does not consider itself to be a niche captive insurance domicile.

James says: "I would add that while [Malta's] legislation is capable of dealing with such structure, it's also important to make sure the infrastructure is there as well. The ILS is an area that we at Kane are closely involved in, but at present much of this business is conducted by our operations in Cayman and Bermuda. At the end of the day, however, it's a finite market out there and Malta has to recognise that it needs a wide skill set to expand on their current business model."

As a captive insurance domicile, Malta is doing the business. There are 13-affiliated insurance and reinsurance companies (as pure captives are known in terms of Malta's insurance legislation), eight PCCs, 17 protected cells and 25 insurance principals operating from Malta, says Bianchi. During 2011, the annual gross premium written for entities under management was nearly €1.8 billion, according to Malta Insurance Managers Association figures. Innovating to stay ahead of competitors will help Malta to continue to attract captive insurance business to its shores, and as time goes on, it can decide whether it needs to diversify so that it can attract other types of business. CIT

Domiciles that make sense

Stewart Feldman, the CEO and general counsel of Capstone Associated Services, discusses the benefits of selecting a Caribbean domicile

MID-MARKET COMPANIES

There has been a proliferation of US domiciles adopting captive legislation over the past several years. The push began with Vermont in the early 1980s with a view to creating jobs in an otherwise remote part of the country, with many states joining the bandwagon, especially in recent years. States hungry for revenue have jumped at what they perceive to be an opportunity for a new source of both revenue and local jobs, given the fact that 50 percent of the US property and casualty insurance market is written through captives. We believe that these states will soon realise the error of this, as others have already discovered, and they will realise that captive regulation requires significant investment in infrastructure. Legal advisors have already recognised the problems facing many US domiciles looking to collect taxes and fees, but are neither staffed nor experienced in captive insurance regulation.

US states with captive legislation now include Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Hawaii, Illinois, Kansas, Kentucky, Maine, Montana, Missouri, Nevada, New Jersey, New York, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia and West Virginia. Most of these states have come online in the last few years. With the adoption of the US Dodd-Frank Act's NRRA (the Non-admitted and Reinsurance Reform Act—see below), the number of states with enabling legislation will increase.

At the same time, more middle market companies are looking to captives as a risk-planning alternative. Long the bastion of the largest publicly-held companies, captives are now recognised as viable for the substantial, closely held business that seeks to supplement current property and casualty coverages. For the business owner, a captive provides the insureds with greater influence over the financial health of the insurer, rather than being at risk of having coverages negated due to poor investment decisions by conventional insurers or their traditional propensity to deny claims, especially significant commercial losses.

Domicile choice

Capstone is one of the country's oldest and largest sponsors of 'intermediate size' captive insurance companies (property and casualty premiums of less than $1.2 million per year) that insure middle market businesses. These insurers operate under Section 831(b) of the US Internal Revenue Code. Having formed more than 120 captive insurance companies in multiple domiciles over the past 14 years, Capstone understands the importance of choosing the right domicile.

Not all domiciles are created equally. Because a captive as an insurer has ongoing exchanges with its regulators, the chosen domicile must have a staff able to timely and competently address ongoing regulatory issues. High on Capstone's criteria in evaluating a domicile for a particular captive is that domicile's expertise, staffing levels and commitment to regulating 'intermediate size' captives, as opposed to major conventional insurers. Industry expertise with the insureds' business is also a consideration.

Non-US domiciles

Since the founding of the Lloyd's of London insurance marketplace in 1688, England has been among the most influential among the worldwide reinsurance markets, which it shares with its overseas territory, Bermuda. Unsurprisingly, the principal 'offshore' insurance domiciles are UK overseas territories, with their shared history of insurance expertise. The UK's expertise in insurance regulation, including infrastructure generally and captive regulation in particular, dwarfs that of US domiciles such as Vermont. The quality and expertise of offshore domiciles is unmatched by their domestic brethren. These offshore jurisdictions have thrived in providing their services in an internationally competitive marketplace and have a much longer track record in insurance regulation and services, building on the UK's traditional expertise in the area. The British overseas territories continue to dominate the captive insurance markets, with Anguilla specialising in captives for middle market companies.

In contrast, most of the US states' recent captive push is based on a 'for profit' motive. For example, Vermont has a gross receipts tax on premiums. It also extracts local jobs from its regulated captives. In what is largely a rural state, it has created more than 1400 jobs and millions of dollars of tax revenue, according to estimates. The professionals who hold these jobs typically have an average pay that is considerably greater than the average salary that is earned by Vermonters. To ensure local captive job formation, the state requires a Vermont-based captive manager. It also requires at least one board member to physically be in Vermont for the annual board of directors meeting, resulting in increased hotel occupancy and related tourism revenues for the state. These requirements are at odds with the alternative risk planning goals of the middle market captive.

Other US states have similar 'job creating' provisions in their regulatory structures. Montana and South Carolina require onsite meetings, with the objective of promoting tourism, which has nothing to do with the business purpose of the captive and, in fact, drains its resources. To be clear, the added burdens of domestic domiciles are at odds with effective and efficient captive arrangements and are not usually seen in offshore jurisdictions.

Similarly, states hungry for tax revenue have focused on innovations, such as segregated cells or protected cells, without thinking through the regulatory and taxation implications of them, leading to insureds being caught in potentially undesirable situations. The states have taken up these programmes as the idea du jour without thinking through the implications of having unsophisticated persons entering into 'baby' captive arrangements, seeing only the opportunities for increased tax revenue and without considering the regulatory implications.

When US domiciles are inexperienced and understaffed

The economic crisis in the US continues to adversely affect onshore domiciles. Having concluded that their captive bureaus are not profitable, some states have left their captive bureaus without leadership, resulting in the unannounced decision to exit the captive business. For those active in the captive arena, they understand that a captive is a living, breathing insurance company with ongoing issues. The captive needs to have responsive regulators in place that can make timely decisions about ongoing issues in captive management. States that are short on staff have made operating in these domiciles very difficult.

The newer US domiciles are to the captive business, the more likely it is that they will have poorly developed regulatory structures. There is much uncertainty as to how issues would be handled because there is no history. In contrast, when considering the appropriate domicile, Capstone evaluates the performance of its regulatory scheme operating over past decades.

The Dodd-Frank Act

The Dodd-Frank Act has led to a lot of questions and new concerns among US-based captives. Under the NRRA, having a captive in Vermont when the insureds are located in, for example, Pennsylvania, will open up the captive arrangement to double taxation. So, Vermont will tax the Vermont-domiciled captive, and Pennsylvania, the home state of the insureds, will tax the insureds on the same premiums. This is an untenable situation that the NRRA seems to have created with poorly chosen language while the US domiciles were asleep at the switch. Yet, choosing the insured's home state creates another series of concerns. The NRRA has already led to a migration of captives out of the traditional US domiciles, such as Vermont. In contrast, this issue is a much smaller concern for Anguilla and other offshore domiciles.

In summary, the choice of a captive domicile, like the design of a high-rise building's foundation, is serious undertaking, calling for a disciplined, up-front evaluation.

Choosing Anguilla

From formation and licensing to responsive regulatory oversight, Anguilla has met Capstone's expectations. Others in the captive marketplace seem to have reached a similar conclusion as evidenced by Anguilla's growth over the last few years as the domicile of choice for smaller captives.

In cases where there are time-sensitive filings, there is willingness on the part of the Anguillan Registrar and Financial Services Commission (ARFSC) to accommodate reasonable deadlines and to put its onsite regulators on task to handle the extra work to meet these deadlines. Its department of insurance is both committed to and well versed in the regulation of captives.

The Anguilla Insurance Act and the Insurance Regulations also provide a sound regulatory framework for the operation of captives. Anguilla excels in fairly and consistently enforcing its captive framework. The ARFSC's focus has been on providing a secure, practical regulatory framework for the safe and sound operation of captive insurance companies, and not on creating and maintaining a regulatory minefield strewn with bureaucracy. Its rules are a balance between good regulation and a recognition that coverages are being written to affiliates of the captive's owners. The ARFSC has responded in a timely manner to requests for interpretations and rulings on technical insurance issues.

Before forming its first captives in Anguilla, and before migrating dozens of captives there, Capstone did thorough due diligence. We have not been disappointed and today Capstone is a leading captive manager in Anguilla. CIT

Stewart A Feldman, Capstone Associated Services

2012

08 August

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VCIA's 2012 Annual Conference

Location: Vermont,
Date: 7-9 August 2012
www.vcia.com/annualconference

The conference is a bustling hub of captive activity. VCIA welcomes participants from all over the world to network with key industry players, enhance their captive education, and relax and renew in beautiful Vermont!

SIIA's 32nd Annual Conference

Location: Indianapolis
Date: 1-3 October 2012
www.siia.org

The SIIA National Conference & Expo is the world's largest event focused exclusively on the self-insurance/alternative risk transfer marketplace and typically attracts more than 1,600 attendees from around the US and from a growing number of countries around the world.

HCIC Forum 2012

Location: Waikiki
Date: 22-24 October 2012
www.hawaiicaptives.com

The HCIC 2012 Forum will delve into opportunities to enhance your captive and risk management strategies despite the stagnant economy. This conference will provide a wide range of educational seminars and speakers that will offer tremendous learning and networking opportunities. Sponsorship forms and session submission forms may be found at www.hawaiicaptives.com

Cayman Captive Forum 2012

Location: Grand Cayman
Date: 27-29 November 2012
www.caymancaptive.ky

Plans are underway to provide an informative series of panelists and speakers and quality educational content for the captive owner and those who are seeking information on captive formations in the Cayman Islands. There will be memorable social events that will allow attendees to enjoy a taste of Grand Cayman.

Industry appointments

Montpelier Reinsurance, the Bermuda reinsurance subsidiary of Montpelier Re has named **Dr Gero Michel** as head of risk analytics.

The new position at the company will involve enhancing Montpelier's risk analysis efforts for natural catastrophe exposed businesses including research, development, portfolio optimisation and other underwriting initiatives.

Michel will report directly to Christopher Schaper, president of Montpelier Reinsurance in a position effective from 1 July. Schaper said: "He brings a wealth of intellectual capabilities, business experience and leadership qualities to Montpelier, and I look forward to working with him.

"Improving the assessment of risks and translating that knowledge into better underwriting decisions are key challenges in our industry, and the addition of Michel further strengthens our team in these areas."

Sidney Williams has joined captive management firm Strategic Risk Solutions as vice chairman of its South Carolina operation.

Williams was the CEO and president of BB&T Assurance for nine years until his retirement on At Strategic Risk Solutions, Williams will assist current and prospective captive owners in the Southeast and Mid-Atlantic, and provide regulatory support in those domiciles.

The firm's Mid-South division manages captives in South Carolina, Washington, DC, and Delaware, and it is approved as a captive manager in Tennessee.

"I am looking forward to continuing my work in the captive industry with [my new firm]", said Williams. "With the captive choices available, I see strong growth opportunities for the use of captives in the Mid-Atlantic and Southeast."

Chief executive **Gunter Saacke**, chief underwriting officer **Will Schuerch**, and 10 further underwriters have left the Novae Re's Zurich operation.

It has been reported that Saake and Schuerch left the Lloyd's reinsurer in May, due to restraints on independence and a reinsurance book which has been lower than its insurance segment since 2010.

Their resignations, along with ten underwriters that included heads of agriculture, engineering and credit and surety, have raised concerns that the insurer cannot retain business written by these divisions.

After the exodus, analysts at Peel Hunt replaced the 'buy' rating with 'hold', raising its combined operating ratio forecast by 1 percent for 2012 and 2 percent for the following year. Peel Hunt also lowered gross written premium expectations for 2013 and 2014 by £50 million, on the assumption that it will be difficult to hold on to all business written by those underwriters that have left.

Insurance management firm Kane has recruited **Damian McNamara** and **Gary Le Page** to senior European roles, as well as opening two new offices in Guernsey and Malta.

McNamara will be new head of business development in Europe, responsible for the development of innovative captive insurance solutions for UK and European-based clients, both on a direct basis and through partnerships with independent insurance brokers. Most recently, he worked for KPMG and prior to this was at Investec.

Le Page has also been named as senior account manager focusing primarily on the day-to-day management of the Kane Guernsey office.

Arizona's director of insurance **Christina Urias** retired on 1 July.

Former deputy director **Gerrie Marks** will be the new acting director of Arizona's department of insurance.

Stephanie Lefkowski, chief analyst in Arizona's captive division, said: "It has been a pleasure working with Marks in her capacity as deputy director."

"I look forward to working with her in her new role and I am sure the transition will be seamless."

Arizona's captive insurance division has also recruited a new financial analyst.

Rae Ann Hughes is currently reviewing annual and quarterly financial filings of Arizona domestic captive insurers.

Specialised insurance brokerage and risk management firm Beecher Carlson has appointed **John Borch** as an accounting manager in its national captive practice.

Borch will be based in the firm's Vermont office in the US and will report to Peter Kranz, the senior vice president of the national captive practice.

CAPTIVEINSURANCETIMES

Editor: Mark Dugdale
markdugdale@captiveinsurancetimes.com
Tel: +44 (0)20 8289 2405

Journalist: Georgina Lavers
georginalavers@captiveinsurancetimes.com
Tel: +44 (0) 20 3006 2888

Account manager: Joe Farrell
joefarrell@captiveinsurancetimes.com
Tel: +44 (0)20 3006 2859

Publisher: Justin Lawson
justinlawson@captiveinsurancetimes.com
Tel: +44 (0)20 8249 2615

Marketing director: Steven Lafferty
design@securitieslendingtimes.com
Tel: +44 (0)7843 811240

Head of research: Chris Lafferty
chris@securitieslendingtimes.com
Tel: +44 (0)7731438466

Published by Black Knight Media Ltd
Provident House
6-20 Burrell Row
Beckenham
BR3 1AT UK

Company reg: 0719464

Borch will serve east coast domiciles and focus on providing clients with innovative solutions and driving returns on investment for their risk management resources.

Before joining Beecher Carlson, Borch served as a controller at The Sporn Company, where he was responsible for managing all accounts, preparing monthly financial statements and managing the overall direction of the accounting department.

Borch has also worked as a senior accountant at AIG Insurance Management Services and as an account manager at Marsh Management Services.

"We are excited to have Borch join us," said Kranz. "He will bring great value to our team and clients." **CIT**