CIT CAPTIVE**INSURANCE**TIMES

ISSUE010
14.11.2012 WEDNESDAY
captiveinsurancetimes.com

Randall & Quilter captures Capstan Insurance Company

ST PETER PORT 13.11.2012

Randall & Quilter Investment Holdings (R&Q) has completed its acquisition of Capstan Insurance Company, a Guernsey-domiciled captive insurer.

Paul Corver, R&Q's director of the insurance investments division, explained that the operating companies that Capstan insured were sold, but the acquirer did not take on the captive.

Corver said: "R&Q decided to acquire [Capstan] as we have an appetite for run-off captives, after spending twenty years acquiring regular insurance and reinsurance companies, and were able to strike a deal that was attractive to the vendors."

Capstan is R&Q's fourth captive purchase this year, and its third in Guernsey. The popularity of Guernsey, explained Corver, is down to its long-established reputation as a captive domicile.

"Owners, managers and non-executive directors are becoming more aware of the exit solutions available and are bringing deals to us. We have found [Guernsey's] regulator to be approachable and responsive and the local rules allow us to amalgamate the operation," said Corver.

The financial terms of the deal were not disclosed due to a confidentiality agreement.

Ken Randall, chairman and CEO of R&Q, said: "The acquisition of Capstan is further evidence of the increasing level of acquisition activity we are seeing as a group."

read**more** p3

CIT IN BRIEF

Cayman Islands law underscores captives

The Cayman Islands Insurance Law 2010 went into force on 1 November 2012 after an order was made in cabinet earlier in the week.

read**more** p3

BNY Mellon captives are on the up

International bank BNY Mellon has received a boost from A.M. Best after it gave the bank's captives positive financial ratings.

read**more** p4

Randall & Quilter captures Capstan Insurance Company

Continued from page 1

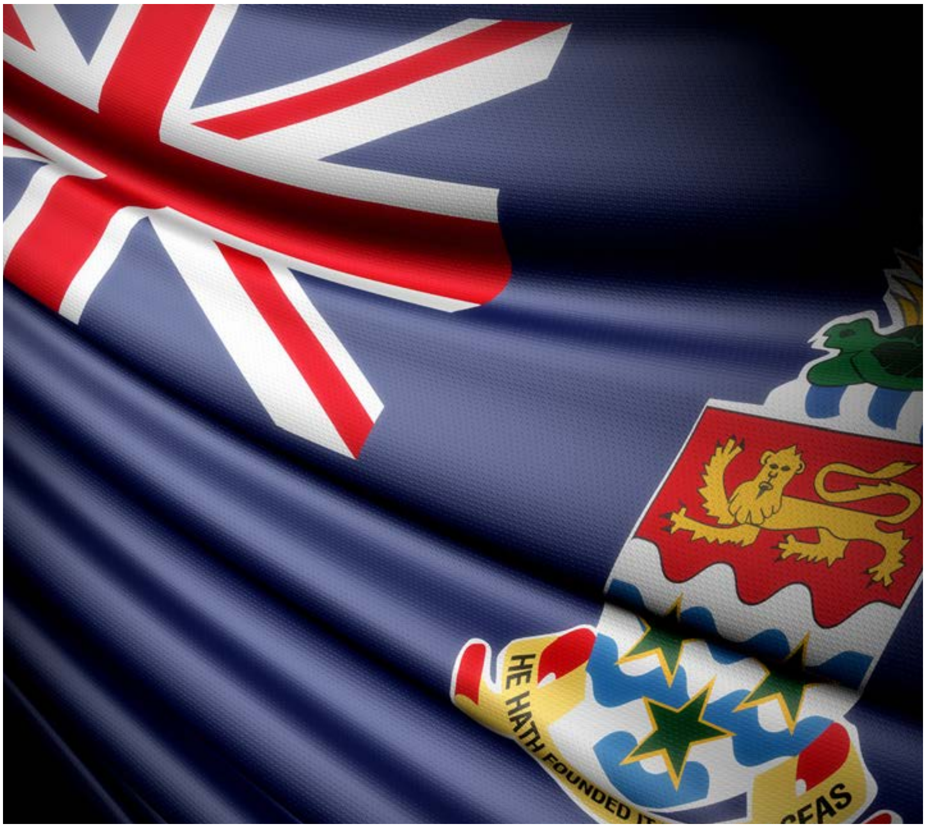
"It also continues to demonstrate our ability to provide attractive exit solutions for captive owners who have put their captives in run-off or are contemplating ceasing writing new business," added Randall.

While R&Q continues to purchase retiring captives, the reasoning behind captives closing is complex. Corver said that there could be a number of reasons why an owner might seek to dispose of its captive, including corporations merging and therefore acquiring surplus captives, or an owner's reasons for setting up a captive may change.

"There may be capital trapped in the captive supporting collateral obligations to front companies and a sale will help the owner realise this asset. When a captive is in a mature state of run-off the ongoing expenses soon outweigh the benefit of keeping it running."

"Whilst a sale is one option, R&Q also takes on novations of contracts, thereby allowing a captive to prune out dead or unwanted business but keep itself going for new underwriting."

R&Q will continue to look at acquisitions in most locations, added Corver.



Cayman Islands law underscores captives

Continued from page 1

The latest amendments to the law were based on recommendations from a public/private sector Insurance Working Group and the International Monetary Fund.

The Cayman Islands Insurance Law 2010 clearly delineates four separate classes of insurance and has specific regulations for each class.

The current Class B licence, which is now dedicated to captives, has been split into three further sub-categories, and each is distinguished by the proportion of net-premiums that is written that originates from the insurer's related business (Class B(i)—95 percent+ related business; Class B(ii) —50 percent+ related business; and Class B(iii)—50 percent-related business).

Capital requirements will vary depending on the sub-class of the Class B licensee. This subdivision brings more clarity to this category and provides flexibility to the type of business that a Class B licensee can underwrite.

The Class C licence is a new class and is dedicated to reinsurance arrangements that are financed through the issuance of cat bonds and similar instruments. The law recognises the structured nature of these arrangements, how they function in practice and what all participants, including sponsors and investors, expect from such transactions. For example, the description of the Class C insurer specifically references essential concepts such as "limited recourse" and funding through the issuance of bonds or other instruments.

Class D is specifically for traditional commercial reinsurers and has been created to support the jurisdiction's objective of attracting reinsurers to the islands. As the Cayman Islands is a leading offshore domicile for hedge funds, there is a natural market for this business and the government has committed to facilitating reinsurance set-ups in many respects and is actively engaging with industry.

These amendments include the availability of ten-year work permits for executives and managers in the reinsurance industry and free work permits for various categories of administrative staff for their first five years of residence in the islands. In addition, permanent residence with the right to work is now available to approved persons who make a substantial investment in a home or other developed real estate.

Among the other amendments that are contained in the law is a strengthening of protection for whistle-blowing insurance managers and auditors. "The introduction of this law is welcomed by the Cayman insurance industry as it underscores the pro-business nature of the jurisdiction for its historic captive insurance base and enhances its attractiveness for ILS vehicles and the reinsurance sector," said a release from the Insurance Managers Association of Cayman.

BNY Mellon captives are on the up

Continued from page 1

A.M. Best has given the financial strength rating (FSR) of "A (Excellent)" and issuer credit rating (ICR) of "a+" to Hamilton Insurance, a subsidiary of BNY Mellon.

Hamilton's ratings reflect the company's excellent risk-adjusted capitalisation, strong liquidity and conservative operating strategy.

"Partially offsetting these positive ratings factors is Hamilton's short operating history, limited market scope/business profile, product mix and dependence on third parties for processing, servicing and administration. Furthermore, somewhat offsetting these positive rating factors is the company's relatively large (gross) underwriting exposures as it offers high gross insurance limits and execution risk associated with the implementation of Hamilton's business plan," said a statement from A.M. Best.

A.M. Best has also upgraded the ICR to "a+" from "a" and affirmed the FSR of "A (Excellent)" of BNY Trade Insurance in Bermuda, due to a conservative operating strategy and robust enterprise risk management framework that it learnt from its parent, BNY Mellon.

Partially offsetting these positive rating factors are BNY Trade's limited market scope, product mix and dependence on third parties for processing, servicing and administration. An additional offsetting rating factor is BNY Trade's large (gross) underwriting exposure as it offers high gross insurance limits and insures excess bankers' professional liabilities with substantial insured values.

BNY Trade provides reinsurance coverage and products to BNY Mellon. "The company's reinsurance has been placed with the world's significant providers and it benefits from BNY Mellon's significant financial resources, extensive risk mitigation and the safety programmes, which have been implemented throughout the organisation," said A.M. Best.

"As BNY Trade fully cedes assumed risk under primary bankers' professional coverages to the commercial market, its exposure to net underwriting losses is minimal. BNY Trade's projected operating results indicate favorable returns, and its surplus base of over $98 million is more than adequate to support the company's asset and credit risk exposure.

"While BNY Trade's excess bankers' professional programme offers significant insured values (considering the high coverage limits offered), the net impact could be burdensome. Nevertheless, A.M. Best recognises the low probability of such events."

Hurricane Sandy to hurt traditional insurers more than captives

Fitch Ratings estimates the losses from Hurricane Sandy to be similar to Hurricane Irene, which struck the East Coast in 2011 and generated insured losses of between $4 billion and $5 billion.

Loss estimates for Sandy will be influenced considerably by the landfall location and actual storm path.

"We expect the brunt of losses to be borne by primary writers, including State Farm, Allstate, Liberty Mutual Group, and Travelers, based on market share positions in the Mid-Atlantic and New England regions," said the firm.

"Market share was calculated based on direct written premiums and gives no consideration for reinsurance. The likelihood of losses being allocated to the reinsurance industry increases if losses come in at the higher end of the range."

"While Sandy landed as a category one storm, [it] hit in a densely populated area with high value of developed property and the footprint is over wide area that losses could unfold from Maryland to New England," said Jim Auden of Fitch.

"The nature of the storm will lead to wind related losses, but we think compared to hurricane Irene in 2011, Sandy could have greater losses from storm surge and business interruption.

"Many captives are liability focused, so do not have exposure to property losses from this event. If a captive does write commercial property, it is important to note that a captive is a mainly a self insurance mechanism for its owner, so risk borne by a captive in reality remains within the organisation."

"However, a captive writing commercial property typically would buy reinsurance to protect against large losses. So losses for a captive hit by Sandy would be affected by the insured retention and the limit of reinsurance purchased."

Rise in Guernsey's Asian activity

China's ambassador to the UK, Liu Xiaoming, has encouraged Guernsey's continued progression in China after a meeting with the island's chief minister, Peter Harwood.

Since establishing a representative office in Shanghai in 2007, Guernsey has worked with the Chinese authorities on a number of projects. The Guernsey government signed a tax information exchange agreement with the Chinese central government tax authorities in October 2010 alongside a memorandum of understanding with the Shanghai municipal financial services office in November.

The Guernsey financial services commission also signed a statement of cooperation with the Chinese banking regulatory commission in November 2011.

Guernsey's endorsement comes after a recent two-week trip to Asia during which officials attended an international fiduciary conference in Hong Kong.

Commenting on her recent trip to Asia, Guernsey Finance's chief executive, Fiona Le Poidevin, said: "Our trip to China was once again very productive. [The Asian market was] particularly interested in our captive insurance sector. There are currently only two captives in China, as it's still a relatively new concept to them, but one they are eager to learn more about."

Xchanging to open in Philippines and China

Insurance technology provider Xchanging is to open new delivery centres in the Philippines and China.

"APAC is a not only a core market for Xchanging and one that it is actively expanding, it is also a key delivery hub, given the availability of scalable talent in countries like India, Philippines & China," said a statement from the firm.

"Our strategy is in line with analyst predictions that the business process outsourcing market in Asia-Pacific is on pace to reach $6.45 billion this year and hit $9.5 billion by 2016, with many growth opportunities still untapped."

Julie Lynch, head of relations at Xchanging Insurance Services, said: "APAC is a key market for us as we continue to grow our business globally. The new locations and services build on an already broad range of services we provide for customers across the region. APAC is obviously a very diverse region culturally but the issues there are the same as other territories."

Charles Taylor

MANAGING RISK WORLDWIDE

DELIVERING SOLUTIONS FOR BUSINESSES AND INSURERS WORLDWIDE

At Charles Taylor, we provide management services to help Insurers, reinsurers and businesses around the world identify and manage their risk exposures.

Our services are delivered by experts working from multiple locations around the world providing ease of access to our clients:

- Risk Consulting
- Risk funding
- Insurance management and administration
- Run-off management

Our insurance management services are part of a wider range of services delivered worldwide by Charles Taylor to insurers, reinsurers and businesses from 40 offices in 23 Countries.

To find out more, please contact:

Life Company Management
Jeffrey More
+44 162 468 3602
Jeffrey.More@ctplc.com

Captive Management
Andy McComb
+1 441 278 7700
Andy.McComb@ctplc.com

Risk Management (US)
Chris Moss
+1 972 447 2053
Christopher.Moss@ctplc.com

Risk Management (EU)
Martin Fone
+44 207 767 2918
Martin.Fone@ctplc.com

All in good health

CIT talks to Pedro Reis of the Cayman Islands Monetary Authority about how healthcare captives are faring on the island

JENNA JONES REPORTS

Why do companies come to the Cayman Islands to set up healthcare captives?

The healthcare captive industry in the Cayman Islands commenced in the early 1970s with a captive serving Boston-based medical institutions during a period of time when medical malpractice insurance was difficult to obtain at a reasonable cost. Given the success of the first captive, other hospital systems soon chose the Cayman Islands as their domicile.

The Cayman Islands captive insurance market is quite varied, with prominent risk types including healthcare, workers' compensation, property and general liability. The Cayman Islands has developed particular expertise in medical insurance, and with healthcare captives representing 45 percent of all Cayman Islands captives, the Cayman Islands is the number one domicile for healthcare captives.

The Cayman Islands is internationally recognised as a growth market for financial services activities for the insurance industry, and beyond. This is proven by the growth in the hedge fund market, where the Cayman Islands now accounts for approximately 80 percent of the world's offshore hedge funds. This influx of capital helps to provide increased confidence in the Cayman Islands as a domicile. It also maintains an extremely broad base of financial services as evidenced by its strong banking, fiduciary and funds services.

Its regulatory framework reflects recognised international standards, as set by the International Association of Insurance Supervisors (IAIS), and unlike some other regulatory bodies, open communication is encouraged as part of the regulatory process. Enhanced international cooperation has undoubtedly contributed to safeguarding the interest of the jurisdictions that fall within the international sectors, and as this is of paramount importance to the Cayman Islands, the Cayman Islands Monetary Authority (CIMA) consistently commits both time and resources to actively participate in international initiatives.

Have you seen a rise in the number of healthcare captives that have been formed in the Cayman Islands in recent years?

Healthcare captives represent 45 percent of all Cayman Islands captives. In fact, during the last eight years, 35 percent of all captives formed were related to healthcare, which shows the dominance of the healthcare business sector in the growth of the industry.

Although our traditional healthcare captives constitute 45 percent of all licensees, the Cayman Islands also has representation from industries such as financial services (25 percent), construction (8 percent), tertiary services (6 percent), transportation (6 percent), technology and engineering (2 percent), energy (2 percent), and others.

What business lines do healthcare captives tend to cover in the Cayman Islands?

Healthcare captives write mainly medical malpractice liability and professional liability, but also workers compensation, general liability and others.

By the end of September 2012, there were 734 active class 'B' licencees. Medical malpractice liability was written by 254 captives (35 percent), followed by workers compensation with 157 (21 percent) and property with 90 (12 percent)

To what extent is the increasingly specialist nature of medicine driving new formations in healthcare captives?

Specialised groups have always had a good representation in the Cayman Islands thanks to a good understanding by the regulators and insurance managers of the unique risks facing each speciality. Also, contemporary medical breakthroughs are closely followed. Contemporary medical breakthroughs are also closely followed and the biggest interest in 2012 has been the potential usage of medical stop-loss coverage in the captive in support of internal medicine.

What do you predict for the future of healthcare captives?

The US healthcare reform, and in particular the creation of Accountable Care Organizations (ACOs), may have a positive impact on captive formations in healthcare for two reasons. Firstly, hospitals will be incentivised to hire employed surgeons rather than outsource, which will lead to an expansion of existing liability programmes. And secondly, successful hospitals and their ACOs may be encouraged to market their ACO programmes to other hospitals, using captives to provide indemnity for stop-loss, medical malpractice and other programme coverage.

A number of factors on the immediate horizon could affect global captive growth in the foreseeable future, including the potential impact of the US Dodd-Frank Act, the Patient Protection and Affordable Care Act, the Foreign Account Tax Compliance Act, and the threat of further global economic weakening.

Despite this, the Cayman Islands remains a very popular jurisdiction for captive formations, which we attribute to a combination of our open international dialogue, skilled workforce, together with a harmonised regulatory environment. CIMA is now reaping the benefits of effective strategies in the form of captive growth and an increase in the size of the existing captive licensees.

One of the strategies that makes our regulatory body unique is the combination of private sector experience and specifically the number of our staff that have worked at insurance companies. This knowledge really helps when dealing with business plan development and even with distressed situations. We will continue to leverage its positive relationship with local and international insurance associations and agencies, as well as the new law complementing an already proportional form of regulation. CIT

Pedro Reis
Deputy head of insurance supervision
Cayman Islands Monetary Authority

A united front

Kieran O'Mahony of United Insurance Company reviews captive reinsurance case studies to underline the practice's benefits

Reinsuring captive insurance companies has always been viewed by United Insurance Company as 'preferred' business. Organisations that are willing and able to retain risk in their own (captive) insurance company subsidiary, whereby their capital is exposed to the potential for loss, as well as for profit (let's not forget!), will normally have a materially different, and United would contend, better approach to risk management than those that do not take such risk. Simply put, they have 'skin in the game'. That is the primary reason why United mainly seeks out captive insurance companies for its clients.

United is domiciled in the Cayman Islands, which is the world's second largest captive domicile. This, coupled with its ownership structure and its focus on the captive and alternative risk transfer market, gives United an unrivalled insight into the captive 'universe'.

United enthusiastically works with recently formed captives to manage their transition to ever increased retentions over the medium to longer term. Indeed, for the nascent and the well-established captives alike, it can aid them to cope with the often 'knee-jerk' overreactions of the direct insurance market. Even putting market conditions and levels of capitalisation aside, captives will have varying degrees of risk taking appetite when participating on their 'parental' programme(s)—recently formed and by extension, unproven captives, tend not to wish to take on too much risk, too quickly.

Property programme deductibles

Corporates that are forced to take increased property deductibles, either through the occurrence of fortuitous and 'a-typical' losses on their own (parental) programme, or because of market swings that are outside of their control, can be left with balance sheets that have excessive net financial exposure.

United can look beyond the market cycle(s) or that exceptional large loss, and actually focus on the organisation itself, its risk management philosophy, its loss prevention and loss control features, as well as on the risk manager. Is the risk manager / the organisation a 'risk-taker' or just another 'insurance buyer' that views insurance as a mere commodity where, in their mind, cheapest is best? If the latter, United takes a very cautious view, and if the former, United will willingly help to craft a solution to manage the transition to the increased retentions.

United's specialised captive property reinsurance capacity focuses on 'buffer layer' protection. This is the risk area that is immediately above the captive retention and / or corporate deductible(s) and below the attachment point of the traditional / commercial market. United's goal is to present solutions that are tailored to an insured's unique needs.

In its systematic approach to creating a solution, United works with the risk manager:

- In (re)structuring a new insurance / reinsurance programme;
- In forming a captive or cell, where none exist, to absorb the increased retention;

- In providing reinsurance for the captive's retention; and
- In issuing the insurance policy and/or reinsurance agreement(s).

In structuring these types of captive 'buffer layer' protections, United seeks to partner with clients whose risk is superior and philosophy is long-term, and are committed to the captive / alternative risk transfer market.

To illustrate the point, United partnered with a large US-based storage company to help it to manage a sudden and significant (and from a financial / budgetary point of view, unexpected) increase in its property programme premium and deductible. The insurance carrier, which was long involved in the programme, subsequent to an exceptional and large loss, increased the policy deductible from $100,000 per occurrence to $2.5 million per occurrence—only three weeks before the insurance programme renewed. Faced with this daunting prospect, the risk manager quickly turned to the alternative risk transfer market for a solution.

United was invited by, and worked closely with, Aon Global Risk Consultants in structuring an alternative solution for the policyholder. United concluded that the loss was not reflective of the risk management realities of the organisation, but was truly the exception and should not be viewed as the norm. United re-underwrote the programme such that the policyholder increased its policy deductible to $250,000, and the newly formed captive wrote a layer of $2.25 million excess of $250,000 and reinsured to United a layer of $2 million excess of $500,000 from ground up (FGU). The incumbent insurance company continued on the programme, as an excess carrier, attaching above $2.5 million (FGU). Over the next few years, the captive's retention within the first $2.25 million expanded and United's layer correspondingly contracted until, with sufficient financial maturity and experience under its belt, the captive was able to make the decision to retain the entire $2.25 million.

Analysing marine programme loss patterns

Our second case study takes an example from the world of captive marine reinsurance. A significant Canada-based ore commodities miner and refiner, which was at the time a 15-year-plus client of United (and whose programme for all those years was loss-free), experienced that exceptional large loss to its marine cargo programme. A vessel that it chartered to transport ore, which was extracted from its Far East mines, to its Canadian mining facilities sunk in bad weather off Tokyo Bay, with the loss of all cargo on board and regrettably, three crew members. This loss was followed soon after by two medium-sized losses that were similar in nature. United reinsured the captive for 70 percent of $19.5 million excess of $500,000, per conveyance. The 'traditional' market sitting beside United on a quota share basis had 20 percent, with the balance retained by the captive as 10 percent co-reinsurance participation.

United representatives worked with the company's risk manager to get to the root cause of the change in loss pattern. It transpired that a few months prior to the losses occurring, the ore company had changed the shipping line that it used to transport its cargo. Stacking and storing of the ore bags aboard ship by the operators of the new shipping line were found wanting and this was evidenced in the loss adjusters report. Heavy weather caused the inadequately stored bags to shift, ultimately resulting in loss of ship and, regrettably, life.

Cell companies provide some of the benefits of captive ownership without the same financial commitment—rather like renting a condo as opposed to buying a home

The traditional insurance market's response was to seek to increase the deductible to $5 million (from $500,000) and increase rates by more than 66 percent. United, on the other hand, knowing and having worked with the client closely for many years, suggested a change in shipping line (which was accepted by the risk manager) and initiated full surveying of the loading and stowage procedures on all new shipments. The captive did increase its retention, but to a more manageable $750,000 and a modest but more financially realistic increased premium was charged. United was more than happy to continue as the lead reinsurer on the restructured programme. The traditional market quota share reinsurers stayed on the programme, but reduced their participation considerably. In the loss-free years that followed, it became evident that the 'problem' had indeed been fixed. The traditional market tried unsuccessfully to expand its participation in the programme, only to have its overtures rebuffed by the (still very grateful!) risk manager.

Cell company solutions

United also has two 'cell' company subsidiaries—United SPC, in the Cayman Islands, and United USA, which is domiciled in Vermont—to work with those clients that are in immediate need of a captive solution but perhaps without the lead-in time that is required to establish their own captive insurance company subsidiary. Cell companies are a form of 'rent-a-captive' that provide legal and financial 'fire walling' of assets and liabilities within the corporate structure, but most importantly, provide some of the benefits of captive ownership without the same financial, intellectual and management commitment that is required of a wholly owned captive subsidiary—rather like renting a condo as opposed to buying a home. Both cell companies referred to above have provided tailor-made solutions to clients that were not part of the alternative risk transfer market. The following is but one example of the United cell approach.

United SPC was recently approached by a UK marine broker, to explore possibilities on a historically very profitable hull, cargo and protection and indemnity book of business. This book of business emanated from the Far East. The broker had an issue in that its client needed quick answers on facultative reinsurance enquiries, which it was not always possible to get. Indeed, the UK system where in general you would see one underwriter for one class of marine business and another for another meant that a holistic approach was not possible in London on the portfolio. United was able to ascertain that the risks concerned were of high quality and well managed, with good attitudes towards risk management and risk retention.

The broker invested in a cell in which to place the business, but also it was to be able to access United's marine capacity. United viewed the existing book as a whole, and agreed to underwrite all existing accounts, and to agree (or not!) to new business that may be offered within 24 hours. Initially, United reinsures 100 percent of all these risks, and pays the cell and over-rider to assist with covering its costs and building some capital and surplus in the cell. In following years, the goal is that the cell will begin to take real risk, and that over time, with United's assistance, it will go from being a 'pass through' cell to being the main reinsurer itself. United fronts for the cell in order to make the reinsurance capacity acceptable to the reinsured.

Many brokers and managing general agents also use United cells to place shares or all of their profitable business and to retain profit that would otherwise be given to the commercial markets. In many cases, United is able to assist those cells with reinsurance, on a quota share, excess of loss or stop loss basis, until such times as they are ready to take all risk themselves. CIT

Kieran O'Mahony
General manager and chief underwriter
United Insurance Company

The Insurance Law 2010: legislation for growth

The Cayman Islands government introduces a new regulation that recently came into force that addresses industry concerns and presents new opportunities

The Cayman Islands passed its first insurance law in the late 1970s. The decades that followed were exciting for the insurance industry as there was significant growth and diversification, advancing the Cayman Islands into the second largest captive insurance centre in the world.

Its progressive legislation, a balanced regulatory regime, combined with a highly entrepreneurial business climate and a team of experienced auditors, legal advisors and other professionals all contributed to the Cayman Islands's reputation as not only the best home in the world for captive insurers, but also as a gateway for international capital and economic growth.

Another significant factor in the success of the industry is the sound regulatory framework overseen by the regulator—the Cayman Islands Monetary Authority (CIMA). By the end of June 2012, 731 captive insurance companies were under license, with assets of $78.9 billion and annual premiums of $8.88 billion.

In its efforts to maintain a competitive business environment, the Cayman Islands recently introduced a modern legislative product—the Insurance Law 2010. This new law is expected to open new markets and further attract new business to the insurance industry, furthering the process of modernising the regulatory framework for insurance.

The Insurance Law 2010 came into effect in September 2010 and into force on 1 November 2012. The creation of the law was made possible through the close partnership between the public and private sector to improve the regulation of insurance business in the Cayman Islands. It covers recommendations in the International Monetary Fund's 2005 and 2009 assessments of the Cayman Islands, as well as recommendations by several international standard-setting bodies such as the International Association of Insurance Supervisors. Input for the law was also sought from various local insurance industry experts, as well as from the US and Europe.

Commenting on the collaboration, managing director of CIMA, Cindy Scotland, says: "This law took a lot of collaborative effort from many different parties including domestic and international insurers, the Cayman Islands Law Society, Cayman Islands Society of Professional Accountants, government and CIMA. Thanks to these efforts, solvency positions will be strengthened, consumer protection will be improved and new markets will be penetrated. I might also add that this is being done whilst addressing international standards. With this in mind, we are very pleased that the law is now being implemented."

By seeking input from every relevant standpoint, the new law seeks to ensure the Cayman Islands's on-going compliance with and adherence to the highest international regulatory standards. This law provides a modern and clear regulatory regime for the insurance industry.

The Insurance Law 2010 repeals and replaces the provisions of the Insurance Law (2008 Revision). A number of significant changes have been brought forward in the new law, which are expected to improve the current insurance business regime in the Cayman Islands.

Differentiating the two markets that exist within the local insurance industry—domestic and international, the new law allows each market to be regulated according to their different requirements. Defined categories of insurers were established, separating definitions and practices specific to insurance business and reinsurance business.

In addition to the established categories—Class A for domestic insurance business and Class B for international insurance (which has been mainly captive insurance), there are now two more classes in the new law—Class C for special purpose vehicles and Class D for reinsurers.

Class C represents special purpose catastrophe reinsurers that are financed through the capital markets. As the Cayman Islands has been the leading domicile for such reinsurers for many years, this provides several benefits to the industry. Not only does it create a new class of licence that allows appropriate regulation of those advanced risk financing entities as they continue to evolve, but it will also bring clarity, as well as provide certainty and predictability, which is seen by the industry as a marked improvement over the previous regime.

The creation of the Class D licence provides a clear regulatory structure to those insurers conducting reinsurance business, formally distinguishing reinsurers from captives. This presents a significant opportunity for the Cayman Islands, as it will facilitate the development of a reinsurance industry, adding a new dimension to our international financial services centre. The Cayman Islands now has the legislative framework in place to welcome the high quality and impactful international reinsurance industry.

Another advantage the law provides to the insurance industry is the sub-division of Class B categories, which will bring more clarity and provide flexibility to the type of business that these licensees can underwrite. This is relevant to captives, which are the mainstay of the international segment of the Cayman Islands's insurance industry. Under the new law, captive insurance providers will fall within one of the Class B insurer sub-categories.

The three sub-categories of Class B, which will reflect the amount of "related" and "unrelated" business that is assumed by the licensee, are: B(i)—conducting non-domestic insurance business in respect of which at least 95 percent of the net premiums that are written will originate from the insurer's related business; B(ii)—conducting non-domestic insurance business in respect of which more than 50 percent of the net premiums that are written will originate from the insurer's related business; and B(iii)—conducting non-domestic insurance business in respect of which 50 percent or less of the net premiums will originate from the insurer's related business.

Deputy managing director of Aon Insurance Managers Cayman Islands, Kieran O'Mahony, says: "The jurisdiction is very much aware that a common size does not fit all when it comes to matters of capitalisation—and that is true both for captives as well as open market insurers and reinsurers. This awareness is central to Cayman's proportional risk based approach to capitalisation."

The strengthening of whistle-blowing provisions for insurance managers and auditors is another significant improvement in the law. CIMA's oversight of international insurers that are licensed in the Cayman Islands is enhanced, by making it mandatory for insurance managers to inform CIMA if the manager has concerns or information about the licensee's fitness and probity,

CAYMAN ISLANDS

In its efforts to maintain a competitive business environment, the Cayman Islands recently introduced a modern legislative product—the Insurance Law 2010

ability to meet its obligations, criminal activity / proceedings or breach of its licence. Although the previous law had provisions for insurance managers, the new law makes these responsibilities more explicit—it includes auditors and gives immunity in carrying out the duties, obligations and functions under this section of the law.

The law also increases the protection of domestic policyholders by requiring domestic insurers to have CIMA's approval in order to transfer or amalgamate all or part of the insurer's long-term or life business, empowering CIMA to approve requests by the insurer for portfolio transfers and amalgamations between companies, as it sees fit. It also strengthens the domestic market by requiring licensees to submit to arbitration where there is a dispute or differences between an insurer and a policyholder in connection with a contract of domestic insurance and no valid arbitration agreement is in place. The new law lays a framework for a more robust set of capital and solvency requirements for insurers and enhances consumer protection.

The introduction of this modern legislation is welcomed by the public sector, which worked closely with the Cayman Islands government during the development stages of the law. Chair of the Insurance Managers Association of Cayman (IMAC), Clayton Price, says: "We believe that the metrics for the various classes of insurers and the respective solvency requirements are both attractive for existing insurers and for new insurers to incorporate in the Cayman Islands. Cayman has been the leading domicile for both healthcare and association / group captives and the new law and the regulations ensure that Cayman is on the forefront not only for captives representing this type of business but across all industries."

Price states that IMAC is also encouraged by the competitive revisions that have been incorporated for licensed insurance linked securities, as well as the specific section for commercial reinsurers. "The Cayman Islands having adopted a wait and see approach to Solvency II has made a very wise choice and one that we embrace. Other domiciles have had no alternative but to blindly adopt the European approach for a commercial insurer that has no intent in forming a subsidiary with a European platform. Cayman, with its business-friendly prudent approach, along with its sensible risk-based regulatory regime is well positioned and will be the logical domicile of choice for the future," he adds.

Vice president of USA Risk Group Cayman Islands, Robert Leadbetter, also offers his support for the law, noting: "It will be interesting to see the effect these enhancements to our proportional and risk based approach to regulation will have as we enter new markets such as Latin America and Canada. With the tax information exchange agreement with Canada taking effect in June 2011 and our close proximity to Latin America coupled with our updated legislation, we are well positioned to challenge for these underserved markets."

This modern framework addresses all of the weaknesses of the previous law and creates a legislative platform for new and diverse product offerings. It is a strong step forward for the Cayman Islands and is certain to boost the jurisdiction's coveted position as a leading jurisdiction for the insurance industry.

For more information on the Cayman Islands financial services, visit www.caymanfinance.gov.ky CIT

Standing up for the little guys

The tiny Caribbean islands of St Kitts and Nevis are tidying up their captive offering and squaring off against bigger counterparts

GEORGINA LAVERS REPORTS

It was a far cry from the sand and sun of Nevis when Denzil Douglas announced his intention to introduce captive insurance legislation. In the more brisk climes of Switzerland, the prime minister assured his audience that the new captive insurance vehicle would be "extremely competitive", with low licence fees for small captives.

In July 2004, the Nevis Ministry of Finance and Development announced the passage of the Nevis International Insurance Ordinance (NIIO). It was divided into six sections, and provided for the licensing and regulation of general insurance, captive insurance and reinsurance companies.

The ordinance made it compulsory for insurance companies to have a physical presence in Nevis with adequate knowledge, and two years later, lawmakers tightened up certain sections of the legislation to combat fraud.

Under the changes, certain provisions of interest included the warning that companies could not adopt a "deceptively similar" name to an existing business, and they must provide evidence of the "expertise, experience, and character of the person or persons who will manage it."

According to Martin Eveleigh, chairman of Atlas Insurance Management (Nevis), for many years Nevis was a popular home for PORCs (producer owned reinsurance companies), which were formed predominantly to cover various warranty and credit insurance products that were offered by car dealerships. "While these reinsurance companies were not formally regulated, they gave Nevis a clear insight into the potential of establishing itself as a captive domicile. Additional impetus was probably provided by the visible success of the British Virgin Islands in the early 2000s and by encouragement from some in the industry. The Nevis International Insurance Ordinance 2004 is the foundation of Nevis as a properly regulated captive jurisdiction."

"The main provisions of the NIIO legislation are in line with that in other offshore jurisdictions although, statutory minimum capital requirements are relatively low," says Eveleigh. "A unique provision of Nevis's legislation is the ability of an insurer to form any number of statutory funds. A statutory fund is a risk segregating mechanism somewhat similar to a protected cell. However, the insurer has great flexibility in how assets and liabilities are allocated to statutory funds and they are easily formed without cumbersome regulatory requirements. The statutory fund provisions can usefully be applied to group captives, various types of programme business and situations where one insured business has several owners who prefer to own separate captives."

Certain captive owners have elected to take their captives back to the US in odd instances from offshore jurisdictions, maybe out of a sense of patriotism

Derek Lloyd, director of AMS Insurance, says: "Most legislation follows a similar theme and generally speaking the offshore jurisdictions provide greater flexibility to the captive owner as to what risks may be underwritten within the entity, and also greater variety on the types of structures that can be utilised within Nevis."

As for types of business lines, Lloyd adds that AMS has seen a wide diversity of both industry types and also the geographical location for the parent, as Nevis has "continued to mature and rise up the ranks of the leading captive domiciles around the world."

"For sure, there are particular sectors such as 'MedMal' that have their own specific issues in the conventional market but generally speaking the spectrum is, indeed, very broad and diverse." Regarding type, Lloyd states that from his own experience, the majority are pure single parent captives.

"But as the conventional insurance market continues to let down its longstanding and loyal clientele, we are certainly seeing an increased volume of enquiries from groups or associations seeking to take control of their insurance overhead with a combination of a captive and appropriate reinsurance as opposed to being at the mercy of the extreme market cycles commonly seen in the traditional insurance marketplace."

All about the money

The primary benefit of setting up a captive in Nevis seems to be the cost. Under Nevis law, an insurance company must be a company formed according to the Nevis Business Corporation Ordinance 1984, with meager licensing fees of US$1000, 2000 and 5000 respectively for single person captives, less than five owner captives and five or more owner captives respectively.

"The cost of doing business in Nevis is low with very modest government fees," says Eveleigh. "In addition, statutory minimum capital requirements for captives are low. Perhaps more importantly, the regulators in Nevis have been responsive and flexible. There is a very real sense that Nevis is open for business."

Paul Mason of Trust Services Nevis, a subsidiary of CHCL Fiduciary, says that the major challenge facing prospective captives is that a Nevis captive insurance company must have a licensed insurance manager, who may not be a shareholder in or provide the services of directors or officers to the captive.

Lloyd says that there are no specific challenges to setting up shop on the island. "A complete and detailed submission supported by appropriate financial and due diligence information is undoubtedly a pre-requisite to a successful licence application but where isn't it these days? Furthermore, the Registrar of International Insurance (Hazel Brandy-Williams) and her staff are very diligent in the vetting process of any potential beneficial owners and directors and officers of a licensed insurance entity in Nevis. It is also fair to say that significant due diligence is required for any licence application but in this day and age that is no different to establishing any business relationship or opening a bank account or whatever, with the necessity for open and transparent disclosure. If any individual has an issue with such criteria, then Nevis is not the place for them to have their captive!"

But a hurdle for the island could be its 'offshore' tag and the associated reputation.

"I would suggest that the overall numbers speak for themselves in that regard with consistent growth in the number of licensed and regulated captive insurance entities in Nevis in the last few years, with many of these entities being of US parentage," says Lloyd. "I do believe certain captive owners have elected to take their captives back to the US in odd instances from offshore jurisdictions, maybe out of a sense of patriotism as their local state has subsequently enacted captive legislation or whatever but generally speaking, Nevis has fared very well and continues to grow and mature as a recognised captive domicile including entities with US parent companies."

"As several of the leading onshore tax lawyers have suggested at industry conferences this year, there is no 'right or wrong' with regard to the so-called 'onshore or offshore debate. Different trigger factors in different circumstances will lead to the determination of the domicile of choice for individual captive owners as to whatever may suit the proposed captive best and the increased volume of captive business generally and the growth in many jurisdictions, offshore or onshore, would suggest to me that any current debate is more media-generated than a reflection of the true position for either side."

Eveleigh says: "The vast majority of captives in Nevis take an election under S.953(d) of the Internal Revenue Code to be taxed as US domestic companies. There is, therefore, complete transparency from a tax standpoint. While some US owners prefer to form their captives onshore in an environment that is more familiar to them, costs and minimum capital requirements are considerably lower in Nevis, it is an easy place in which to do business and there may be some asset protection advantages to domicile offshore."

In a recent article, lawyer Jay Adkisson retold the tale of Richard Joseph Solomon, who schemed with two Panamanians to form shell "insurance" companies in Nevis, or what Adkisson refered to as "effectively unregulated jurisdictions".

However, Mason points to the island's possible amendments to its international insurance legislation during 2013 as an illustration of the jurisdiction's dedication to making itself versatile and "user friendly", despite not seeking equivalency with Solvency II.

Lloyd takes a more open view on the directive, and concludes that the islands are doing much to ensure they have a viable and credible offering.

"As with a number of the jurisdictions, I believe that Nevis is waiting to see when, and if, 'the pendulum stops swinging' with regard to Solvency II and I note only [recently] that further delays have been suggested to the implementation of Solvency II so we will see what evolves over time in that regard."

"Nothing stands still in life anymore and, at the time of writing, various legislative amendments are presently under review by government and the private sector that I would anticipate would continue to keep Nevis's progressive development on track moving forward into 2013 and beyond. It is also anticipated that a formal insurance advisory committee will be established between the public and private sectors to further develop the legislation and product range available within the jurisdiction as Nevis seeks to continue to provide a viable, credible captive insurance offering that is acceptable to both the purchasing public and the external supervisory bodies." **CIT**

Keeping it in the family

Group captive insurance is becoming increasingly prevalent in the employee benefits industry as a means of offsetting rising healthcare costs, says Justin Horn of Cypress Benefit Administrators

While the majority of Fortune 500s and many large corporations have relied on captive insurance structures for decades, this method of self-insurance has been expanding to small and mid-size companies in recent years for both the public and private sectors.

Statistics show that captives are also becoming popular in a much wider variety of insurance lines. One industry where captives have experienced significant growth is employee benefits. Much like CypressCap, a captive insurance programme that is managed by US-based Cypress Benefit Administrators, group plans that finance risk by pooling together the resources of smaller companies are increasing in scope and quantity.

According to Tom Doney, president and co-founder of Cypress, lack of control is a contributing factor. “With healthcare rates escalating so significantly from year to year and no way to predict if or when they will stabilise, employers are really feeling the pressure. They are being much more proactive about implementing effective cost containment measures.”

Doney says another reason for the growing number of employee benefit captives is that employers are looking for more transparency in claims handling. He explains: “In many cases, small and mid-size companies have traditionally experienced limited access to claims data, giving them less chance to implement programmes or incentives that encourage employee wellness and minimise claims.”

With group and other forms of captive insurance, employers experience cost savings over the long term. They benefit from underwriting profits and tax advantages. Employers are also subject to fewer administrative fees and have increased cash flow. Additionally, captive insurance allows employers to retain investment income that would typically be paid up front to traditional insurance carriers in the form of claims and premiums.

Another difference between group captives and traditional carriers is the way that premiums are determined. Doney says: “Instead of paying a community rating based on average cost as a whole, employers’ premiums are instead calculated according to demographics, experience and risk profile.”

Originally used to cover predictable risk in areas such as general liability and workers’ compensation, group captives continue to be formed for different coverage areas as evidenced by employee benefits.

Cypress Benefit Administrators recently launched CypressCap—a group captive insurance programme that is designed for employers with at least 50 employees. To provide an innovative risk transfer solution, Cypress partners with A+ rated carriers as well as renowned captive management companies, networks, pharmacy benefit managers and other organisations that are committed to cost containment.

Designed specifically for employers with at least 50 employees, CypressCap provides an alternative solution to out-of-control healthcare expenses and provides hope for companies looking for a real solution to the ever-increasing cost of group health plans. The programme is structured as a group captive, which offers an alternative risk transfer vehicle that allows members to benefit from underwriting profit, investment income and tax advantages.

Captives have been used for other lines of insurance for decades, and are just recently being used for health benefits. CypressCap offers employers the many proven benefits of group captive strategies, including reduction of administrative expenses and rate volatility, retention of carrier profits, efficient claims administration, improved/stable cash flow and more. **CIT**

Justin Horn
Director of business development, emerging markets
Cypress Benefit Administrators

Group captives in the news

Cayman Islands, June 2012: A.M. Best affirmed the financial strength rating of “A (Excellent)” and issuer credit rating of “a” of Eastern Re SPC, a cell captive that issues preferred shares to its cell owners, which are agent or group captives that purchase workers’ compensation coverage from the parent company of Eastern Re.

These agent and group captives participate in the profits and losses of the cell for which they are the owners. This incentivises the agent or group captive to prevent adverse selection for the business that Eastern Re assumes.

Illinois, July 2012: Consultant to member-owned group captives, Captive Resources, saw its affiliated captives reach combined premium exceeding $1 billion.

Captive Resources creates and oversees 27 member-owned group captives, which collectively have more than 2500 member companies.

George Rusu, co-founder of CEO of Captive Resources, said at the time that the firm’s group captive model has become increasingly popular, as companies seek to tightly control expenses.

New Jersey, August 2012: Rick Stasi became president of York Risk Services Group’s alternative risk solutions division, responsible for captive management and programme administration for group captives and self-insured groups.

Ohio, October 2012: Ohio’s Roundstone Management and Nationwide Life Insurance signed off on a new managing general underwriter agreement focusing on group captives.

The agreement aims to be the only resource for a one-stop, complete, turnkey, group captive underwriting facility offering stop loss coverage, with Michael Schroeder, president of Roundstone, saying at the time that the firm is “striving” to improve on its stop loss captive offerings.

Using a sledgehammer to crack a nut

CIT talks to Richard Clark of Xuber about why servicing the captive sector is a little different

GEORGINA LAVERS REPORTS

How did Xuber come about?

We started life 30 years ago as two commercial insurance software houses that were bought by Rebus Insurance Solutions. In 2004, Xchanging bought Rebus and since then we've been the insurance software arm of Xchanging. In October, we rebranded the software business to Xuber, although we still remain part of the Xchanging group. We provide end-to-end administration systems to insurance companies, insurance brokers, reinsurance clients and captive managers.

Which of your products pertain to captives?

Genius, Iris, Elgar and Brokasure are the four end-to-end products on which we've built our business to date. We have recently launched the Xuber platform; a brand new software platform that assimilates and extends all of the functionality of the above four products.

In addition to these existing products, we have introduced new software products that are built on the powerful Xuber Platform—Xuber for Insurers and Xuber for Reinsurers—and in 2013 we will introduce Xuber for Brokers and Xuber for MGAs. They offer an unprecedented level of flexibility and configurability and the offerings can either be deployed as a fully integrated end-to-end solution or as separate functional components (for example, Policy).

If someone came to me looking for a reinsurance system, I'd assess what their needs are and which product set would best suit their business. Xuber for Reinsurers has flexible capabilities across the full-assumed reinsurance lifecycle and is offering the modern day reinsurer improved performance and rich functionality.

Going forward, we're considering a configuration of our software for the captive market. Our existing products Genius and Iris have both been used by captives. But in the future, it would be a variant of Xuber for Reinsurers, with configuration to make it more applicable to the captive market.

How is servicing the captive sector different?

One of the difficult things about the captive market is finding the right solution for them. They tend to have to accept a system that is designed for another practitioner type being shoehorned into their organisation. Though we haven't designed anything specific for the captive market as of yet, I'm confident that what we've got will enable us to come up with a variant and configuration for the captive market.

When you look into captives, there's not just one market you're looking at, and therefore you must attend to insurance captives, reinsurance captives and captive managers. Say I'm looking at the Bermuda market; one of their features is that a reinsurance captive writing very high level protections may actually have extremely small business volumes, even though the premium amounts that we're dealing with are huge.

Historically, many reinsurance captives have ended up using little more than spreadsheets, and traditional insurance systems are akin to using a sledgehammer to crack a nut. People have found themselves using something that is far too powerful and far too geared up to high volume, low complexity than the job needs when you're dealing with those high-level reinsurance captives.

A question in my mind is to what extent some of the regulatory changes, such as Solvency II, as a necessity for captives to be compliant has actually pushed captives more towards needing to get some more robust automation of their business, because I can see that as a driver.

I think the captive world can't be too akin to the high volume business that you would find in a traditional insurance company. It needs to be something that handles highly complex risks and is very flexible and configurable, but in a way that the practitioner is not overwhelmed with something that from a user perspective, seems far too complicated for them.

The answer, I believe, is our new Xuber platform, which can address many of the things the market needs. For us to really enter into the arena, we need to configure a captive version, and we would be looking to partner up with someone that can give us a steer on how some of that configuration can happen. Again, there are people in the captive world that are also writing business on the open market, which is an interesting variant. They've got two views on life: one, around the risks that are coming from their parent, and two, balancing their book of business to write traditional business and competing with insurers that are not connected in a captive relationship.

For example, ICI, which has a captive that we provide a solution for, used to write quite a bit on the open market.

Regarding captive managers, one of their features that plays well to what we've got is the multi-company concept within our software. Our software is very international, so has multi-company, multi-currency, and multi-lines of business.

For a captive manager probably representing a large number of captives and needing to keep the right financial Chinese walls between the business for the different captives that they represent, is something which again the structure and architecture of our application will allow them to do.

Finally, our offering gives integrated outwards reinsurance, because most captives are being used as a vehicle to access the more appropriate covers that the reinsurance market would offer, whereas if they were just risk managers, they would be constrained to the insurance market. Again, the fact that we're able to offer tightly integrated insurance and very powerful calculations around that plays well into the requirements of captive insurers. CIT

Richard Clark
Head of business development and specialist commercial
Xuber

Offshore leave: home is where the captive is

Experts tell CIT why the Cayman Islands continues to weather the financial storm and how its companies are faring in a rocky regulatory environment

How has 2012 compared with 2011 for captive insurance companies?

Linda Haddleton: This year has been strong for the Cayman Islands in terms of captive formations. As at 30 September 2012, 31 new licences had been issued, with the Cayman Islands Monetary Authority (CIMA) stating that a further 20 applications were pending. This compares favourably to 2011, which saw 29 licences issued by 30 September and a total of 38 issued for the year.

The 2012 results also reflect success on the cat bond front, with 10 special purpose vehicles (SPVs) licensed by 30 September compared to four in 2011. In terms of non-licensed structures, four were set up by 30 September compared to none in the previous year. This sector is clearly performing well, and 2013 is expected to be another busy year.

While there is no indication of any particular industry or lines of coverage being served by these new captives, healthcare remains a prominent area and traditionally approximately 30 percent of Cayman Islands captive formations are healthcare-related. It is confirmation that captives may be expected to continue to play an important role in the future of the healthcare industry as the delivery of healthcare evolves.

Clayton Price: The recent financial crisis resulted in lower premiums for captive insurance companies, reduced resources and drove a re-evaluation of how best to utilise assets. As a result, captive insurance companies have become quite efficient at maximising value, despite the soft market.

Last year saw continued pressure on the insurance industry, with an ongoing soft market, poor and volatile investment returns, and a sustained fragile economy. While many captives / insureds started to see improvement in economic conditions in late 2011 and continuing throughout 2012, the insurance carriers have seen investment income remain low and volatile, and there is a lack of underwriting profit. As a result, the insurance market is starting to harden and as a consequence of that, there has been a greater interest in captive insurance companies and alternative insurance products. The first three quarters of 2012 showed tremendous growth in the Cayman Islands, with more than 55 licence applications received, 31 new captives licensed and existing captives showing significant increases in premiums and assets. More and more companies and organisations are viewing captive insurance as a way to take control, predict costs and create synergies, and they are also viewing the Cayman Islands as the domicile of choice, offering a strong market, industry expertise and great flexibility for insureds looking to participate in an existing or a new captive insurance company.

How has the captive insurance market reacted to the generally low investment returns for all types of investments and fears of another recession, coupled with the availability of commercial insurance at very low rates?

Haddleton: Captives invest conservatively and do not rely on high investment returns in the same way as commercial insurers do. They are primarily focused on insurance risk and do not tend to add significant investment risk to their programmes. The inclusion of a captive in the owner-insured's risk management and financing infrastructure is strategic, aimed at optimising the balance of self-insurance and commercial insurance, and minimising the volatility of risk financing and coverage availability. As a result, captive boards should and do take a longer-term view of the economics of their programmes, and not react violently to market conditions. Ultimately, risk management measures can have a far greater impact on the cost of insurance than interest rates and commercial insurance rates when a captive is utilised.

What we do see happening in relation to mature captives is that there will be a more rigorous approach taken to investing assets representing surplus rather than insurance liabilities. What we also see happening is captives taking advantage of low commercial rates to negotiate lower reinsurance attachment points and sometimes multi-year reinsurance contracts.

Price: Since the last decade, there remain residual challenges in the global insurance sector, and in particular captive growth, which arise from the general realisation that global economic growth may not recover for many years. Unfortunately, we live in a world where governments no longer have the economic tools at their disposal, where insurers are able to underprice products based on huge surplus positions and investment options have become more and more limited. Generally, we don't see these problems going away in 2013. In fact, given developments in global financial market oversight, and the burdening national debts of the US and the EU, we see the 'save not spend' mentality persisting, despite attempts through quantitative easing to achieve the opposite.

If this occurs, the captive industry will need to look seriously at its risk exposure, and particularly asset risk. This is a very difficult market to gain growth or earnings on assets, and with a relatively unstable economic region in the Western hemisphere, the options are getting even more limited. The perpetuation of a low interest rate environment is stifling economic growth and with a weak US dollar and euro, we don't see guaranteed safety in fixed income securities, including bonds.

Despite negative global conditions, and recognising that the prolonged soft market will remain well into 2013, the Cayman Islands remains a very popular jurisdiction for captive formations, which we attribute to a combination of our sensible legislative framework, the relationship between the Insurance Managers Association of Cayman (IMAC) and CIMA, together with a harmonised regulatory environment. Although these have been factors for many decades, IMAC is now reaping the benefits of effective strategies in the form of captive growth, both in terms of number and size.

With a record number of 53 applications received to date in 2012, we would have to say that our reactions to global economic events have been more than successful.

If the global captive insurance market is soft, why is the Cayman Islands enjoying new formations?

Price: Captives do get formed in both soft and hard markets although the typical trend is for more captives when the markets harden for obvious reasons. Saying that there are always benefits to self-insurance and the Cayman Islands remains a beneficiary of this demand, just as other domiciles such as Vermont, Bermuda, Anguilla, Utah and Delaware are still seeing growth in captive numbers.To fully understand the position, you have to consider three areas that are driving growth:

- Changes in the regulatory environment in the US—for example, the Patient Protection and Affordable Care Act (PPACA) creates an incentive for health systems to self-insure and for physicians to join the systems rather than being self employed
- The catastrophe bond market operates at peak efficiency under the Cayman Islands's insurance law, and with increasing numbers of natural disasters, the reinsurance markets capacity is enhanced by the creation of Cayman Islands cat bonds and sidecars
- The middle market and agency market are looking at captives as supplementary income and as long-term planning vehicles, and these sponsors look to the offshore markets as centres of excellence.

The Cayman Islands maintains its position in these markets because the consultants and brokers who drive the business have confidence in the management companies and service providers in this jurisdiction. Our track record speaks for itself. The Cayman Islands has been in the business of captive management since before 1979 when the insurance law formalised the arrangement and has seen growth in numbers ever since.

Haddleton: While there undoubtedly is a correlation between the hard versus soft commercial insurance cycle and captive formations, it is precisely the volatility of commercial insurance that captives overcome. A hard market can prompt captive formations, and so can anticipation of a hard market. Pricing is a factor, but not in isolation. Commercial premiums can be high or low for many reasons without necessarily being fair. The commercial market does not go to the same lengths as captives to reward better risks. Neither does the commercial market react promptly to recognise and price fairly emerging risks. Availability and suitability of coverage is a significant motivator of captive formations.

The Cayman Islands remains a leader in healthcare captives—how have the needs of their parents changed in the aftermath of Obamacare in the US and how has the Cayman Islands attempted to meet those needs?

Haddleton: While the impact of PPACA is at an exploratory stage, we believe that it will stimulate a greater focus on captives. The drive to reduce risks and costs is creating new exposures and liabilities, and those exposed require sufficient control to manage these. This is where healthcare captives come to the fore.

The coordinated healthcare approach of PPACA will present significant liability risks, which will need to be assessed and insured. The rise in the number of insured people with access to healthcare will create supply issues, while significant investment will be required to undertake the necessary reforms to the entire delivery system.

Healthcare captive owners, in our view, already have a head start in terms of managing these developments. For example, they generally have quality controls embedded in their underwriting criteria that are key to managing exposures, while the significant cooperation that will be required between healthcare providers is already standard procedure for most captives. Also, the flexibility that is afforded by the structure means they can be used to respond quickly to changes in the risk horizon. For example, lines such as cyber liability, billing errors and equipment maintenance, as well as medical stop loss, are either being written or are under consideration by captive owners.

In terms of its impact on the healthcare sector in general, we are seeing some consolidation as some smaller, regional hospitals are absorbed into larger groups or partner with them to help with cost containment efforts. Also, traditional, non-employed physicians are becoming hospital employees as it is becoming increasingly difficult for smaller practices to remain competitive.

Price: With the proposed changes to Medicare and Medicaid, one of the big unknowns for institutional healthcare providers is that they are still trying to understand the whole Accountable Care Organization (ACO) structure and whether or not this is a new area of risk for them, and if so, how are they going to insure it—commercially or using their captive? Many institutional healthcare providers have commenced conversations with commercial carriers regarding the activities that their employees are undertaking to try to determine the classification of exposures and whether it would be categorised as managed care or some new exposure for which they may need a new insurance product, or more preferably, use their captive to finance this risk.

How are other regulatory initiatives outside of the Caymans Islands affecting captives on the islands?

Haddleton: Regulatory initiatives can affect the business case for captives and the choice of captive domicile. For example, the disparate responses to Solvency II of the Bermuda and Cayman Islands regulators favoured the Cayneb Islands for certain captives that were formed between 2010 and 2012. A proliferation of onshore domiciles pursuant to US state regulations has created greater competition for offshore domiciles, but it has also had the effect of giving the captive industry a higher profile and creating demand. As captive formation is a strategic move, it is important to consider the global economy and regulatory environment.

Price: The pace of regulatory reform has greatly accelerated since the financial crisis for financial services globally and the captive industry is no exception. Most of the regulatory change has occurred in the US and this has the greatest potential impact on the Cayman Islands as more than 90 percent of captive business originates in America. As a number of these regulatory reforms have not yet been finalised, the most significant effect so far has been to increase uncertainty. FATCA (the Foreign Account Tax Compliance Act) will almost certainly increase compliance requirements (and costs) for offshore captives, although the full extent is not yet known. The NRRD (Non-admitted and Reinsurance Reform Act, which is a part of the Dodd-Frank Act) may or may not affect the application of premium tax to captive insurance and induce some level of re-domestication onshore. Dodd-Frank also established a new regulator, the Federal Insurance Office. Europe's Solvency II may induce captives to relocate to non-Solvency II domiciles such as the Cayman Islands. It will be several years before the ultimate impact of these reforms is understood and ongoing monitoring is essential.

Regulatory initiatives can affect the business case for captives and the choice of captive domicile

Linda Haddleton
Kane (Cayman)

The Cayman Islands boasts an impressive number of bilateral tax information exchange agreements—what are these doing for the islands and its captives?

Price: In 2009, the Organisation for Economic Cooperation and Development's (OECD) Global Forum published a list of jurisdictions implementing internationally agreed tax standards. Both prior to and following its publication the Cayman Islands has been and continues to be committed to operating in the co-operative and transparent manner recommended therein.

Through the execution of Tax Information Exchange Agreements (TIEAs), the Cayman Islands has established an effective mechanism for the exchange of information. With each newly signed TIEA, the Cayman Islands clearly demonstrates its cooperative nature, thereby further reinforcing the professional business sector of which we are proud to be a part.

With the ever increasing need to scrutinise financial transactions in our global economy, the Cayman Islands provides a highly regulated business environment that is conducive to conducting business in accordance with the most stringent international compliance requirements. The TIEAs help to ensure that the Cayman Islands continues to be competitive and highly regarded.

From a captive perspective, these agreements have increased the number of countries for which we provide services; the agreement with Canada in particular having been widely anticipated. It opened up a market that had traditionally used Barbados as the preferred domicile for its captives.

Haddleton: TIEAs cover many of the standard provisions in the OECD model agreement for the exchange of information on tax matters and help to underscore the Cayman Islands's commitment to adhering to international regulatory standards. The Cayman Islands has signed 27 to date, undoubtedly giving the jurisdiction further credence and providing confidence to those companies wishing to form a new captive in the domicile. In addition, CIMA has 22 bilateral and multilateral cooperation and information exchange agreements in place, including with the Office of the Superintendent of Financial Institutions in Canada.

The aim of the TIEAs is to provide comfort to governments whose constituents elect to do business in the Cayman Islands, and better recognition that domicile choice is based on many factors besides, and in many cases excluding, tax benefits.

How far has the Cayman Islands progressed with ridding itself of a 'tax-haven' reputation?

Haddleton: With a population of approximately 55,000 people, efforts in the Cayman Islands to establish a tax code and collection system and an agency to correspond with other tax agencies worldwide on dual taxation matters would not be economically viable.

The absence of direct income and corporate taxes does not make the Cayman Islands a tax haven. The practice of foreign individuals and corporations that do not disclose their worldwide income in accordance with their own governments' tax codes are what brand the Cayman Islands as such. The TIEAs and the range of bilateral and multilateral cooperation agreements are therefore the way to go, allowing foreign governments to better enforce their own tax codes. These serve to clearly demonstrate the Cayman Islands's position as a well regulated and respected domicile. In addition, CIMA endeavours to fulfill its regulatory and supervisory mandate with due regard for international standards and is represented on a range of bodies, including: the Caribbean Financial Action Task Force; the Caribbean Group of Banking Supervisors; the Offshore Group of Insurance Supervisors and the International Association of Insurance Supervisors.

The Cayman Islands has taken great strides in terms of demonstrating its commitment to achieving

In terms of progress, the last several years have highlighted many watershed events

Clayton Price
Insurance Managers Association of Cayman

the highest standards of regulation and supervision across the financial sector. The domicile's success in this regard has helped it to rid itself of the unwarranted title of 'tax haven' and such references are usually now limited to those who are unaware of the Cayman Islands's extensive efforts on this front, or who are deliberately attempting to tarnish the reputation of its well-managed financial infrastructure.

Price: This is an interesting question that is built around three words that can, and are misinterpreted constantly by critics of jurisdictions. Namely: 'tax haven', 'reputation' and 'progress'. Let me begin with 'tax haven'.

The lack of taxes on income, property, capital gains and inheritance makes the Cayman Islands a lower tax jurisdiction than most G20 countries. However, that does not mean that we have no tax. The Cayman Islands government depends on a range of duties and fees for a revenue stream and is arguably a fairer system of tax distribution because it recognises the need for persons to pay the taxes that they legitimately owe to government on a fee-for-service basis. The term 'tax haven' is inappropriate because it implies that the jurisdiction exists to facilitate the non-payment of tax to their home jurisdiction, which is a myth perpetuated by those that are either ill-informed or do not seek to be informed. Cayman Islands structures are used by corporations and individuals in accordance with the laws of their countries of residence for many reasons, such as: they have multi-jurisdictional platforms that do not need to be subjected to each other's taxes; to provide security to those who are resident in jurisdictions that do not have credible or trustworthy legislative infrastructure; or the need for a sophisticated regulatory regime that has been established with the institutional product in mind, and does need additional layers of regulation that are more appropriate to retail products.

Now, let's address the words 'reputation' and 'progress'. The Cayman Islands has always been a legitimate financial centre that has developed, along with G20 financial centres, as the globalisation and implied international standards have developed. In the 1970s, a lot of the global insurance standards that exist today didn't exist at that time. Indeed, we forget that the standard setters themselves, ie, IAIS, was only formed in 1994. In terms of progress, the last several years have highlighted many watershed events in our development including creating a contemporary infrastructure with the new Insurance Law 2010, an early signatory in the IAIS multilateral memorandum of understanding, increased international efforts with participation at the IAIS executive level, and the signature of tax information exchange agreements. It is arguable that the Cayman Islands's reputation is, and remains, one of sound, sensible regulation, progressive legislation and the adoption of prudent international standards. **CIT**

Industry appointments

XL Group's US risk management business is adding and redeploying talent in its New York office to boost its resources to address businesses' complex casualty insurance needs.

The company recruited **James Barbuti** as its US risk management leader for the East coast and appointed **David Kelly** to a new home office role as senior vice president of US risk management.

Both report to Jay Lefkowitz, head of US Risk Management.

Barbuti joins XL Group from ACE where he worked for 10 years in both Philadelphia and New York running its risk management operations.

David Kelly joined XL Group's US risk management team in 2003 after 23 years with Kemper Insurance, where he most recently served as chief underwriting officer for Kemper Risk Management.

Lefkowitz said: "Barbuti's knowledge and relationships in both New York and the Mid-Atlantic marketplace is extensive and will be invaluable to us as we strengthen our broker relationships and our reputation for creatively addressing large complex casualty accounts. We're pleased to gain his help to build on our recent successes."

"Kelly is stepping into a new role to focus on building our captive capabilities. He will assist our regional underwriting teams in addressing various captive fronting, single parent, small group captive, and other unique risk management account opportunities. We're also tapping into his extensive home office operation experience to assist in several planned underwriting process and operational enhancements."

Xuber, Xchanging's re-launched insurance software business, has continued its recruitment drive with the appointment of **Michael Kulp** as vice president of sales.

Previously, Kulp held senior roles at major competitors Accenture and Guidewire, where he spent the last two and seven years of his career respectively. His responsibilities at Xuber will include identifying and securing new business in the US.

Kulp joins **Michael Jones** and **Bradley Roberts**, who were recruited as vice presidents of sales in the US in October. **Tony O'Halloran** has also been appointed as director of account development in the UK.

The recruitment drive forms part of Xchanging's re-launch of its software business as Xuber. The business has recently invested more than £20 million in developing the next generation of insurance software and growing its sales and marketing functions across the globe. Xuber was unveiled to the London insurance market in October.

Adrian Morgan, head of Xuber said: "Kulp is a seasoned professional within his field, joining us with over 20 years' experience in the insurance software market, including at major rivals such as Guidewire. We are delighted to have him on board at such an exciting and transformational time for the business. We believe his experience is precisely what is needed to help Xuber increase its market share in the US, and ultimately fulfil our vision of being the number one global insurance software provider."

Marsh has named **Stephen Wares** as leader of its cyber risk practice in the firm's Europe, Middle East and Africa risk practices group.

He joins the firm from Hiscox, where he was global head of its technology product line.

Wares will develop Marsh's cyber risk and insurance proposition for clients within the EMEA risk practices group, which serves multinational organisations across the region.

He will work closely with experts across Marsh, including EMEA communications, media and technology practice leader Fredrik Motzfeldt to deliver cyber risk solutions to the firm's largest clients.

George Davies, chief executive of Marsh's European risk management practice, said: "Wares's industry expertise, combined with his deep understanding of related broking and underwriting markets, makes him well qualified not only to harness the wide range of cyber solutions Marsh offers our clients, but also to drive our expansion in this growing and dynamic risk sector."

Wares added: "The cyber risks that organisations face globally are rapidly evolving; indeed the greatest risk to many firms is failing to keep pace with these technological threats. Marsh is at the forefront of developing global cyber risk solutions, and I very much look forward to working with my new colleagues to help clients manage cyber risk more effectively."

RFIB group has recruited **Lisa Siggery** as risk and compliance director. Siggery took up the London-based role on 29 October.

Siggery previously held the role of group risk officer at Towergate Insurance.

CEO of RFIB, Jonathan Turnbull, said: "Siggery has a wealth of experience in risk and compliance and joins the company at a crucial time in our development. RFIB continues to go from strength to strength, opening international offices in Kazakhstan and Saudi Arabia in the last two years."

"We also continue to invest in new capabilities including energy, global facultative property, aviation and captive reinsurance. Siggery's experience will be invaluable in continuing our high standards of compliance and risk control across the group." **CIT**

CIT 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

Editorial assistant: Jenna Jones
jennajones@captiveinsurancetimes.com
Tel: +44 (0)20 8289 6873

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

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

Company reg: 0719464