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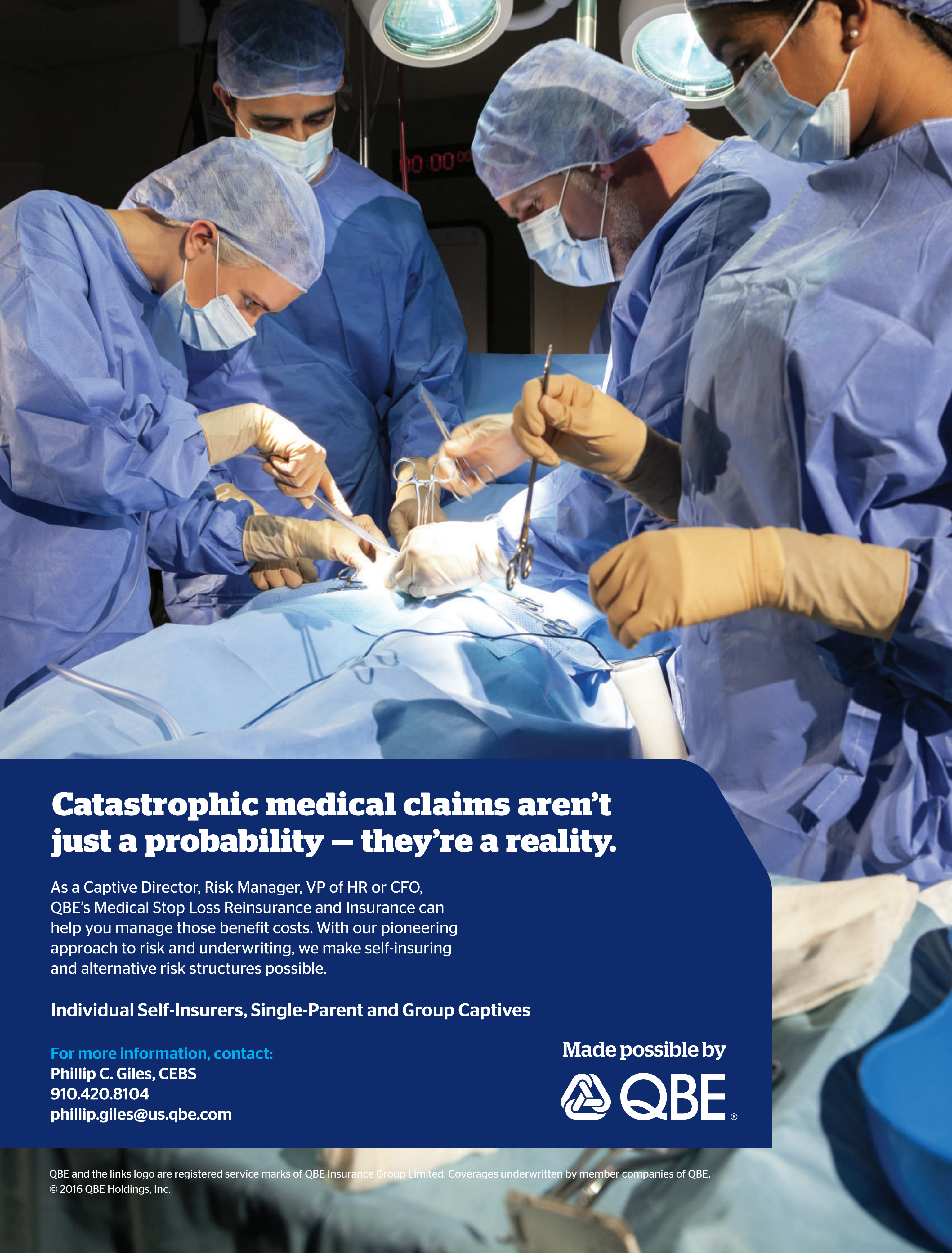

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European captives continue to show their ART appeal

Owners of European captives continue to see value in using them, despite prevailing weak premium rates and widening terms and conditions in large sections of the general insurance market, according to an A.M. Best report.

The report, European Captives Demonstrate Enduring Appeal of Alternative Risk Transfer, explained the expectation that captive owners would make more use of the open market during a soft cycle, and place more risk through captives during a hard market, has not played out.

Instead, the report revealed, captives have continued to play an important role regardless of the market cycle.

Although captives have remained an appealing source of alternative risk transfer during the soft market, the report suggests there are challenges ahead for the industry.

These include the Organisation of Economic Cooperation and Development (OECD) action plan on base erosion and profit shifting (BEPS), the need for contingency plans for captives affected by the UK's exit from the EU, and an increasing regulatory burden, both within and outside of the EU.

Mathilde Jakobsen, associate director and co-author of the report, said: "The European captives rated by A.M. Best are generally well-integrated in their parent's overall risk management framework and are valued for the benefit they bring to the group's risk management, independently of any savings on insurance buying."

The report noted that although the OECD's action plan on BEPS is not directly aimed at the captive insurance industry, it will have "significant implications" for these kinds of insurers.

Konstantin Langowski, financial analyst and co-author of the report, added: "Captives that are used simply as a risk financing tool will come under even more scrutiny by taxation authorities in the future."

According to A.M. Best, the improvement in risk management among captives, led by regulatory demands, is positive.

The rating agency said: "A captive with strong risk management capabilities is likely to achieve more sustainable earnings and have a better understanding of its capital needs. In addition, strong risk management will help captives deal with challenges such as BEPS and Brexit."

Contents

SIIA calls for guidance on which PATH to take

The Self-Insurance Institute of America (SIIA), in collaboration with 15 state captive insurance associations, has requested guidance and clarification around the Protecting Americans from Tax Hikes (PATH) Act revisions to Section 831(b).

In a letter sent to the US Department of Treasury and the Internal Revenue Service (IRS), SIIA and the captive insurance associations requested guidance on the soon-to-be implemented changes, as well as protections until the guidance can be put into effect.

Among other changes, including raising the allowable premium threshold from $1.2 to $2.2 million, the PATH Act will introduce a new diversification requirement to Section 831(b), from 31 December 2016, which must be satisfied before an insurance company can elect to be taxed under Section 831(b).

The PATH Act provides two alternative ways an insurance company can satisfy the diversification requirement, namely a risk diversification test or ownership test, but the act failed to specify who the policyholder is in the context of reinsurance arrangements, according to the letter.

There is uncertainty around whether the first named insured is viewed as the policyholder or, if the IRS will consider the fronting carrier as the policyholder when the original policy is reinsured.

SIIA said in the letter: “The IRS should provide clear proposed guidance with respect to the definition of ‘policyholder’, clarifying that a look-through approach is to be used in a reinsurance arrangement. Look-through treatment is utilised elsewhere in the Internal Revenue Code (IRC) as well.”

It added: “The industry requests that the IRS at least temporarily allow look-through treatment for purposes of the risk diversification test until further proposed guidance can clarify this provision.”

The letter also outlined that there is a need for clarification around the ownership test. SIIA suggested that the IRS should provide guidance with respect to the treatment of the spouse as a specified holder.

In addition, SIIA requested a need for guidance on specified assets on a number of fronts.

“It is currently unclear whether, in a multiple insured entity situation, where the ownership of the spouse and/or a lineal descendant is not identical in all entities, the calculation should be based on gross revenue per entity, premiums paid per entity, fair market value, or some other method.”

“Guidance is similarly needed regarding how to value ‘interest’ when there is both common and preferred stock, or voting and non-voting stock, and various trust applications.”

SIIA’s letter argued that without clarification, “compliance with the ownership test cannot be determined with any degree of certainty”, meaning that it would not be efficiently audited by the IRS.

The letter suggested that because it is currently unclear how to achieve compliance, “clarification will foster compliance with the law, and more efficient auditing by the IRS”.

The letter concluded: “Administrative relief from compliance with the PATH Act’s amendments to 831(b) is not only appropriate but necessary to enable the industry to devise and implement efficient and effective procedures for compliance, and the IRS to efficiently audit.”

It added: “If neither guidance nor relief from compliance are available, then adopting the industry’s reasoned positions on a temporary basis would be a fair and reasonable method of enabling the industry to comply with the letter and spirit of the new law.”

US agency 'incorrectly' banned captive reinsurance arrangement

The US Court of Appeals for the District of Columbia Circuit has overruled the Consumer Financial Protection Bureau's (CFPB) decision to prohibit PHH Corporation's captive reinsurance arrangement.

The appeals court also threw out a $109 million penalty awarded against the mortgage lender, and took the decision to place the CFPB under the purview of the US president.

In its decision issued earlier in October, the appeals court ruled: "We agree with PHH that Section 8 of the act allows captive reinsurance arrangements so long as the amount paid by the mortgage insurer for the reinsurance does not exceed the reasonable market value of the reinsurance."

The CFPB "incorrectly interpreted" Section 8 of the Real Estate Settlement Procedures Act to bar captive reinsurance arrangements involving mortgage lenders such as PHH and their affiliated reinsurers when the agency issued the $109 million penalty.

The appeals court was damning in its verdict of the CFPB, which was brought in with the US Dodd-Frank Act following the 2008 financial crisis as an independent agency but without any significant oversight. PPH questioned the constitutionality of this structure in its appeal against the penalty.

"The [CFPB] director enjoys more unilateral authority than any other officer in any of the three branches of the US government, other than the president," the appeals court claimed.

"In this case, the single-director structure of the CFPB represents a gross departure from settled historical practice."

"Never before has an independent agency exercising substantial executive authority been headed by just one person," the court explained.

The appeals court handed over supervision of the CFPB to the US president, giving the highest office in the US "the power to remove the director at will, and to supervise and direct the director".

PPH welcomed the decision in a statement, saying: "We are extremely gratified that the DC Circuit Court of Appeals overturned the director's decision related to our former mortgage reinsurance activities."

"We are hopeful that the court's opinion will provide greater certainty to the entire mortgage industry regarding the industry's reliance on long-standing regulation as to how to conduct business consistent with the Real Estate Settlement Procedures Act."

"Regarding the court's decision to remand the case to the CFPB to determine whether any mortgage insurers paid more than reasonable market value to the PHH-affiliated reinsurer, we will continue to present the facts and evidence to demonstrate that we complied with the Real Estate Settlement Procedures Act and other laws applicable to our former mortgage reinsurance activities in all respects."

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Verisk Analytics acquires Analyze Re

Verisk Analytics has acquired a software analytics provider for the reinsurance and insurance industries for an undisclosed sum.

Analyze Re became part of AIR Worldwide (AIR), a Verisk Analytics business, on 20 October.

Verisk said the addition of Analyze Re will enable AIR to provide its clients with additional real-time pricing, exposure management and enterprise portfolio roll-up capabilities.

"Clients are increasingly looking to track and reduce portfolio risk in real-time," explained Bill Churney, president of AIR Worldwide.

"Analyze Re's advanced analytics will complement our existing software solutions, enabling companies to manage their enterprise view of risk and perform multi-modeling and portfolio optimisation, all within a single environment."

Adrian Bentley, CEO of Analyze Re, added: "Our team has been creating technology solutions for the insurance, reinsurance, and capital markets industries for more than a decade, turning huge volumes of data into meaningful insights in seconds. We look forward to continuing to offer these capabilities as part of AIR's already robust product offerings."

Analyze Re's management team is made up of three former Flagstone Reinsurance employees.

Churney was its director of software development before leaving to form Analyze Re in 2013.

Analyze Re's chief tech officer, Oliver Baltzer, was chief architect for computational analytics at Flagstone Re, while COO Shivam Rajdev was the reinsurer's director of risk management systems development.

They left Flagstone Re to launch Analyze Re as a vehicle for Prime, a risk engineering platform.

Steel City Re to protect reputations

Hamilton Captive Management has chosen Steel City Re to provide customised reputational risk underwriting services to a number of its captive clients.

Steel City Re offers proprietary solutions for protecting companies, directors and officers against reputational risk.

According to Steel City Re, its solutions help companies use their reputations to discover fair market value, mitigate market volatility, blunt regulatory opprobrium, quell investor activism, and protect directors and officers from frivolous claims.

The company is headquartered in Pittsburgh and has operations in New York, Kansas City and London.

Japanese trading company's captive receives top ratings from A.M. Best

A.M. Best has affirmed the financial strength rating of "A- (Excellent)" of Marble Reinsurance Corporation, the single parent captive of the Marubeni Corporation, a Japanese trading company that handles products across a broad range of sectors.

The rating agency also affirmed the long-term issuer credit rating of "a-" for Marble Re.

Marble Re's risk-adjusted capitalisation remains strong, supporting the current ratings, primarily due to its conservative risk appetite and strong retrocession panel in its marine cargo insurance business line.

A.M. Best noted that the single parent captive has reported "strong" profitability over the last five years, also driven by its underwriting results from marine cargo.

Marble Re purchased adequate stop-loss cover for the marine cargo business line, which helped support stable results, according to A.M. Best.

The rating agency said: “While positive rating actions are unlikely, negative rating actions could occur if there is a material shift in risk appetite.”

Beecher Carlson issues upgrade to cyber risk tool

Beecher Carlson Insurance Services has teamed up with SecurityScorecard to enhance its cyber risk evaluation and monitoring tool, CyberSelect.

The partnership with SecurityScorecard takes into consideration employee security awareness and adds capabilities for network health; end-point security; public data leakage; insecure domain name system configurations or vulnerabilities; website and content management system health; hacker chatter; patching cadence; suspicious or malicious activity within a network; and credentials at risk.

According to Beecher Carlson, the enhancement of its cyber risk assessment tools will help clients to “identify security issues and take precautions against ecosystem breaches”.

Chris Keegan, Beecher Carlson’s national cyber practice leader, commented: “As we look to further assist our clients in evaluating and mitigating risk, we wanted to team with a vendor that can accurately assess external risks that many companies have difficulty getting their arms around.”

“We are excited to offer SecurityScorecard’s unique product to improve our clients’ understanding of their cyber risk profiles.”

SIIA asks for Supreme Court intervention

The Self-Insurance Institute of America (SIIA) has filed an appeal with the US Supreme Court requesting that it overturn a case that threatens the current practice governing Employee Retirement Income Security Act (ERISA) preemption.

SIIA asked the US Supreme Court to overturn a 1 July ruling made by the Court of Appeals for the Sixth Circuit, which concluded that ERISA does not preempt the Michigan Health Insurance Claims Assessment (HICA) Act.

ERISA provides that an employee benefit plan itself is not deemed to be insurance and so is not subject to state regulation that has jurisdiction over the ‘insurance’ product associated with the plan.

Michigan’s HICA Act levies a tax on self-insured group health plans, on healthcare claims paid for services provided in Michigan, and its residents, and imposes multiple administrative and reporting requirements in order for plan sponsors to comply, according to SIIA. State governor Rick Snyder has also recently rejected a legislative proposal to eliminate the HICA tax next year. The legislation is due to end in 2020.

The HICA tax requires ERISA plans to conduct substantial administrative and reporting, which SIIA dismissed as unconstitutional under the preemption provisions of federal law.

But the Sixth Circuit initially disagreed with SIIA’s claim. It ruled that the requirements were ancillary to the state’s taxation regime and did not in any way interfere with the benefit plan.

A ruling in a separate case prompted the Supreme Court to order a redo of the Sixth Circuit’s decision. But the appeals court essentially reinstated its original appeal on a strong presumption against preemption of state laws while limiting presumption to state interference with the administration of employee benefit plans, according to SIIA.

In its new petition for the Supreme Court to take up the case, SIIA questioned why administrative and reporting requirements are in conflict with ERISA's federal preemption provision, and argued against what it deemed to be the intendancy of US states to impose onerous new financial and administrative requirements on ERISA plans.

Mike Ferguson, president and CEO of SIIA, commented: "This is an important legal fight given that states continue to look for openings to tax and/or regulate self-insured health plans, either directly or indirectly."

"We are cautiously optimistic that the Supreme Court will accept our appeal and that they will ultimately overturn the lower court's ruling and by doing so provide unambiguous legal precedent confirming a clear and broad interpretation of ERISA preemption."

Unscrupulous micro-captive transactions still to be defined

The US Treasury and the Internal Revenue Service are seeking feedback on which 831(b) arrangements should be identified specifically as a tax avoidance transaction. Notice 2016-66 was highlighted by prominent insurance attorney Jay Adkisson.

In the notice, the IRS and the Treasury outlined the types of 'micro-captive transactions' that are causing them concern and asked for information as to which they should be focusing on as they attempt to crack down on tax avoidance.

The IRS and the Treasury suggested that 'micro-captive transactions' are being used by promoters to shield legitimately taxable income in the US.

The Internal Revenue Code's 831(b) can be elected by small insurance companies with premiums of less than $1.2 million.

The notice said: "The manner in which [some of these] contracts are interpreted, administered, and applied is inconsistent with arm's length transactions and sound business practices."

The IRS and the Treasury admitted they "lack sufficient information to identify which 831(b) arrangements should be identified specifically as a tax avoidance transaction and may lack sufficient information to define the characteristics that distinguish the tax avoidance transactions from other 831(b) related-party transactions".

The notice identified certain 831(b) arrangements and similar transactions as 'transactions of interest' for the purposes of the income tax regulations and tax code.

The notice also alerted those involved in transactions of this nature to certain responsibilities and penalties that may arise from their involvement.

Earlier this year, the IRS listed micro captives on its 'Dirty Dozen' tax scams list for the second year running.

The 'Dirty Dozen' list calls out tax scams that the IRS will be targeting in the coming year.

When the list was released, IRS commissioner John Koskinen stated: "Taxpayers should steer clear of unscrupulous promoters who sell phony tax shelters with no real purpose other than to avoid paying what is owed."

"These schemes can end up costing taxpayers more in back taxes, penalties and interest than they saved in the first place," Koskinen added.

Do you have a story we should cover? Let us know via:

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Missing piece to the puzzle

After being appointed as permanent head of insurance supervision in Cayman in July, Ruwan Jayasekera reveals how he will continue to strive to meet international best practices and standards while encouraging innovation and sophistication in the domicile

The Cayman Islands is already an attractive captive domicile, not forgetting its beautiful beaches and high-end tourism. The only thing that was missing it would seem was a permanent head of insurance supervision at the Cayman Islands Monetary Authority (CIMA).

Ruwan Jayasekera filled the vacancy when he was appointed to the role in July, having held it in a temporary capacity since March. Jayasekera took over from Morag Nicol, who had served as acting head since April 2014 following the departure of CIMA's last permanent insurance supervision leader, Gordon Rowell.

Jayasekera says: "My primary objective is to continue to follow CIMA's regulatory philosophy, and as a team, continue to remain responsive, pragmatic and accessible to our licensees."

One of the competitive advantages of the domicile has is its regulatory regime, according to Jayasekera. He says: "Not many regulators in the world are easily accessible the way our licensees access CIMA."

He also reveals that another objective of his was to integrate the experiences and expertise of the team to "further enhance" the effectiveness and efficiency of CIMA's supervision.

He says: "I am pleased to report that the progress has been successful thus far."

Mark Kay, senior vice president of operations at Atlas Cayman, is equally positive. He comments: "Jayasekera has had a very positive impact and I believe [he is] welcomed across the board by the industry."

CIMA's installation of Jayasekera as the permanent head of insurance supervision coincides with a surge in captive industry growth in Cayman.

As of 30 September this year, Cayman had added 33 new insurer licensees during 2016, reflecting a 33 percent increase over the 22 licences issued during the same period in 2015.

Of the 33 new additions, 28 were new class B insurers, four represented class C insurers and one was a class D insurer.

During Q3 2016, 10 new class B insurer licences were issued in the Cayman international insurance market and as a result, the total number of insurer licensees increased to 711. Of that number, 361 represented pure captives and 146 accounted for segregated portfolio companies.

Jayasekera says: "Based on the number of applications which CIMA has approved in principle (applicant is in the process of meeting requirements to obtain the licence) and considering discussions with the insurance managers and potential licensees, the authority expects at least 10 to 15 new formations by the end of 2016."

He adds: "Historically, the last quarter of each year, especially the months of November and December, has always seen heightened activity in Cayman-domiciled insurer formations. If the same trend continues, indications suggest that the Cayman Islands will see a tremendous growth in new company formations in 2016."

The Insurance Managers Association of Cayman (IMAC) recently revealed that, as of 30 September, total premiums written for the sector were $13.9 billion, with total assets held reaching $59 billion.

Kieran O'Mahony, chair of IMAC, comments: "The acceleration in the number of new captive formations over recent years is evidence of the continued strength of our industry and the attractiveness of Cayman as the captive domicile of choice."

"What is even more remarkable is the fact that our segregated portfolio companies, and our group captives, for which we are also the leading domicile, are seeing steady organic growth (as well as new incorporations) both tend to suppress new captive formation numbers."

O'Mahony adds: "We are not a quantity-driven domicile, rather for us in Cayman quality is key. Yes, being able to combine both of those elements, in the face of difficult market trading conditions, is especially satisfying."

In terms of total figures, healthcare still leads the way in Cayman. IMAC notes that Cayman is the leading jurisdiction for medical professional liability captives, with 34 percent of captives operating in that category.

The results from IMAC also showed an increase in workers' compensation captives. Samuel Banks, counsel and a member of the corporate department at Appleby, says that it is the second largest group, with approximately 21 percent of captives assuming this risk in Cayman.

Simon Raftopoulos, partner and a member of the corporate department at Appleby, suggests that Cayman captives are also increasingly being used more innovatively, including for employee medical stop-loss, equipment maintenance and unrelated party risks, as well as cyber and privacy breaches.

Innovative flexibility

The recently enacted portfolio insurance company (PIC) legislation in Cayman now allows for standalone corporate entities to be wholly-owned by individual cells within a segregated portfolio company.

According to Raftopoulos: "This innovation provides for greater flexibility in corporate governance and further ringfencing capabilities to segregate assets and liabilities from other segregated portfolios."

Banks adds: "Additionally, because PICs have separate corporate existence and identity, it is now possible for PICs owned by individual cells of a segregated portfolio company, for example, a rent-a-captive structure, to contract on an inter-cell basis."

Taking advantage of this structure is insurance manager Atlas Cayman. Kay says the company is currently looking at making use of the PIC legislation outside of the traditional healthcare marketplace, such as in medical stop-loss, workers' compensation and general property and casualty.

Although Cayman has seen year-on-year growth, in a competitive market it is important to be able to sustain that growth by attracting new business and keeping existing business interested. Jayasekera explains that despite the competitive market, Cayman is "more than capable" in maintaining its position as a "leading captive insurance domicile".

The head of insurance supervision notes that CIMA will "continue to do its part to ensure that the jurisdiction remains attractive to quality business, for both existing and potential licensees".

Cayman key facts

As of 30 September 2016:

- Total premiums written were $13.9 billion with total assets held reaching $59 billion
- 33 new captive insurers licensed
- Of the 33 new insurers, 28 were new class B insurers, four represented class C insurers and one was a class D insurer
- Total number of captives stood at 711
- CIMA expects 10 to 15 new captive formations by the end of this year
- Healthcare is still the leading sector for captives in Cayman

Jayasekera explains that this will be done by ensuring captive regulatory framework remains "modern, flexible and yet robust enough to keep the pace of the dynamic insurance industry".

He notes that CIMA will also continue to "strive to meet the international best practices and standards to suit our market while encouraging innovation and sophistication" to help maintain the domicile's reputation.

Looking ahead, Jayasekera suggests that one development in the Cayman captive market will be the shift/trend in new captive insurance and reinsurance company formations, as more companies are formed to assume unrelated and non-traditional risks.

He says that changes made to the insurance law, supporting regulations and the regulatory framework to accommodate sophistication and innovation, have had a "positive impact" on the insurance industry. He also expresses excitement about the new opportunities that the healthcare sector of the US presents to captive insurers in terms of volume and non-traditional risks.

Throughout 2017, CIMA "will continue to engage with the captive reinsurance and insurance industry, and other stakeholders, through collaboration, dialogue and engagement to identify areas where greater efficiency, flexibility and innovation are necessary for the Cayman Islands to remain a leading world-class jurisdiction". CIT

Becky Butcher reports

The sound of the CIMA

Hiring a new head of insurance supervision will improve communication and collaborative relations between CIMA and its licensees, the authority says

Has 2016 been a busy year for CIMA?

This year is proving to be another busy one for the Cayman Islands Monetary Authority (CIMA), with 28 new class B captive formations, one class D reinsurer formation, four class C special purpose vehicle formations and two portfolio insurance company (PIC) formations. The first nine months of the year have shown favourable growth so far. New captive formations have already exceeded the total new captive formations within Cayman for 2015. The positive development in new formations is symbolic to the sustained growth and increasing interest in the alternative risk financing that a captive provides, despite the stagnations in the market.

What has CIMA done over the last few years to make Cayman more attractive from a fiscal perspective?

By focusing on enhancing the robust regulatory framework in the Cayman Islands, CIMA has sought to develop a regulatory environment that is compliant with international standards and at the same time conducive to business operations. The formulation of the insurance PIC regulations in 2015 provide flexibility to the use of the traditional segregated portfolio company, the reduction of capital requirement for the class C insurers (special purpose vehicles), and the introduction of the statement of guidance for licensees seeking approval to use an internal capital model to calculate the company's prescribed capital requirement are examples of the latter.

Is Cayman competitively priced when it comes to setting up a captive? Are there any plans to increase prices?

Any intention to increase prices is a responsibility of, and is determined by, the Cayman government. Nevertheless, Cayman is a comprehensive financial service jurisdiction with a multitude of internationally recognised service providers coupled with comprehensive and systematic regulation.

The sophistication and expertise garnered from having a captive in the jurisdiction, with partners, both private and public, who aim to maximise the efficiency of the captive structure and understand its risks, are primarily the most compelling reasons why the initial set-up cost is outweighed.

Having not had a full time head of insurance supervision until July this year, how has the appointment of Ruwan Jayasekera permanently benefited the domicile?

Even though CIMA didn't have a permanent head of the insurance supervision division for an extended period, staff in the division always received leadership and direction from an acting head of insurance, who was appointed in the role on an interim basis in 2014 by CIMA's executive management. In addition, the insurance supervision division always had a very strong senior management team with substantial collective regulatory, reinsurance and insurance industry experience supported by a group of analysts with relevant professional qualifications and experience.

Now that Jayasekera has been confirmed to the post of the head of insurance supervision division, this offers great benefits to the insurance industry in Cayman. This confirmation will further enhance the communication and collaborative relations between CIMA and its licensees, which has always been mutually beneficial.

Jayasekera is well known in the industry, and he has worked closely with industry practitioners including the two main industry bodies, Insurance Managers Association of Cayman (IMAC) and Cayman Islands Insurance Association, for many years. He had been involved in the drafting of the Insurance Law 2010 including several regulations, rules and Statement of Guidance documents, which were published by the authority. Therefore, Jayasekera understands the intent and the spirit of the law, including its proportionate and balanced application.

Having a permanent head of the division with years of Cayman regulatory experience makes it easier for the authority to follow its regulatory philosophy, which is to remain responsive, pragmatic and accessible to its licensees.

It also encourages us to use a risk-based and proportionate approach to ensure that our licensees are appropriately supervised.

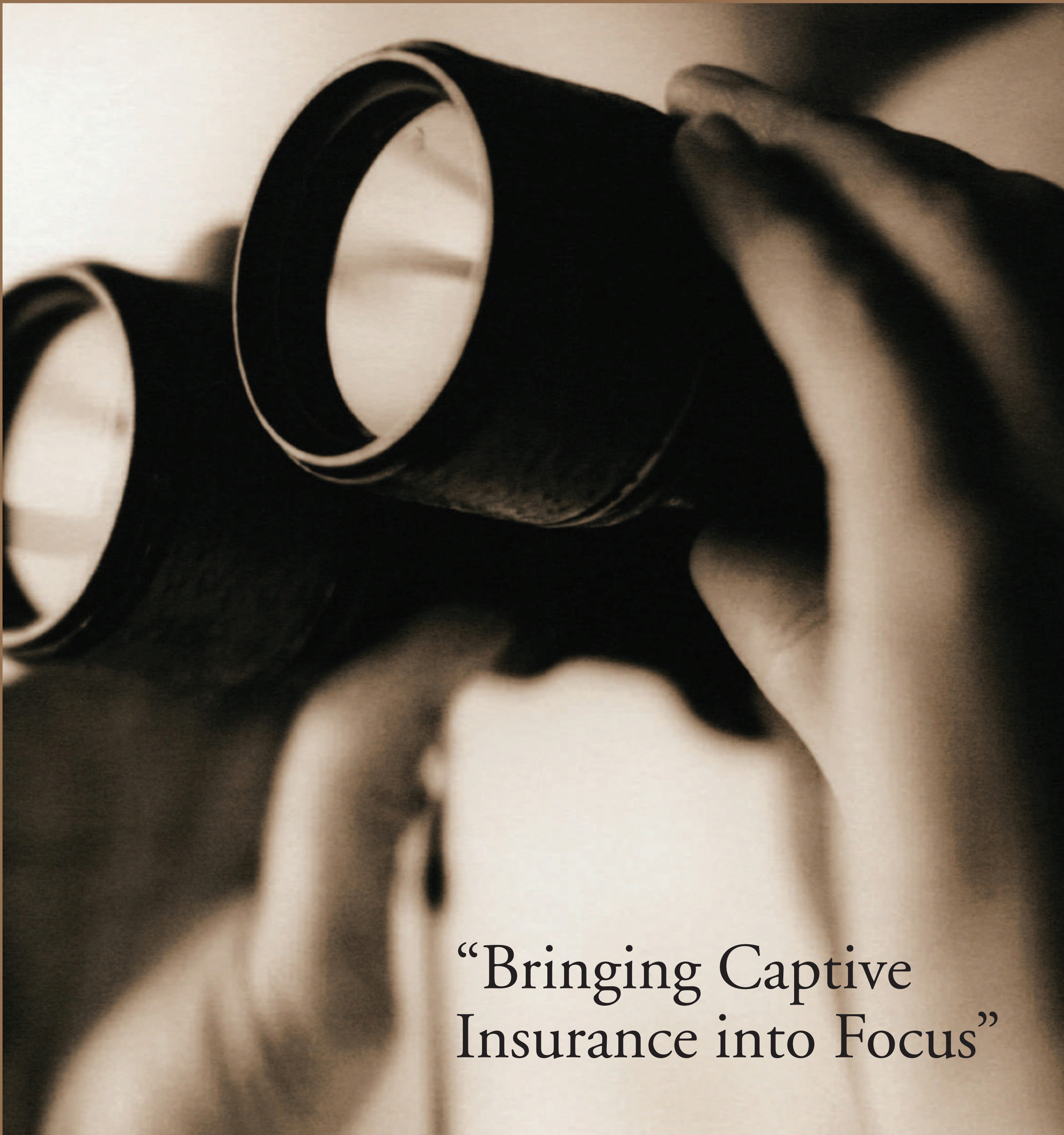
Do you work closely with the Cayman captive association to promote the domicile?

The authority has worked closely with IMAC since its inception, and CIMA continues to maintain a receptive relationship with respect to the conduit of support they provide to the captive industry in Cayman. The aim through this combined effort is to develop a robust but proportionate regulation, enhancing the sustainability of the captive market.

Do you have any plans at CIMA for 2017?

The focus for 2017 is geared towards preparing for the upcoming international assessments to be conducted by the Caribbean Financial Action Task Force and the International Monetary Fund. Through these assessments the authority's compliance with international standards will be evaluated, and the outcome will be imperative to the sustainability of Cayman as an offshore financial centre.

Therefore, the preparatory work previously, and currently, undertaken has been with an emphasis to maintain compliance with such standards. **CIT**


“Bringing Captive
Insurance into Focus”

A primer on ERISA preemption

The biggest challenge is orientating risk managers and benefits managers to the intricacies of each other's business segments as self-funding and using captives for medical stop-loss continues to expand, says Phillip Giles of QBE North America

The increasing popularity of employer self-funding of healthcare benefits has expanded the scope of professionals involved in this specialised industry segment. Although this sector remains primarily in the domain of the accident and health and benefits world, extending the use of captives to include medical stop-loss has stretched the relevancy to include property and casualty practitioners and risk managers. It's important for this expanded professional universe to understand the legislation that has powered the tremendous growth in self-funded health plans in a post-US Affordable Care Act (ACA) world.

Most insurance professionals routinely engaged in the self-funded healthcare arena are aware that properly structured self-insurance plans can preempt state-level insurance regulations and benefit mandates. This preemption capability is bestowed upon self-insured benefit plans by way of the US Department of Labor (DOL) through the Employee Retirement Income Security Act (ERISA) of 1974. While most benefit professionals are aware of ERISA's preemption capabilities, not many are familiar with the actual mechanics that drive the preemption ability of self-funded benefit plans.

Understanding ERISA preemption is important for understanding self-insurance plan design and structures, including 'newer applications', such as the use of captives for medical stop-loss.

ERISA's legislative intent

ERISA regulates the voluntary delivery of employee benefits from an employer to its employees. Since its enactment, ERISA has become the preeminent legislation governing employee benefit plans. The

prevailing thought among legislatures at the time of its ratification was that if employers considered benefit delivery to be too onerous or expensive, many employers might cut back or even discontinue their benefit offerings to employees.

The two-fold intent of this legislation was to provide definitive rights and (non-discriminatory) protections to benefit plan participants while simultaneously streamlining plan administration, compliance and delivery for employers. The latter point has been particularly significant for large multi-jurisdictional employers, as ERISA provides one uniform set of regulations prescribed at the federal level to mitigate an employer's burden of having to comply with differing insurance regulations and benefit mandates in every state of their operation.

Self-insured versus fully-insured regulation

It's important to distinguish the healthcare benefit plan from medical stop-loss insurance. The US DOL, by way of ERISA, has regulatory jurisdiction over the plan, but does not regulate insurance. Within a self-insured structure, the employer assumes the financial liability for all the claim obligations of the plan. The plan is defined by a plan document that is a comprehensive written document, equivalent to a master insurance policy, which defines the benefits and levels of coverage that are provided to plan participants. Since the plan is self-funded and 'deemed' not to be insurance, and therefore not subject to state mandates, the employer is free to define benefits, provided within the plan, at any depth or level desired.

The DOL will primarily regulate the administration of the plan to ensure that the benefits are provided in a non-discriminatory manner. It will also define prohibited transactions from any parties-in-interest that could compromise the stability or fiduciary objectiveness of the plan. In short, the DOL only regulates a plan sponsor's responsibilities as they relate to overall plan administration, and the non-discriminatory delivery of benefits to employees.

Individual states regulate insurance, including medical stop-loss purchased by a plan sponsor. While a state cannot regulate the benefits provided by a self-funded plan, it can regulate minimum stop-loss deductibles and aggregate attachments, but not to levels that would impede an employer's ability to self-fund a health plan.

Medical stop-loss insurance provided directly to an employer by its own single-parent captive (captive-issued policy) is also not subject to all the same state regulations as a captive fronted by an insurance company—for example, the captive-issued policy would not be filed with the state as an insurance product to be sold or distributed to other unrelated entities. If the captive chooses to use a licensed issuing carrier to provide the stop loss—a typical requirement for most group captives—the stop-loss policy issued to the employer by the carrier would need to be a filed policy and subject to state regulation.

How preemption works

It should first be noted that the intent of ERISA was not to strip the states of their governing powers over insurance. Those powers, granted to states by the McCarran-Ferguson Act of 1945, are recognised and preserved by ERISA. The legislation does, however, provide that an employee benefit plan itself is not deemed to be insurance and, as such, is not subject to state regulation.

ERISA's broad preemption ability is derived from three subsections of the act.

The preemption clause: "Except as provided in subsection (b) of this section (the savings clause), the provisions of this chapter and subchapter III of this chapter shall supersede any and all state laws insofar as they may now or hereafter relate to any benefit plan." [ERISA §514(a)]

When determining what constitutes a properly qualified plan under ERISA insofar as preemption ability, the following two clauses come into play:

The savings clause: "Except as provided in subparagraph (b) (the deemer clause), nothing in this subchapter shall be construed to exempt or relieve any person from any state which regulates insurance, banking or securities." [ERISA §514(b)(2)(a)]

The deemer clause: "Neither an employee benefit plan, nor any trust established under such a plan, shall be deemed to be an insurance company or other insurer, bank, trust company, or investment company or to be engaged in the business of insurance or banking for the purpose of any law of any state purporting to regulate insurance companies, insurance contracts, banks, trust companies or investment companies." [ERISA §514(b)(2)(b)]

These three clauses work together as follows: the preemption clause generally preempts any state laws that relate to the benefit plan. The saving clause acknowledges that it is not the intent of the preemption clause to take away the state's right to generally regulate insurance. Lastly, the deemer clause forbids the states to 'deem' an employee benefit plan (particularly a self-insured plan) to be engaged in the business of insurance.

So, to recap (and hopefully clarify): the US Department of Labor, via ERISA, governs the benefit plan itself, while the states govern the actual insurance (stop loss) associated with a benefit plan. With a fully insured benefit plan, the states assume a de facto control of the plan as all risk is transferred from the employer to an insurance contract that is regulated by the state, rather than the DOL, and subject to all benefit mandates. A self-insured plan, in contrast, has the ability to supersede any benefit mandates promulgated by state insurance regulations that would be applicable to a fully insured benefit plan. The ability to preempt state insurance and benefit mandates provides a self-insuring employer with an enormous amount of flexibility in tailoring a benefit plan to best fit the needs of its employee population, balanced by its own budgetary and funding parameters.

The basic preemption mechanics of properly constructed self-insured health plans are not complicated. The most important concept is distinguishing of the plan itself from insurance. The bigger challenge—especially in this post-ACA environment—is orientating risk managers and benefits managers to the intricacies of each other's business segments as self-funding and using captives for medical stop-loss continues to expand. CIT

Phillip Giles
Vice president of sales and marketing
QBE North America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During the years he lived and worked in Guernsey, Victor Hugo was inspired by the island, completing 'Les Miserables' as well as decorating his house with a plethora of unique materials.
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FEEL THE FORCE

Dominic Wheatley of Guernsey Finance discusses how the island remains a dominant player in captive insurance

Innovation and evolution continue to be at the heart of Guernsey's captive insurance market.

Staying ahead of the curve is why the island remains Europe's leading captive insurance domicile. This was evidenced at our recent Guernsey Insurance Forum in London, which attracted an audience of nearly 200 and highlighted how Guernsey as a jurisdiction is regarded as a thought leader to be followed by the international insurance community.

One of the key takeaways from the event was the prediction that growth in the captive insurance market is going to be driven by intermediaries and brokers establishing vehicles to aggregate the risks of their individual customers. The vehicles, referred to as producer-owned reinsurance companies (PORCs), enable customers that may be too small in their own right to go down the captive or protected cell company (PCC) route to be grouped together into a larger programme in order to enjoy the benefits of the captive and reinsurance markets.

Mark Helyar, counsel at Bedell Cristin and who was on one of the panels, said PORCs were the major area of growth in the captive sector at present. Helyar explained: "All of the Coca Colas of this world, the BPs and the Shells and everybody, have got their captives already, so if you want to get into another sector, then it needs to be in small and medium-sized enterprises (SMEs)."

He also revealed at the event that Guernsey had drafted a set of rules to provide extensive guidance for its special purpose insurers (SPIs). A consultation paper seeking comment from the marketplace has been issued, with the rules themselves expected to go live before the end of 2016. Helyar suggested the new SPI rules would put Guernsey 'on a level playing field' with other insurance-linked securities (ILS) domiciles.

Another panellist at the event, Mark Cook, director at Willis Towers Watson, also drew attention back to innovation in Guernsey by discussing the rise of captives with employee benefit risk. Cook noted that there are now approximately 100 captives funding employee benefit risk, with most of those launching over the last five years. Cook said: "It is not just traditional risk products and health products we are talking about, stop-loss products, medical programmes and so on."

Longevity risk

Of course, Guernsey's reputation for innovation is well-known, but it was further illustrated in a whitepaper, Longevity Risk Market Comes of Age, which was written for Guernsey Finance earlier this year. The whitepaper examined how longevity risk—the risk that people live longer into their retirement—had become a growing burden, particularly for closed defined benefit schemes or final salary schemes, but that Guernsey's expertise in the area of captive insurance and its utilisation of cell structures was offering a solution.

Guernsey made its name in this area when the British Telecom Pension Scheme (BTPS) entered into a £16 billion transaction to transfer a quarter of its longevity risk to Prudential Insurance Company of America. In order to transfer the risk to Prudential, BT established its own captive insurer, a Guernsey-based incorporated cell company (ICC), allowing it to access the reinsurance market directly without paying a bank or insurer to act as an intermediary. The deal was significant, both in terms of its size and in its innovative use of an ICC structure.

In the whitepaper, Paul Eaton, new business director at Artex Risk Solutions, explained that longevity had been hedged by transferring the risk for many years, but that the use of captive insurers was a recent phenomenon.

Eaton said: "Historically, commercial insurance companies or banks would be the intermediaries and they would access the reinsurance market to find capacity. What's happened over time is that the loading intermediaries applied to the transaction have led some schemes to look for a more cost-effective way of reaching the reinsurance capacity, and this is where establishing your own insurance company comes into play."

The ICC has subsequently become the structure of choice. Each ICC has a core that is owned by the sponsor of the ICC, and surrounding the core are a potentially unlimited number of cells, each of which can be set up for separate captive-type businesses and owned, or licensed, by other parties. The whitepaper explains that the preference for ICCs had been instigated by reinsurers requiring absolute certainty that there is no contamination risk between cells.

"Pension schemes are also aware they may require additional longevity transactions in a number of years' time, as their portfolio matures, so it helps to have a vehicle that is already in place to which you can add further cells," Eaton explained.

The benefit of going down the captive, or ICC, route, rather than using an insurer or bank to access the reinsurance market, is that it is easier to do business with just one reinsurance counterparty. This was something explained by Ian Aley, senior consultant at Willis Towers Watson.

Aley commented: "If you are a commercial organisation with multiple product lines that expects to write more business in the future, you probably want to spread your credit risk limits thinly across a number of reinsurers. But if you're a pension scheme hedging your longevity risk to a reinsurer, you're very comfortable to take an acceptable level of credit risk with any one reinsurer, and the same applies in the other direction. One of the advantages of the captive is you can access the most efficient reinsurance price without having to take an average of three to six—which bumps the price up."

Chinese recognition

Guernsey's leading position in Europe has led to others further afield taking note and looking to the island for its expertise and guidance. For example, in June this year Guernsey signed two agreements with the Kashgar government and the China Captive Alliance (CCA).

Kashgar, located in the Xinjiang autonomous region in northwest China, has become the dedicated centre for the country's growing captive insurance sector, while the CCA is the most authoritative professional captive institution in China. Both the Kashgar government and the CCA were eager to establish ties with Guernsey due to the island's long and established history in captive insurance and reputation for innovation, which includes pioneering the cell company concept with the introduction of the protected cell company.

The Kashgar agreement, which was signed by Guernsey Finance's Asia representative Wendy Weng at the first ever Asia-Europe Captive Summit in Kashgar on behalf of Guernsey's government, provides for cooperation between the two jurisdictions in the areas of captive insurance market development, financial innovation, international communication and information exchange in order to promote the viability of the Chinese captive market and communication between China and the international captive insurance industry.

The CCA agreement with the Guernsey International Insurance Association (GIIA), the representative body of both Guernsey insurers and Guernsey insurance managers, sets out a similar statement of intent.

Captives are well-established strategic tools among the world's top companies with the vast majority of them using captives for a variety of purposes and across the full range of corporate risks. However, to date, their use has been limited among major Chinese corporations.

The reasons for this are not difficult to see. As most assets and corporations have been publicly owned in China, the government has simply assumed risk and losses met out of current revenues. Not surprisingly, insurance was not recognised as necessary by managers or their public sector shareholders. However, the move toward a more mixed economy, and a more international outlook, has seen two significant trends: the emergence of private sector corporations and the increasing privatisation of government-owned companies.

As ever in China, the rate of progress and adoption of sophisticated techniques is faster than outsiders expect and is set to accelerate over the coming years. The first tentative steps to explore captives have involved non-Chinese assets and taken place in traditional captive centres. However, the attention is now switching to domestic risks and establishing a captive centre in mainland China.

All of this progress is being encouraged and facilitated by the China Insurance Regulatory Commission (CIRC) and China's other financial regulatory bodies, and is enthusiastically endorsed by the People's Bank of China. Discussions are already underway towards an agreement between the CIRC and the Guernsey regulator, which should enable operational and financial efficiencies and provide enhanced transparency and joined up regulatory oversight.

These developing arrangements are a major step forward toward China's goal of developing its own domestic international insurance expertise and a mature insurance industry, as well as increasing its international insurance relationships.

For Guernsey, they represent a significant broadening of the island's growing business relationship with China, which stretched back to 2007 when we appointed our first Chinese representative, Wendy Weng, in Shanghai. Weng has been highly instrumental in encouraging the development of captive technology in China and broking the various relationships that are now helping shape China's captive future.

Guernsey's union of an innovative industry and intelligent regulation has underpinned the evolution of its mature international insurance sector and is why those in China and elsewhere regard the island as one of the leading insurance domiciles in the world, and one they want to work with. Recent developments only go to reinforce that fact. CIT

Dominic Wheatley
CEO
Guernsey Finance

Pulling power

Stewart Feldman of Capstone Associated anticipates a slow migration of US captives to their home states, if regulatory changes can be clarified in the future

There has been a lot of talk about captives moving back onshore. Traditionally, the trend has been the reverse. What are your thoughts on this?

There has been a big push onshore following enactment of the US Dodd-Frank Act, and even before with the Patriot Act's passage in 2002. The thrust has been to move captives onshore, and more generally, limit non-US planning. The Patriot Act, its successors and related acts have made it increasingly difficult to have non-US bank accounts. That's not to say that a captive has to have a non-US bank account, but certainly if it is desired, the Patriot Act and its related provisions have made it awkward, though not impossible, to obtain and maintain them. The reverse is also true—it has been increasingly difficult, but not impossible, to open US accounts for non-US captives.

Then along came Dodd-Frank in 2010. While there is an argument as to whether the Non-admitted and Reinsurance Reform Act (NRRA) provisions embodied in the overall legislation cover captives, one interpretation is that the captive, practically speaking, now needs to be based in its home state. The NRRA purports to delegate to the home state the ability to collect the totality of the independently procured premium (IPP) tax everywhere, not just within the home state's borders. Very few recognised this issue when the NRRA was introduced.

The NRRA's IPP tax provisions are something that have been kicking around for more than 50 years and are considered valid by the states. The US Supreme Court struck this tax down in 1962 in the Todd Shipyard case to the extent that a state attempted to collect a tax beyond its borders, but nonetheless, in various forms, the IPP tax continues. Dodd-Frank would push the captive to its home state as a domicile and in turn allow the home state to be the exclusive collector of the IPP tax. When you put this all together, there is a strong push to have domestically-regulated captives.

On top of this, there is the Organisation for Economic Co-operation and Development (OECD) and other international organisations taking a look at offshore domiciles and the companies that are domiciled there. There has been an increase in the number of international audits by the OECD and similar organisations that evaluate offshore domiciles.

This offshore sensitivity is interesting because offshore domiciles in general, such as the Cayman Islands, Bermuda and Anguilla, have done a good job of regulation—some even say, much better

than their onshore counterparts. There is an opinion that offshore domiciles are much more involved in the regulation and ongoing activities of captives than US domiciles. In fact, offshore domiciles, in my experience, have at least as good and in many cases better regulators and expertise than US states.

There were previously very few US states that either had workable captive legislation or had the staff to oversee captives. Even today, most domestic jurisdictions are still staffing up. More of these jurisdictions now have statutes in place but few are in fact in the captive regulatory business.

An example is Florida, the fourth biggest state in the US. It recently formed its first captive in more than 25 years. At Capstone, we once contacted Florida about forming a captive and its response was that it didn't have the staff to approve it. The states looked upon captives as a new source of revenue. But only very few can make money from captive regulation, and then only after making a big capital investment. The result is that when states realise they can lose money, they do not to commit the resources.

My prediction is that there will be a slow migration of captives to their home states, measured in decades.

In summary, there are macro trends that are pushing the captives onshore—these are the Patriot Act, Dodd-Frank, concern with 'offshore planning' and the competitiveness of domestic domiciles. And some of the traditional offshore domiciles, for example, the British overseas territories, are no longer as good as they once were at captive regulation. Finally, there is no opposing force calling for offshore planning.

What are the pros and cons of onshore captives versus offshore?

On an historical basis, certain jurisdictions, primarily British, were more sophisticated than US domiciles in captive regulation. Those jurisdictions had staff employed that understood captives and regulated captives. While some US jurisdictions have caught up, some British jurisdictions have lost ground and other British jurisdictions, for example, the British Virgin Islands, have effectively abandoned captive regulation post-2008.

How is the US IRS playing a role in the onshore versus offshore debate?

In the US, most captives make the 953(d) election, however, the Internal Revenue Service (IRS), in furtherance of a general policy, is trying to encourage onshore formations. By way of example, the IRS has made 953(d) election very difficult or impractical to obtain, except early on in the year.

There have been efforts encouraging the domestication of captives. For example, if you form a non-US captive in December and you want it to be an 831(b) captive or 501(c)(15) captive, you're going to end up in tax court. The 953(d) election has been 're-interpreted' such that the IRS annualises revenue. So if you form a captive on 31 December and your premium is $300,000, the IRS is going to multiply that by 365 and suggest that the captive has over a billion dollars of premium on an effective basis and therefore is disqualified from 501(c)(15) status. The IRS has legislated in furtherance of its desire to push onshore regulation, so the playing field is certainly not level for onshore versus offshore.

Where are captives most commonly moving to from offshore jurisdictions?

The domiciles most commonly talked about are Delaware, Utah, Tennessee, South Carolina, Hawaii, and Vermont. Of these, Delaware is certainly the key domicile from a business standpoint. Texas is very new to the captive marketplace. While Texas may have around two dozen captives, these are generally very large companies, as the regulators are only beginning to focus on the mid-market. The gain of the US domiciles has stymied the growth of the traditional large British overseas territories. As to these domiciles specialising in mid-market captives, they are practically winding down, with few formations and ongoing liquidations or reincorporation elsewhere.

Is Europe catching up with the US captive market?

From the standpoint of the insurer, I think that ship has sailed. Overseas territories had the historical expertise in corporate formations and captive insurance to a lesser extent. That is now shifting to the US at least for captive regulation. I don't think Europe will catch up with the US. I think it's now a competition between the British overseas territories, which are a dwindling competitor, and US states.

From the standpoint of the insured, Europe has a different tax system to the US. The US has the 800 series of the Internal Revenue Code, which has been around for generations, promoting the off-loading of exposures of future losses to an affiliated insurer. If a company forms a property and casualty (P&C) company, that company can offload extraordinary warranty expenses, and other P&C liabilities, to the insurer through the use of a captive. That's a popular planning technique, and it's necessary because of the particular nature of our US tax system. In general, there is a different tax scheme in place in Europe that doesn't call for captives as a planning tool. **CIT**

Stewart Feldman

CEO and general counsel

Capstone Associated

A need for speed

Haste will undoubtedly be a key component of London's ILS proposition, says William Hogarth of Clyde & Co

How has the ILS market expanded over the last five years?

The global insurance-linked securities (ILS) market has expanded rapidly over the last five years to become an important element of the global reinsurance and insurance market. The UK government has recognised the size of the opportunity and is now moving quickly to set up a framework that will establish London as a global ILS hub.

What domiciles do you think are leading the way in the ILS market?

There are relatively few places that currently have a framework for ILS in place, including Malta, Guernsey and Gibraltar. However, Bermuda currently dominates the global ILS market, due to a number of factors. One of the main factors is the legislation in place, enabling the setting up of insurance special purpose vehicles (SPVs), which effectively reduce the capital requirements on ILS deals and cut administrative costs, and form a critical part of the ILS arrangement. Bermuda also benefits from significant reinsurance expertise and a very credible track record within the reinsurance and insurance industry that sets it above many of the other jurisdictions with ILS frameworks in place.

Another important factor is speed of response. The regulator in Bermuda can move quickly to authorise SPVs, often within a matter of days. In addition, the existence of a secondary trading platform in Bermuda is crucial in facilitating investment in ILS securities.

Malta recently implemented reinsurance SPV legislation for ILS transactions. Do you think this trend will follow in other domiciles?

Absolutely. Having SPV legislation in place is a prerequisite for any jurisdiction looking to establish a market for ILS transactions and other domiciles will follow Malta.

One market that has to this point remained subdued but offers significant potential for ILS is Asia. With a high exposure to natural catastrophe events that generate ever-higher economic losses, the region should be attractive market to investors in ILS seeking diversification.

Having the right legislation in place is vital to create the conditions for the ILS sector to flourish in Asia and it will also be necessary to address other hurdles to its development, such as the low level of insurance penetration in the region and limited exposure data.

January 2017 will see the introduction of ILS legislation in the UK. How do you think the market will take off?

We expect to see draft ILS legislation in the UK early in the new year, but even then it will still take some time for it to be passed into law. However, once the framework is in place and the ILS starting gun is fired, it is reasonable to expect the market to take off quickly.

London is the world's preeminent insurance centre at the forefront of innovation and populated by some of the industry's best and brightest people.

Do you see London becoming a hub for ILS? And what would it need to do to achieve this?

London certainly has the ability to become a hub for ILS. The UK government has made it clear that it is keen to attract ILS business to the UK and its proposed legislation has been drafted with the aim of overcoming three main obstacles that stand in the way.

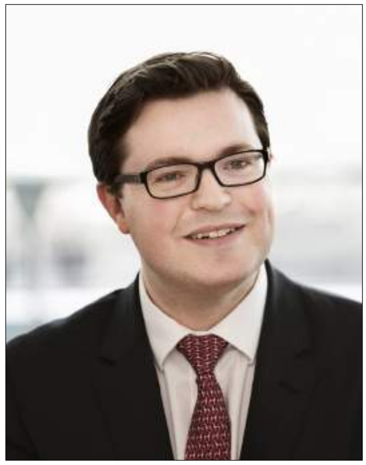
First, the UK currently lacks the corporate structures most efficient for setting up insurance SPVs, which will form a critical part of the ILS arrangement.

Next, the UK tax regime needs to be made more attractive to international ILS investors.

This means designing a tax treatment similar to that provided in other competing jurisdictions, ie, no or minimal tax within the insurance SPV, with tax payable by investors in the jurisdictions where they are located on their share of the vehicle's income.

Finally, speed to market will undoubtedly be a key component of London's ILS proposition and one that must be fulfilled if London is to become an ILS hub—the ability to set up a new ILS vehicle in a timescale that will make the UK competitive with other domiciles will be vital.

In the case of a relatively standard ILS transaction, a period of six to eight weeks from submission of a formal application is envisaged for authorisation of an SPV. However, it remains to be seen in practice whether this will be achieved and, in any event, how competitive this will be compared to other domiciles, in particular given that they will surely react to speed up and streamline their own processes further. CIT



William Hogarth
Legal director
Clyde & Co

Hedging your BEPS

BEPS is a challenge to the captive insurance industry, but as Ciaran Healy of Willis Towers Watson explains, captive insurers and their managers can turn it into an opportunity

With the release of the long-awaited base erosion and profit shifting (BEPS) action plan by the Organisation for Economic Co-operation and Development (OECD) in October 2015, the focus of the captive industry has been to understand what the impact of these measures is likely to be.

Although considered by some as the next big challenge to the captive industry, there is still some uncertainty as to what the impact will be.

What is BEPS?

The primary objective of the BEPS package is to renovate international taxation rules and combat tax strategies aimed at artificially shifting profits to low- or zero-tax jurisdictions, and to promote fair and equitable tax treatments on an international basis. The BEPS package aims to achieve this by: taxing profits where value is added; improving substance arrangements; and improving tax strategy transparency globally.

The measures that are contained in the BEPS package are not altogether new. In essence, the BEPS package is attempting to bring together many of the recent international tax initiatives into one cohesive, global package that is 'fit for purpose' for an interconnected global economy. This should generally be regarded as a positive development.

Are captives affected by BEPS?

Although ostensibly a tax reform initiative aimed at large multinational corporations, the measures introduced by the OECD BEPS package represent a material challenge for the captive industry. Captives have been specifically referenced in BEPS documentation as potential vehicles for tax avoidance and very much in-scope for BEPS related scrutiny.

This—together with the fact that many captives are located in jurisdictions with lower corporate tax rates than that of the group headquartered, and that many captives are managed on an outsourced basis—means the common captive operating model may appear misaligned with BEPS expectations.

In practice, the areas in which a captive will likely be scrutinised are:

- Alignment of value creation to any profit the captive accrues that will challenge how value is generated by the captive, and the economic rationale for the current captive arrangements.

- Compliance with the arm's length principles and ensuring that transfer pricing guidelines are followed.
- Renewed focus on the substance of captives, a key aspect of the BEPS action plan, will not be a new challenge for many captive owners, but it will require many to review and justify their captive governance and organisational arrangements.

How can the industry respond?

Education is key to the captive response to BEPS. It is clear from the references to captives in the various BEPS releases to date that the OECD and tax community do not understand captives to the fullest extent. But nor should this be expected.

To the untrained eye, the value a captive generates can be fully deduced from the captive's financial statements—reducing external premium spend and accumulating underwriting profits in the sometimes lower-tax jurisdiction.

In this context, it is unsurprising that captives are in the scope of BEPS scrutiny. However, the captive community will know that this is a binary view of what is a multi-dimensional risk management tool. The value created by a captive cannot be captured in solely quantitative or financial terms. The qualitative, strategic, sometimes nuanced or indirect benefits must also be factored in to the equation.

Quite simply, imagine the captive did not exist: would the risk department be able to influence risk management discipline in the same way? Would the same level of control and oversight of claims data be available? Would the group be in the same position to negotiate with the market?

The answer to each of these questions is likely to be 'no'.

These are all legitimate examples of value created by the captive that an income statement will never detail, but which need to be put forward as part of the economic rationale for utilising the captive and aligned to profits generated.

This is not really anything new. Captive owners will appreciate that it is not uncommon for various departments within the group to occasionally query the value of the captive.

But in almost all cases, when educated on the numerous benefits that it provides the group, the challenge quickly disappears.

However, given the depth and breadth of the challenge BEPS poses to the captive industry, the community as a whole and at every level needs to respond to this challenge:

- On an industry basis: working with international industry representative groups like the Federation of European Risk Management Associations and the European Captive Insurance and Reinsurance Owners' Association to emphasise the importance of captives and the risk management value it provides corporates globally.
- On a domicile basis: working with local industry groups to respond to BEPS challenges by clearly articulating the economic rationale and legitimacy of captive business in the domicile.
- On a captive-by-captive basis: articulating the unique benefits that a captive provides the group in aligning the diverse value creation of the captive to profit.

Lobbying efforts have already begun with some organisations seeking dispensations for captives. It remains to be seen how successful such efforts will be, and it could be argued that suggesting captives are a 'special case' may not be the best approach to take. Taxation frameworks are generally not accommodating to exceptions or special cases that could then be misused.

The important point is that the vast majority of captives will be able to rise to the BEPS challenge and demonstrate that the profit accrued in the captive is justified and based on quantitative and qualitative benefits.

Captives are set up for legitimate reasons and play a vital role in promoting good risk management discipline and risk governance. In many cases the captive is subject to more regulation, compliance and governance requirements than other parts of the group. These are arguments that need to be made.

Undeniably does BEPS represent a significant challenge to the industry, but it also represents an opportunity for captive owners and captive managers to highlight the strategic benefit captives provide, some of which may not be fully appreciated within the group, and for the industry as a whole to do likewise.

BEPS will compel the captive community to be more vocal in the articulation of the unique value that a captive strategy can provide, the positive effect it has on the risk management of multinational organisations and the important role it plays in the overall insurance landscape. **CIT**

Ciaran Healy
Director of consulting
Willis Towers Watson
Global Captive Practice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A vital attraction

Less than 10 years ago, the Bahamas was a virtually forgotten player in the external insurance marketplace, according to Tanya McCartney and Michele Fields. But today, the jurisdiction has a reputation as a market leader

When the Bahamas became a destination for capital investment, it was based on the needs of winter residents escaping colder northern climates. Since that time, the depth and expertise of the country's financial services has created an industry that is no longer just a destination for capital, but a place for real and substantive businesses. Indeed, it became a location from which one can invest and manage one's businesses all around the world.

The captive insurance market is a case in point. A dedicated effort has been made to ensure that the legislative and regulatory environment awaiting new arrivals is proactive and recognises the real business needs of entities. Minimum capital requirements, which are competitive with other jurisdictions, are in place. While potential licensees are encouraged to work through an insurance manager who is familiar with the Bahamas, this is not mandatory.

At the same time, the Insurance Commission of the Bahamas (ICB) carries out due diligence on risk managers and directors of the companies interested in coming to the jurisdiction, to ascertain that policyholders have adequate protection.

From the perspective of the Bahamas, its effective regulatory regime is very much a competitive advantage.

Moreover, the captive environment in the Bahamas is supported by a highly experienced and diversified asset and wealth management industry. The jurisdiction has developed a reputation as a leader in these areas, which has enabled it to facilitate synergies with the insurance market.

With nearly 150 active captives as of the end of 2015, including direct writing captives, reinsurance captives, association captives and risk sharing arrangements, more than 15 licensed external insurance intermediaries, and three licensed variable life insurers, it's hard to imagine that less than 10 years ago, the Bahamas was a virtually forgotten player in the external insurance marketplace. A key attraction is that the cost structure of these entities is more efficient than operating a standalone captive.

The number of external life insurance companies has been increasing at a steady pace over the last few years. Variable annuity and variable life insurance products, particularly unit-linked insurance policies, have been profitable lines of business for these entities, whose policyholders are based in various jurisdictions around the world.

The strong legislative framework around separate accounts and the financial service expertise of the jurisdiction is proving attractive

for entrepreneurs and policyholders alike. The ICB anticipates that it will continue to receive applications to establish more of these types of insurance entities, as high network individuals are increasing their use of insurance products as a part of their wealth management strategy.

Other contributing factors include a sustained commitment by the government and private sector to develop the domicile, an ideal location 30 minutes off the coast of Florida, US preclearance, idyllic surroundings for board meetings, and ongoing regulation that encourages growth.

The ICB has continually added staff to accommodate regulation and supervision of the new formations and maintains an active interest in understanding the change in business plans and programme structures of the entities. The ICB provides unparalleled accessibility and strong support in prudently expanding the external insurance footprint of the Bahamas.

The commission also continues to cultivate human resources with the knowledge, exposure and skills to effectively and efficiently supervise the international insurance industry, which operates from within the Bahamas including the burgeoning captive market. Commission staff who supervise captives are at various stages of completing captive or risk management specific designations and/or certifications.

In parallel, the insurance expertise in the Bahamas is on the rise, as well as the level of understanding from various audit firms regarding the insurance transactions that are somewhat unique to captive arrangements.

The level of exposure among local legal professionals has also rapidly expanded with a number of law firms actively advising clients on external insurance matters. CIT

Tanya McCartney
CEO and executive director
Bahamas Financial Services Board

Michele Fields
Superintendent of insurance
The Insurance Commission of the Bahamas

Diversify and prosper

As the Cayman Islands continues to expand its footprint, Kieran O'Mahony explains why Canada is an unrivalled opportunity for captive business

The Cayman Islands are probably best known as being the leading captive insurance company domicile for both group captives and, of course, medical professional liability captives. While this position is a source of justifiable pride for the jurisdiction, given that we in the captive management industry are 'joined at the hip' with the risk management fraternity, it would be completely remiss of Cayman, as a jurisdiction, not to continually seek to diversify our risk, ie, our client base—by industry type, lines of business, licensee type, and of course, geographic location.

It is this latter aspect, geographic location, which drives Cayman to expand upon its existing business footprint in Canada and indeed, elsewhere, as the same could also be said of Europe, Latin, and South America. Cayman has been a domicile of choice for Canadian-owned captive insurance companies going back more than 35 years, meaning that Canadian-owned captives are not in any way new to Cayman, nor is Cayman in any way new to the Canadian market.

The Canadian content, as well as that from Europe, Latin, and South America, of the Cayman captive market has been generally overlooked, due to the predominance of the US as a source of ownership and/or risk location for Cayman-domiciled captives. It is true to say that Cayman, as the world's second largest domicile, with well over 700 licensees, has historically actually been under-represented from the perspective of Canadian-owned captives. This indeed may be a source of some regret to those of us in the Cayman captive management industry, but it is also, by extension, a source of great opportunity.

As in most developed economies, Canadian corporations, whether a large multinational organisation involved in the financial or extractive industries (mining and energy), or a small- and medium-sized enterprise (SME) involved, for example, in the commercial or transportation industries, both corporation types base their insurance purchasing decisions largely on whether they wish to retain risk or not, and if they choose to retain, to what extent? Decisions about whether to transfer risk to a traditional insurance carrier or retain risk on the corporate balance sheets are made with the goal of reducing financial volatility by protecting the company's earnings and/or cash flow, balanced against the total cost of risk. Obviously, laws, regulations and contractual requirements are also drivers in this decision tree analysis.

For a number of decades now, the larger and more sophisticated Canadian corporations (especially those in the extractive and commodity industries) have utilised their single parent captives as both a risk financing and/or funding tool and as a risk transfer vehicle. This has been accomplished mainly through the purchase of property and marine reinsurance capacity, behind their captives, in the international facultative markets. In more recent times, associations or groups from a single industry type within, for example, a defined geographic area such as a province or region, have combined to form group captives. Motor dealerships and trucking companies are good examples of this type of usage with a number of existing Canadian-owned Cayman-domiciled captives emanating from this space.

Here, those entrepreneurs with an educated, proportionate risk-taking appetite, based upon proper risk evaluation, funding and capitalisation parameters, retain and mitigate their shared risk, thereby reducing programme costs and capturing profits that would otherwise have been 'lost' to the traditional insurance market. It is probably this latter segment, the SME space, which offers the greatest potential for immediate expansion of Canadian-owned captives in Cayman.

As noted, Cayman is the leading domicile for group captives with 125 incorporated within the jurisdiction as of 30 September 2016. In recent years, where appropriate, group captive usage has changed as owners have started to utilise the Cayman segregated portfolio company (SPC) structures. There are currently 146 licensed SPCs in the jurisdiction and they can be used to 'house' the group or pooling of risk, within an individual segregated portfolio.

Currently, there are around 613 cells in Cayman. This type of usage can provide for greater flexibility, enabling owners of group captives to segregate the pooling of risk by geographic location in separate cells (subject to risk distribution requirements within each cell), or by pooling different lines of business in separate cells. An example of this option is forming an additional cell to pool employee benefits or medical stop-loss business, separate and apart from the cells that are used to pool the more traditional casualty lines. This allows the group captive to segregate different fronting carriers, (potentially) policyholders, pay-out patterns and limits, all while having the exposures housed and managed/governed separately, yet still underneath the same roof.

For many years, comfort with existing known and proven structures meant that Cayman was not necessarily the 'go-to' domicile for Canadian-owned captives. While that is unlikely to change overnight, over more recent years the Insurance Managers Association of Cayman (IMAC) has attended various Canada-focused conferences to raise awareness of Cayman as a domicile, its products and services, and the advantages that Cayman offers. Cayman signed a tax information exchange agreement (TIEA) with Canada in 2010, which became effective in 2011. The TIEA between Cayman and Canada allows for transparent and healthy business relationships between the two countries, as Canadian authorities can request and receive information relating to Canadian-owned Cayman entities, putting Cayman on a par with other leading Canada-focused domiciles.

Cayman has a 40-year plus, proven, successful track record as one of the two leading captive domiciles in the world. Given the very broad nature of financial services that Cayman has to offer—including banking, structured finance, trusts and corporate management—in addition to captive management, international insurance, reinsurance, life and annuity business, Cayman's platform as a true international financial hub sets it apart from its major captive domicile competitors. This longevity of success as a world-class financial centre and attendant diversity of skill sets/industry proficiencies available within Cayman means that the domicile has hard wired 'institutional knowledge' across all of its sophisticated service providers. This includes not just insurance managers, but actuaries, auditors, bankers, lawyers and investment managers based in Cayman. These providers work in tandem to ensure that an optimal and effective captive business ecosystem exists for all of its clients.

Cayman also offers innovative, progressive, and leading edge legislation, developed in a consultative approach with industry stakeholders, the Cayman government and the Cayman regulator. This means Cayman has sensible, proportionate and risk-based captive regulation and legislation. A strong, deeply embedded compliance culture and robust framework, coupled with a stable and business-orientated government, further enhances Cayman's advantages as a domicile of choice for Canadian-owned captives. Finally, the Cayman regulator offers considered, practical and efficient turnaround times to captive formations and business plan amendments.

In summary, Cayman is an important domicile for Canadian companies to consider when forming or reviewing existing captive insurance company operations because of the domicile's strength, depth and history as a world-class financial centre. Cayman is a stable, reliable, and transparent domicile that provides the highest quality service and international cooperation.

The executing of the TIEA between Canada and Cayman further evidences Cayman's standing in this regard. **CIT**

Kieran O'Mahony

Senior vice president and client services leader

Marsh

Chairman

IMAC

Together we care

Attendees of the 2016 GEB Forum are invited to share insights on major trends and challenges in employee benefits, says Simona Frisoli of GEB

Top experts and industry leaders worldwide will gather in Brussels for the GEB Forum 2016 to discuss and shape together the future of employee benefits. Organised by Generali Employee Benefits (GEB) to coincide with its 50 year anniversary, the event programme this year features plenty of inspirational sessions, workshops and panel debates.

Talking on the forum, Sergio Di Caro, CEO of GEB, commented: "We look forward to welcoming to Brussels our valued guests who have been accompanying our growth and working with us over the last five decades."

"Our collaboration has been instrumental in establishing GEB as one of the strongest employee benefits networks worldwide."

"This event is dedicated to our clients, our partners and the entire GEB network, to recognise our achievements so far and keep pushing boundaries ahead."

Attendees will be invited to share insights on major trends and challenges, to exchange best practice and to discuss their vision on how employers can best protect and engage their employees, while gaining a competitive edge in managing their risks and their bottom line.

Frederic de Courtois, the new head of Generali Group international business, who will open the event, will share an updated view on Generali's strategic response to global challenges, and on plans to seize opportunities ahead by building on, and further investing in, GEB network strengths.

The first guest speaker will inaugurate a thematic focus on latest insight on our brain and personal development, and on the impact this knowledge has on corporate strategies to enhance the performance of individuals and organisations.

Latest findings

Rasmus Hougaard, director of The Potential Project, will share his expertise on how to bring mindfulness at work and apply it to our daily operations. He suggests: "A mindful business is a business where individuals and teams do the right things, and not just things." Almost half of our time, 46.9 percent, the average worker is not paying attention.

Applying mindfulness in a business context can help by improving employees' ability to channel attention in a more focused and purposeful manner. Research is finding that people engaging in mindfulness practices at work are getting more focused and acquire stronger collaboration skills and ability to prioritise, higher productivity, better work-life balance, and declining stress.

Etienne van der Walt from Neurozone will feature on the second day with a session that will foster our understanding of the neuroscientific value of empathy and compassion for collective team performance. In our rapidly changing and globalised societies, new values and behaviours are emerging as crucial to ensuring our resilience, self-leadership, learning and innovation capacity, and ultimately our ability to thrive in our daily lives.

Professor Jamie Anderson, nominated management guru by the Financial Times, will close this inspirational red thread with a breakthrough finale on the last day of the event. His contribution will turn the spotlight on the concept of lifework: is a high-flying career enough to be a successful person? What role our personal life should play in boosting our professional performance?

Through educational lectures at major business schools worldwide, Anderson has inspired talents and organisations to renew themselves by fuelling strategic transformation in fast changing and complex business environments.

Attendees will not only be awed by inspirational keynotes, but also be involved in hands-on exchange and discussion, with break-out parallel workshops running throughout the second day of the event. Topics have been identified to address major concerns and interests of stakeholders involved in managing employee benefits, and to bring value to their daily activities by showcasing best practice and opportunities for innovation.

Top employers worldwide: What makes them different?

There are companies that are known worldwide not only for the service or product they offer, but also for being some of the most innovative employers on the planet. Their employee value proposition is in fact an integral part of their brand. What makes them different? How does their vision translate into benefits and compensation for their employees? And what about mutual trust, does it really play a role in the roll-out of their benefits strategies? Audrey Hall of Amazon, and Cayla Kitayama of Google, will share their experiences at two companies that have distinguished themselves in terms of innovation capacity and corporate culture.

Healthy workplaces

Official retirement age is increasing, and by 2030 workers aged 55 to 64 are expected to make up 30 percent of the workforce in many European countries. Will we be able to work longer?

As official partner of the Healthy Workplaces for All Ages campaign, GEB has invited representatives from the European Commission and the business sector to explore how we can unlock the potential of the workplace to contribute to our wellbeing, and what the advantages are for employers and their workforce.

Dietmar Elsler from EU-OSHA, the European agency for health and safety at work, will introduce the All Ages Campaign and Lars Hoffman, vice president of safety at Siemens and a partner of the campaign, is invited to speak about the European dimension of the healthy workplaces.

From corporate social responsibility to sustainable social integration: What is our role in the employee benefits arena?

If initially regarded as window-dressing for bad-behaving corporations, few doubt today that corporate social responsibility (CSR) is an integral part of the footprint every organisation has on its environment.

It is about making it a conscious choice to create value for the world we live in, and the people we share it with.

The new paradigm of CSR helps in realising that only creating shared value in a sustainable way will allow us to build a better future.

Companies are not charity, so they need to link their CSR actions into their core business and related business models. How can a company get it right, and what role do employee benefits play? We discuss it with Pascal Prévost, deputy risk manager at Nestlé, Lucia Silva, head of CSR at Generali Group, and Stefan Crets, director at CSR Europe.

In addition, professor Jamie Anderson will challenge attendees by going beyond traditional approaches to societal wellbeing.

Other topics on the agenda, which will be further addressed in our future coverage of the event, include big data and wide opportunities offered by data analytics and the internet of things; the future of employee benefits through digitalisation; how to roll out a global programme; and risk management and understanding and staying ahead of risks. **CIT**

Simona Frisoli
Head of marketing and communications
Generali Employee Benefits

Destined for greatness

A well-managed captive can add to the stability of a company, and help it develop beyond even its own expectations, says John Thomson of HAI Group

The company that manages its capital manages its destiny

Many corporate entities, individually or as part of industry organisations, have already identified the strategic competitive advantage of using their own capital to manage and finance the risks that expose their building blocks. Capital comes in many forms, some of which are measured through financial accounting mechanisms, others of which are not.

Regardless, capital, in all of its forms is aggregated and deployed in the execution of business strategies. Protecting and leveraging a capital foundation is an essential discipline, frequently performed by risk management functions.

Taking these practices to the next level is an incredible opportunity to optimise the financial benefits as well as to strategically focus, adapt, and innovate for the future of the enterprise.

Most captive insurance programmes began with addressing specific insurance or 'hazard' risk exposures. Hazard risks are frequently addressed or managed via insurance for first- or third-party operational exposures. This includes workers' compensation, general liability (including professional and/or products and completed operations), and often property coverages.

In addition to the tangible financial benefits, additional operational benefits and impacts have been achieved with these programmes, including establishing accountability for loss control and claim outcomes, centralisation of risk management operations, risk data aggregation, and risk management cost efficiencies.

They can also provide a platform for dialogue and collaboration across the enterprise on topics such as traditional risk management, enterprise risk management, and sharing of best operational practices.

Many evolved from commercial insurance market fluctuations where traditional insurance was not available, or not available on an affordable basis, or where adequate coverage limits were not available. Captive insurance proved to be successful in addressing the market voids and, when properly managed, the captives' underwriting operations began to build additional financial capital.

Changing times call for changing companies

Additional roles for the captive lie in several areas, which have evolved over time and are associated with emerging risks in a rapidly changing business, economic and operational environments. The rapidly escalating costs of providing health care insurance to employees and their dependents can be managed by utilising a captive insurance entity as a financing hub for self-funding of certain employee benefit programmes.

Structuring and financing insurance programmes for emerging risks such as cyber risk and reputational risk can be accomplished with a captive insurance entity. Non-insurance risk mitigation programmes can be financed and facilitated by a captive as well.

Over time, the risk assumption programmes provided by a captive insurance entity can develop significant financial assets, which may be available to strategically reinvest or deploy in a variety of related services or risk products and solutions.

At HAI Group, the group captive earned surplus has been utilised to create businesses and solutions for the housing industry that are outside of the insurance world. Examples include industry research programmes, distance and online learning solutions, as well as programmes to assist in the attraction of financial capital for the development and redevelopment initiatives of its members and owners.

Thinking about strategy

On the leading edge of change, a captive insurance entity or subsidiary can be an effective vehicle for implementing strategy. Strategy begins with a vision statement, which provides an over-arching, aspirational goal or direction for the business entity. A focused mission statement is a concise statement about what the current direction of the business entity.

A core set of values provides a context for how the business entity accomplishes its mission. Values drive employee and organisational behaviors. Behaviours create and reinforce corporate culture. The business entity's vision, mission, values, and culture are the foundation for developing and executing strategy.

When the owner of a captive, whether a single entity or group of entities, aligns its captive operations with the foundational elements and strategic directions, significant value is created through the delivery of the owner's products and services, as well as facilitating effective and efficient operational outcomes.

Utilising the captive can help to achieve an organisation's mission, preparing for and moving towards reaching its vision. Staying focused on the company's vision and mission helps build and reinforces the fundamentals, adding to the stability created through an aligned group of companies. CIT

John Thomson
President and CEO
HAI Group

Industry Events

PARIMA Conference 2016

16 - 17 November 2016
Hong Kong
www.parima.org

Over 100 risk managers have already confirmed their attendance to the PARIMA Hong Kong Conference 2016 representing more than 22 countries including China, Singapore, Hong Kong, Australia, Philippines, Thailand, Myanmar, Taiwan, Japan, Malaysia, Indonesia, India.

Insurance Linked Securities: the New Opportunities

5 December 2016
London
www.cityandfinancialconferences.com/ILS

The purpose of this conference is to look at proposals and the opportunities and challenges they involve. The event will include panel sessions and presentations from all the significant market players. There will be speakers from the Treasury and the relevant financial authorities and discussion led by the London Market Group, the industry body which has been helping spearhead the initiative.

Insurance Linked Securities

The New Opportunities

A One-Day Conference

5th December, London

"The ILS project aims to provide London with the framework it needs to remain a world leader in reinsurance"

Simon Kirby, Economic Secretary, HM Treasury, Keynote speaker at the event

- **Simon Kirby MP,** Economic Secretary to the Treasury (City Minister), HM Treasury
- **Luca Albertini,** CEO, Leadenhall Capital Partners, LLP
- **Alex Biles,** Senior Associate, Ashurst LLP
- **Joanna Buckenham,** Lloyd's Representative on the LMG Taskforce
- **Julian Enoizi,** Chief Executive, Pool Re
- **Nick Gardner,** Partner, Ashurst LLP
- **Sian Hill,** Tax Partner, KPMG LLP
- **Adam Levitt,** Partner, Ashurst LLP
- **John Marren,** Senior Vice President, Northern Trust
- **Jean Louis Monnier,** Global Co-Head of ILS, London, Swiss Re
- **Malcolm Newman,** CEO, SCOR Paris-London Hub and Chair, International Underwriting Association
- **Lee O'Rourke,** Head of the Insurance Linked Securities Project, HM Treasury
- **Quentin Perrot,** Vice President, Willis Capital Markets & Advisory
- **Des Potter,** Managing Director, Head of GC Securities (EMEA)
- **Kiran Soar,** Partner, Head of Reinsurance, Ince & Co
- **Paul Sykes,** Aon, Guernsey

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20% discount with code ILS1CIT

Comings and goings at L&C, FiscalReps, and more

London & Capital has named Marc Graveney as its chief digital officer.

Graveney, who has served at BlueBay Asset Management, has previous experience in managing and developing the information technology infrastructure of wealth management firms.

Guy McGlashan, COO of London & Capital, said: "We're really pleased to have Marc Graveney on board, and his appointment is going to be beneficial to the business as we look toward the future and expansion."

Graveney added: "Technology will play a key role in the future of the company—from how client reporting is managed, to staying ahead of cybersecurity threats, and integrating enhanced services and new business."

Atlas Insurance Management has restructured its executive management team to accommodate an increase in business demand within its Charlotte and Cayman Islands offices.

Charlotte office appointments include Ian Podmore as senior vice president of business development, Steve Coffield as senior vice president of finance and compliance, Donna Rinchisen as vice president of client services, and Jeff Ellington as vice president of business development and marketing.

In addition, Elaine Tapp has been appointed as executive vice president of the group, Beth Biega has been named vice president of client services, and Mark Kay takes on the role of senior vice president of operations. Tapp, Biega and Kay will all be based in the Cayman office. According to Atlas, expanding the executive leadership team will allow the company to implement targeted strategies, considering the growth and opportunities within the firm.

Martin Eveleigh, chairman of Atlas Insurance Management, said: "It's exciting to see how much Atlas has grown over the last 12 months."

"Restructuring our leadership team allows us to continue to provide the best solutions and service to our clients while making Atlas the best place for our staff to work."

FiscalReps has appointed Ilka McHugh as its new client director of technology.

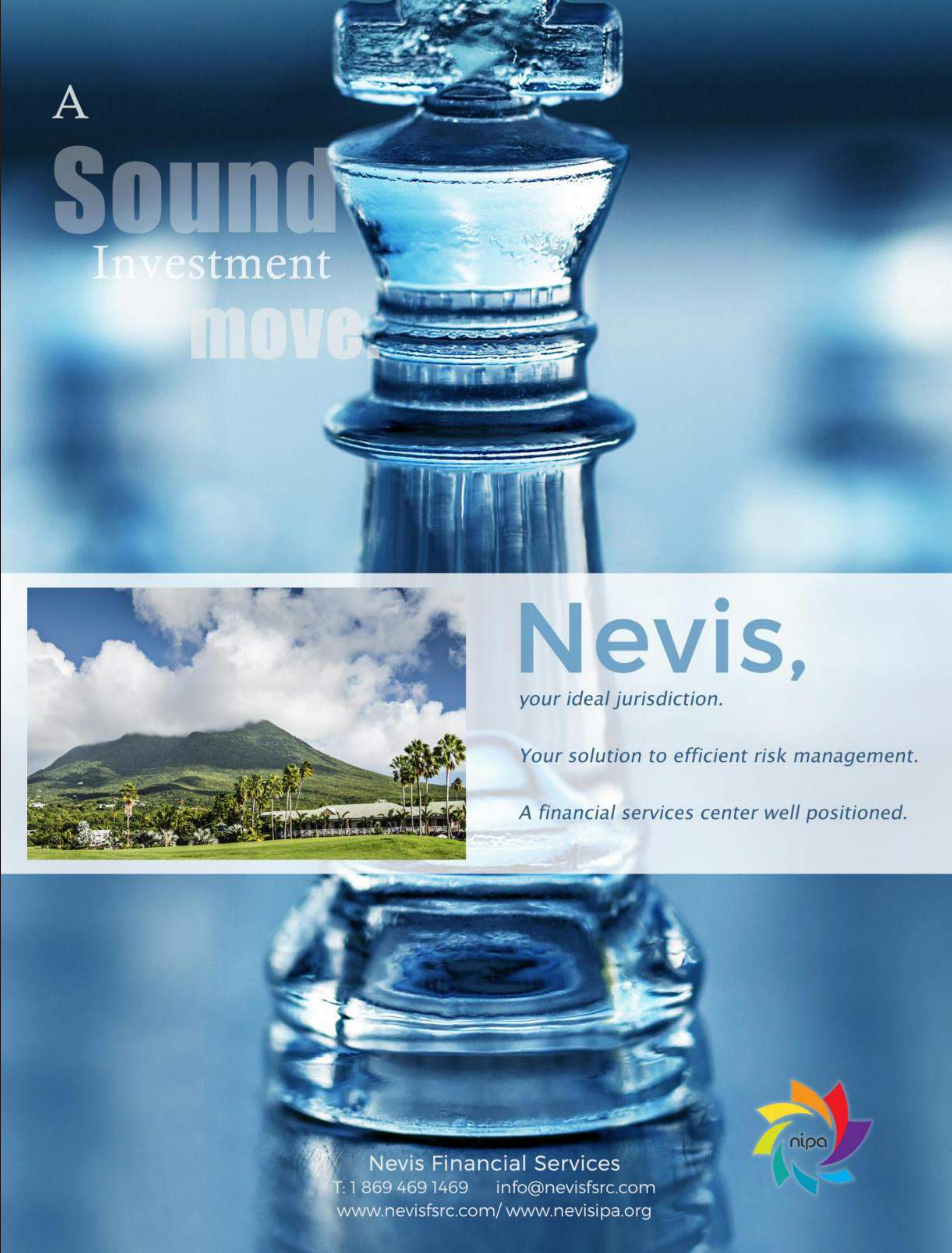
Previously, McHugh was director of insurance solutions at Eurobase International Group, where she was responsible for insurance software services for its captive, reinsurance, insurance-linked securities, large commercial markets.

In her new role, she will support FiscalReps's client directors in the implementation of the new Taxbox2 modules across Europe, which are due to go live in January 2017.

Taxbox2 is designed to simplify the preparation of premium tax and parafiscal returns and comprises of the investigate, calculate and generate modules.

Mike Stalley, CEO of FiscalReps, said: "Ilka McHugh has an excellent understanding of the insurance marketplace and will be a real asset to us as we continue to help our clients embed the new technology into their organisations globally."

McHugh added: "I am very excited about being given the opportunity to use my skills in both technology and insurance to provide value to FiscalReps's clients. Having had a sneak preview of Taxbox2, I am very excited to be involved in its launch."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John Smith, former manager of the British Gas captive, has been appointed as partner of Alesco's energy division.

Smith will be based in Alesco's London office and will report to Derek Thrumble, partner for risk consulting at the company.

He will provide technical account management and advisory support to the firm's business units and clients in the Middle East, Asia, North America, South America and Australasia.

Prior to his new role, Smith served as head of insurable risk, responsible for managing the British Gas captive insurer based in Singapore.

Simon Matson, CEO of Alesco, said: "Market conditions are challenging but we have found growth opportunities and continue to attract talented individuals like John Smith."

"His experience and insight from being both an insurance broker and buyer will strengthen and enhance our proposition."

"I look forward to working with him," Matson said.

The Self-Insurance Institute of America (SIIA) has named Michael Madden of Artex as chair of its captive insurance committee.

Madden has been a member of SIIA for three years and will take on his new role in November.

SIIA's captive committee focuses on stop-loss captive programmes, enterprise risk captives and property and casualty group captives.

Artex said in a statement: "We would like to congratulate our very own Michael Madden for being named chair of the SIIA captive insurance committee."

JLT Re has welcomed Graeme Harley as managing director of the reinsurer in Indonesia, pending regulatory approval.

In his new role, Harley will initially be based in the company's Singapore office. He will relocate to the firm's Jakarta office once the appointment has been officially approved.

He joins from IBS Risk, where he was a technical advisor, and has previously worked for JLT Asia in Singapore.

Kenny Moyes, CEO of JLT Re Asia, commented: "Graeme Harley is a great addition to the team and has been in the industry for over 25 years where he coincidentally started his career with Jardine Insurance Brokers Group in London before transferring to Singapore, where he worked in the wholesale reinsurance broking operation of JLT Asia."

According to JLT Re, there is an "enormous" opportunity in the reinsurance, analytics and advisory space in Indonesia given its demography and its geographical factors.

Harley said: "With the team in Singapore and the existing book of Indonesian business they have, JLT Re is well positioned to capitalise on significant future growth by being on the ground in Jakarta." CIT

Do you have an industry appointment or promotion that you think we should cover?

Let us know via:

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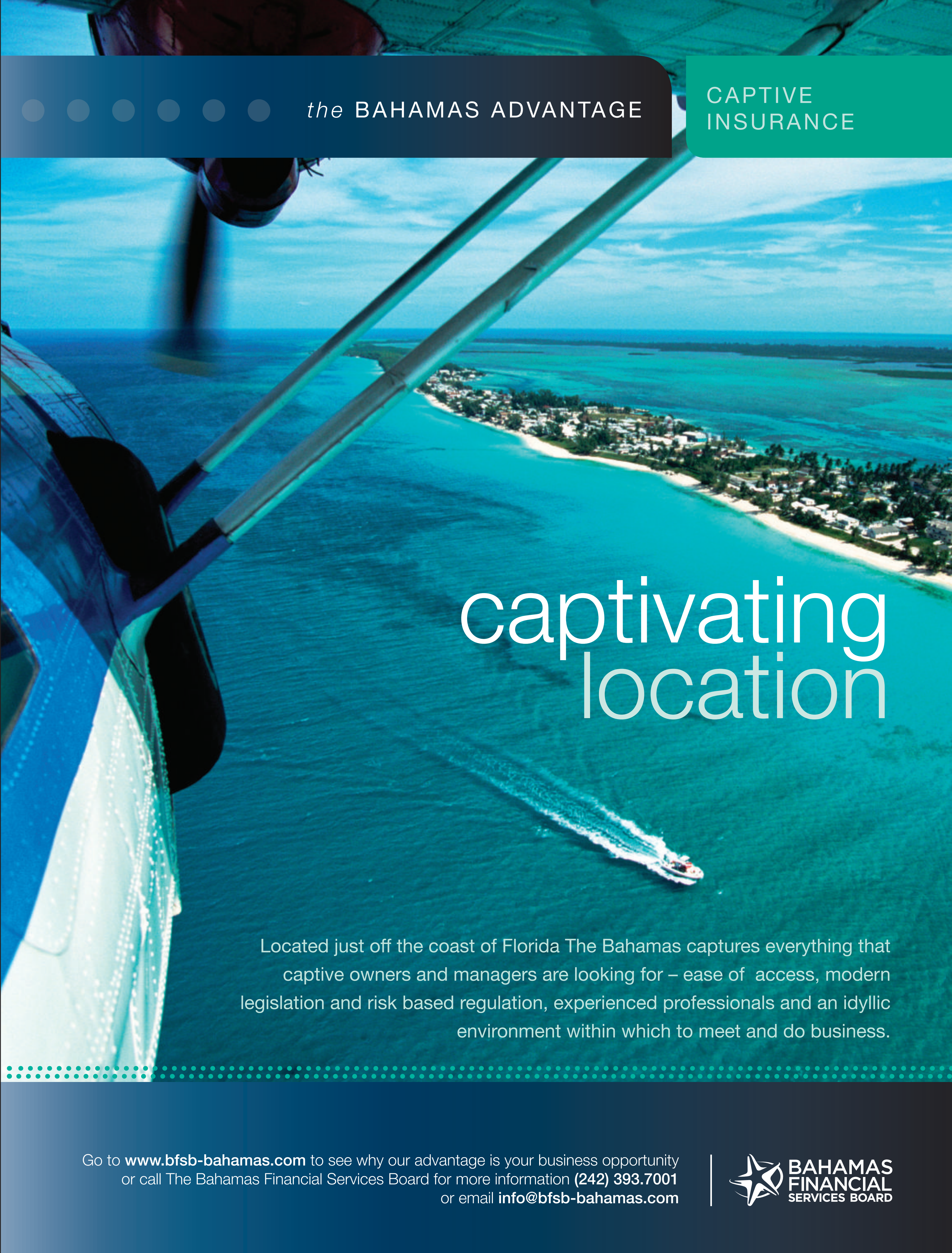
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