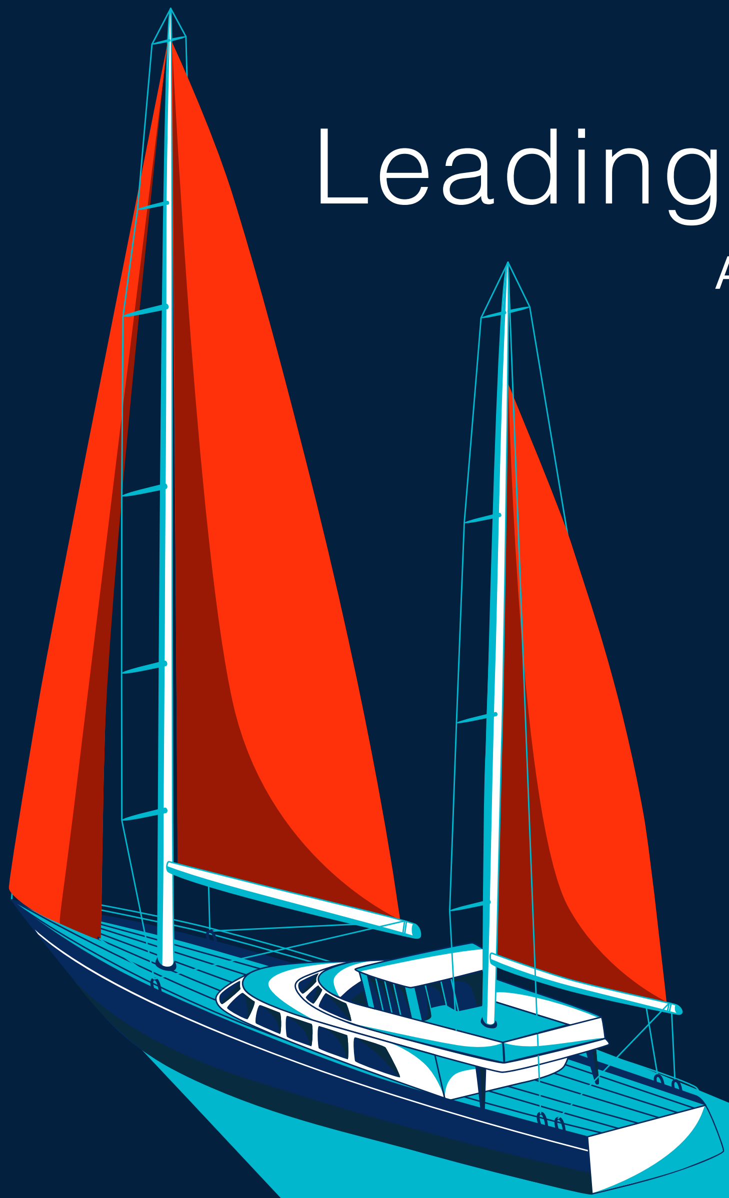
captive insurance times

The primary source of global captive insurance news and analysis

ISSUE149 30 May 2018



Leading from the front

As a top domicile, Bermuda seeks to be an industry leader

Diversity Discussion

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Crumbling Foundations

An innovative new non-profit captive for social benefit

Emerging Talent

The inaugural edition of our series profiling young captive professionals

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‘Healthy’ Bermuda market adds five new captives in early 2018

The Bermuda captive market saw five new captive formations in the early part of this year and is looking “pretty healthy”, according to Jereme Ramsay, business development manager at the Bermuda Business Development Agency (BDA).

The BDA figures revealed that as of April this year, three new Class 1 captives, one new Class 2 captive and one new Class 3 captive had registered in Bermuda.

According to Ramsay, the start of 2018 had been positive for the whole of Bermuda’s insurance industry.

He said: “Overall, a total of 19 new insurers have already registered this year—we had a year-end total of 58 in 2017. Numbers of special purpose insurers have gone through the roof, and life companies are setting up a physical presence in Bermuda at a fast pace. That sector is definitely growing.”

“We are very optimistic about what this year is going to offer,” Ramsay added.

“We’re definitely surpassing some past benchmarks. Specific to the captive arena, there are multiple captives that haven’t even hit the register, but I’m aware of them, and they’re in the pipeline.”

Ramsay attributes part of this success to a series of educational industry roadshows and forums that the BDA has spearheaded in recent years in the US, Canada and Latin America.

He explained: “These events offer an opportunity to talk to new players, particularly the middle market that has a growing interest in captives.”

“To see that evolution, or progression from the initial conversation, result in the setting up of a captive in Bermuda is extremely gratifying for the BDA, as well as our industry partners.”

Ramsay added: “Our initiatives are working, and it’s translating to new business, which ultimately means a stronger economy and more jobs created in Bermuda.”

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captive insurance times

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Published by Black Knight Media Ltd
Company reg: 0719464

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Emerging Talent

Microsoft captive issued cease and desist

The State of Washington Office of the Insurance Commissioner has issued a cease and desist order to Microsoft's Arizona-based captive, Cypress Insurance.

Order No.18-0220, which was issued on 9 May, prohibits Cypress from engaging in or transacting the unauthorised business of insurance in the state of Washington, or seeking and obtaining insurance business in the state.

It also requires the captive to cease and desist from soliciting state residents to purchase any insurance to be issued by any unauthorised insurer, or induce them to purchase any insurance contract.

Cypress, which was admitted as a captive company in Arizona in 2008, is a pure captive whose sole insured is Microsoft and its liabilities, which are based in Redmond, Washington.

The order states that Cypress doesn't hold a certificate of authority to transact insurance in Washington State, doesn't hold a Washington state surplus line broker's license to place non-admitted insurance in the state, nor is insurance coverage provided by the captive placed through a surplus line broker licensed in the state.

Additionally, it claims Cypress has not paid premium tax on the $71,194,935 it collected between 2013 and 2018, representing $1,423,898.70 in unpaid premium tax.

According to the order, Cypress's actions violate: "Revised Code of Washington (RCW) 48.05.030(1) (certificate of authority required), RCW 48.15.020(1) (solicitation by unauthorised insurer prohibited), RCW 48.17.060(1) (license required), RCW 48.14.020(1) (failing to remit two percent premium tax), and RCW 4S.14.060(l)-(2) (failing to timely remit two percent premium tax)."

The order does not prevent the captive from fulfilling the terms of contracts formed prior to the date of the order, 9 May 2018, from providing a refund when requested by Washington insured or, upon request of the insurance commissioner, further ordering the replacement of Cypress contracts with an authorised insurer.

Cypress has the right to demand a hearing within 90 days of receipt of the order.

Vermont offers onshore alternative to BEAT US Tax Reform

Vermont Governor Phil Scott has signed new legislation into law that strengthens the state's financial services industry by allowing insurers to form affiliated reinsurance companies.

The law provides companies affected by the recent imposition of the Base Erosion Anti-Abuse Tax (BEAT) on reinsurance ceded to offshore affiliates with an onshore affiliated reinsurance alternative.

A provision included in the US Tax Reform, BEAT will impact companies doing business internationally and is intended to ensure that companies doing business in the US pay a minimum level of tax.

BEAT is expected to substantial impact the feasibility of offshore affiliated reinsurance arrangements.

Vermont's new law provides a solution by offering a more favourable reinsurance alternative for US companies conducting business in offshore jurisdictions that are faced with a significant new tax burden.

Governor Scott said he was proud of the quick and collaborative work done by the state to pass the bill.

He added: "This bill represents our state's ability to adapt quickly to regulatory changes in support of this industry."

"Vermont's financial services industry is highly sophisticated, and our team of captive insurance professionals is well-equipped to regulate these types of complex transactions."

According to David Provost, deputy commissioner of captive insurance, the new law was impacted by the needs of the industry.

Provost said: "The industry approached us with a need for an onshore alternative. It's something we've been considering for some time, but the imposition of BEAT taxes on foreign reinsurance made the timing critical."

"These companies are akin to a hybrid between captives and traditional insurance. Like captives, they will be limited to reinsurance of affiliates, but they will be regulated in accordance with National Association of Insurance Commissioners accreditation standards like a commercial reinsurer would be."

Director of financial services, Ian Davis, commented: "In the wake of recent federal tax changes, we quickly identified an opportunity for Vermont as it pertains to offshore reinsurance transactions."

"Because of Vermont's scale and the close working relationship we have with our state legislature, we were able to capitalise on being the first state to provide this type of reinsurance alternative."

Georgia Supreme Court decision reinforces LRRA authority

A ruling by the Georgia Supreme Court in favour of risk retention groups (RRGs) has prevented insurance authorities in the state from circumventing federal regulations.

In a ruling on 7 May, the Georgia Supreme Court affirmed that the Liability Risk Retention Act (LRRA) regulates RRGs, even in the circumstance when the RRG is domiciled in another state, in its decision in Reis et al v OOIDA RRG.

The court's opinion read, in part, that while Georgia's direct action statutes may be permissible for traditional insurance carriers, "it is not allowed in the case of a foreign risk retention group by the express act of Congress in the LRRA".

JLT Insurance Management (JLTIM) captive practice leader, Anne Marie Towle, said the company was pleased that the court's decision reinforced the LRRA.

She added: "We applaud the National Risk Retention Association for once again providing important legal and historical input to the court."

"This has been an ongoing debate prompted by some states trying to impose their own insurance regulations on foreign RRGs when the courts have ruled time and again that the LRRA governs them."

Cayman Islands 'aggrieved' by anti-money laundering bill

The Cayman Islands government is "deeply aggrieved" by the amendment to the UK's Sanctions and Anti-Money Laundering Bill, according to a statement from the Cayman Islands Office of the Premier.

On 1 May, the House of Commons accepted an amendment to the Sanctions and Anti-Money Laundering Bill means the 14 British overseas territories will have to introduce public registers of beneficial ownership.

The amendment requires British overseas territories, but not Crown Dependencies, to establish the publish registers by the end of 2020.

In the event of this not happening, the UK will issue an order in council to force Cayman and other overseas territories to do so.

Cayman's Premier, Alden McLaughlin, said the amendment was "based solely on prejudice and a wilful misunderstanding of our current regulatory framework" and "represents a gross affront" to the constitutional relationship between the UK and its overseas territories.

McLaughlin added: "Since 2013 I have been completely clear that, when public registers become a global standard, the Cayman Islands will adopt them."

"The actions in the House of Commons seeks to impose the UK's own flawed system of unverified public registers upon the Overseas Territories by the end of 2020."

"The actions of the House of Commons in seeking to legislate for the Cayman Islands amount to constitutional overreach and are reminiscent of the worst injustices of a bygone era of colonial despotism."

The minister for financial services, Tara Rivers, said the action indicates the UK has chosen to ignore Cayman's ongoing high level of cooperation.

She continued: "Over 100 tax authorities globally, including HMRC, and UK crime agencies already have access to information which states who owns what and how much in relation to Cayman companies."

Erin Brosnihan, chair of Insurance Managers Association of Cayman, said the association were fully supportive of the position taken by the Cayman Islands Government and Cayman Finance on the issue.

Brosnihan added: "The Cayman Islands is a credible and transparent jurisdiction that has long had a verified register, maintained by regulated service providers, that is a far superior regime to what is being imposed by the UK's amendments to the Sanctions and Anti-Money Laundering Bill."

"The Cayman Islands has, for decades been working with international regulators to fight global problems such as tax evasion and corruption through the continual upgrading of our regulatory framework to abide, by and in some cases exceed, the global standards for regulation and transparency."

She concluded: "We do wish to make it absolutely clear that Cayman demonstrates continued cooperation with international regulatory standards."

"It is our goal, as a jurisdiction, to conduct the highest quality business, by providing high quality services to high quality business."

DARAG and New Nordic Advisors make first joint transaction

DARAG and New Nordic Advisors will acquire two portfolios of Qudos Insurance A/S, the control of which New Nordic acquired in 2017 via a joint cell structure.

The transaction, which is subject to the approval of the Danish and Maltese regulators, is the first since DARAG and New Nordic formed a strategic partnership in March.

The deal is the beginning of what is expected to be a series of joint cell transactions, which will see DARAG and New Nordic cooperate to deliver a holistic solution to clients.

The strategic partnership sees the combination of New Nordic's Solvency II optimised investment strategies expertise with DARAG's knowledge in legacy liability management.

Both entities will work together closely in a number of project areas, including the provision of legacy and capital relief solutions, active business and restructuring solutions.

Nicolai Borcher Hansen, New Nordic CEO, said the transaction will catalyse the restructure of Qudos Insurance into "a lean Scandinavian-focused insurance company".

Borcher Hansen stated: "The team at New Nordic Advisors is delighted to have negotiated, on behalf of Qudos Insurance, the first in a series of portfolio transfer agreements with DARAG, signifying the deepening of the strategic relationship between our firms."

Stuart Davies, executive chairman of DARAG, said: "As DARAG has continued to grow, we have remained true to our client focused approach of delivering bespoke solutions that enable them to concentrate on their core business."

"The conclusion of our first transaction, demonstrates the strength of the strategic partnership we have forged with New Nordic and the new capabilities we are bringing to the disposal of our clients."

Head of mergers and acquisitions, Alex Roth, said the DARAG is delighted over the conclusion of the partnership's first transaction.

He added: "Our joint cell in Malta is the perfect home for these types of portfolios giving unrivalled access to our clients, via our partnership with New Nordic, to meaningful capital solutions."

Generali launches Luxembourg employee benefits branch

Assicurazioni Generali has launched a new branch in Luxembourg focused on the employee benefits (EB) sector.

The move is part of a strategy by Generali's parent company, Generali Group, to consolidate its leadership in the EB sector.

The new branch will operate as the Group's reinsurance operation and will help it consolidate its global position in the multinational corporate segment and accelerate its expansion in the international middle market segment.

Additionally, it will aid the Group in launching new initiatives in the fields of health and wellness, business travel assistance, voluntary EB, and pensions.

Generali Global Business Lines and International CEO, Frederic de Courtois, said the launch of the new branch was another important step towards strengthening the Group's standing in the EB market.

Sergio di Caro, CEO at Generali EB, stated: "The opening of the new branch of Generali in Luxembourg, solely dedicated to EB, highlights the strategic importance of this line of business for the Group."

DC updates government-run captive insurer legislation

The District of Columbia Council has passed a new bill that updates its captive insurance legislation to authorise the government-run captive, District of Columbia Captive Agency, to write more diverse risks.

CB 220420 proposes the introduction of the Captive Insurance Agency Amendment Act 2017, which amends the District of Columbia's Medical Liability Captive Insurance Agency Establishment Act of 2008, the legislation that authorised the creation of the captive.

Additionally, the partisan bill defines the terms "liability insurance", "personal property insurance", "personal property asset", and amends the definition of "real property insurance".

The amendment authorises the District of Columbia Captive Agency to write property, terrorism and general liability for District of Columbia government-related risks, which is not permitted under current law.

The District of Columbia Captive Agency was initially set up to provide medical malpractice insurance to medical clinics in the district that provide free services to District of Columbia residents.

The act will become effective following a 30-day period of congressional review and publication in the District of Columbia Register.

Sean O'Donnell, director of financial examination, risk finance bureau, at the District of Columbia Department of Insurance, Securities and Banking, said: "The recent legislation was proposed by the District of Columbia Government Office of Risk Management, which runs the District of Columbia owned captive."

"This legislation amends the act that created the District's captive but it does not amend the District of Columbia's captive act. These amendments will only be applicable to this one captive, and not the District of Columbia captive market generally."

Got a news story we should cover?
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Fixing the cracks

An innovative new captive in Connecticut is helping residents save their homes and may boost the industry's reputation in the process

Ned Holmes reports

In recent years, the captive insurance industry has not had the best public reputation. Perhaps this is unsurprising, most captives serve multi-million dollar businesses behind the scenes and the majority of the public has no reason to know what a captive is or does. The nature of the business means that when captives do make it into the mainstream news it is usually related to wrongdoing and centred on the tax benefits.

An innovative new captive in Connecticut, formed to improve the lives of thousands of the state's homeowners, is showcasing how captives can be used for social benefit and may simultaneously improve the world's view of captives.

The Connecticut Foundation Solutions Indemnity Company (CFSIC), is a non-profit captive set up to distribute the Crumbling Foundation Assistance Fund and provide remediation to homeowners in Connecticut impacted by the 'crumbling foundations' issue.

Crumbling foundations

The issue, caused by the presence of the mineral pyrrhotite in the concrete foundations of buildings, has the potential to cause devastating damage to more than 35,000 houses in the north, east and central parts of Connecticut.

The mineral has been traced back to a quarry in Willington and is believed to be limited to houses within a 50-mile radius of the quarry that were built between 1983 and 2015.

When exposed to oxygen and water, pyrrhotite causes the slow deterioration of the concrete causing web-like cracks that start small and can take more than a decade to appear, but the damage caused is irreversible. The only solution to the problem is to replace the foundation altogether, which is estimated to cost between $150,000 and $250,000.

Commercial insurers have generally denied coverage responsibility, refusing to cover the issue and denying claims on the basis that it does not fall under the 'peril of collapse'. Residents, whose homes had been left worthless due to the structural issue, were in desperate need of a solution and turned to their state government.

The CFSIC

Michael Maglaras, president of Michael Maglaras & Company, says that about a year and a half ago, while he was chairman of the Connecticut Captive Insurance Association (CCIA), he was contacted about the issue. He explained: "I was asked to advise state government officials, and others, about what the best way to pay a client is when an insurance company doesn't exist. In other words, in the situation where the commercial market would not cover these homeowners."

Maglaras advised the state officials of the "wonderful captive statute" and "enlightened and intelligent regulator and commissioner" in the state, and recommended they "think about using the captive statute and creating a claims management programme that allows for these property claims to be effectively reserved, adjusted and paid in a timely way".

The state embraced the idea, and in June 2017 as part of SB 1502, the 2018/19 state budget, they passed legislation, which authorised the formation of a non-profit captive, CFSIC, and eight months later, in February 2018, the Connecticut State Bond Commission approved $350,000 in funding to form the captive.

CFSIC's primary aim is to assist homeowners affected by the 'crumbling foundations' issue by distributing the Crumbling Foundations Assistance Fund, which has been allocated $100 million of state bonded funding over the next five years, in annual tranches of $20 million.

In April, following a strenuous selection process Michael Maglaras & Company were selected as the captive's superintendent, to oversee the formation of the captive.

Maglaras, an industry veteran with more than 30 years of experience in captive underwriting and administration, is based in Connecticut and says the company had been aware of the "terrible situation" for a long time and felt an added sense of responsibility given the captive's impact on people's lives.

He adds: "We are approaching it differently. We have been given a public trust, these are public funds, this is not a fortune 500 company."

"We are being given $100 million over the next five years by the state of Connecticut and that is a public trust. What that implies is a very high degree of transparency, accountability, nothing disguised or hidden from the public and operating at all times with an enormous amount of demonstrable integrity."

"I'm not for a moment suggesting that we don't do that every day of the week but we have to prove it here because this is a public trust. On a personal note, after having been in the business for 41 years, it is an opportunity to use my professional skills for the public good."

"There are people in Connecticut who are being forced from their homes because they are collapsing, we are going to make that right, and we take an enormous amount of pride that we were selected. We see this as a chance to give back, and we are delighted to do it."

Wheels in motion

Due to the severity of the issue, Maglaras wants to get to work straight away and says that the captive will be licensed before the end of July and paying claims before the end of August.

Stephen DiCenso, current president of the CCIA, says the association is supportive of the process and is happy to see how efficient the progress has been so far.

DiCenso explains: "As an association, we are very pleased to see such an accelerated implementation timeline for such a unique and collaborative solution that this captive insurance company will provide."

"The formation process is in full gear, and this rigorous process will provide homeowners in Connecticut with the knowledge that the appropriate progress is being undertaken quickly and effectively on their behalf."

Funding

The Connecticut General Assembly passed new legislation in May that meant a $12 surcharge would be added on to all homeowner insurance policies in the state, with 85 percent of the money raised going into the captive to cover initial tests to help identify whether homeowners have the issue.

Maglaras is a massive supporter of this new legislation but says this "wonderful idea" is just the start and more funding will be needed.

He explains: "There are as many as 34,000 homes in Connecticut with a crumbling foundation, so, we are going to be very, very, dependent on seeking corporate contributions to this tax-exempt captive."

Using the Connecticut Department of Housing's estimations, replacing the foundations of 34,000 homes would cost in the ballpark of $6.8 billion, which would mean that the currently allocated $100 million will barely scratch the surface.

One of the ways Maglaras thinks the captive can get additional donations is by reaching out to the insurance and reinsurance industry many of whom denied the homeowners' original claims.

"I am going to create a tax-exempt captive that is fulfilling a public trust, making people's lives whole again and I want to build a strong argument for the insurance and reinsurance industry to come in and participate, contribute to the surplus of this captive. Let us give back to the state of Connecticut."

Addressing the homeowners directly, Maglaras added: "Help is on the way. We will do what we said we will do and help is on the way."

A precedent for positive captives

From a captive insurance standpoint, CFSIC represents an exciting innovation that has already showcased how the flexibility of captives may see their uses branch out into different sectors in the future. If the captive succeeds over the next few years in helping the Connecticut homeowners with their recovery, then we may see the government non-profit captive structure copied in other jurisdictions.

DiCenso hails the importance of the collaboration of the Department of Insurance Captive Insurance Division, the Governor's Office and the State Legislature in creating the innovative model.

"Rarely do you find public policy issues that call for such cooperation between the insurance industry and government," DiCenso points out. "We are proud to be part of this public-private partnership solution to this serious, pressing problem."

"This is an extremely serious and impactful issue for many homeowners in Connecticut that shows the flexibility and positive work that captive insurance can provide a risk financing and risk management solution."

In the future, Connecticut's approach to solving this issue may be borrowed by other jurisdictions. Due to the issue being related to location, it is thought that parts of Massachusetts and Canada may also be affected. Should this be the case, governments in those jurisdictions may look at the captive approach as their solution.

Changing perceptions

The concept of a captive insurance company used for social benefit is not an entirely new idea, in 2004 the World Trade Centre Captive Insurance Company was set up in New York by the Federal Emergency Management Agency to provide coverage for the risks of the city and its contractors following 9/11, but there is the potential for CFSIC to set a precedent for future captives for a similar cause.

Maglaras believes that CFSIC could also play an important role in improving the reputation of the captive insurance industry.

He explains: "When we have a captive that comes along like CFSIC, formed for a legitimate higher purpose to legitimately pay claims, that needs to be publicised as much as the Avrahami decision was."

"We need to emphasise that just because we have a few bad actors in this business doesn't mean that captives themselves are tarnished."

"So much good news about captives doesn't make it into the public media because captives are at their best when they're boring and when there is nothing eventful going on then it means the captive is running just fine." **CIT**

A refreshing change

Bermuda Captive Conference chair Michael Parrish discusses what delegates of this year's event can look forward to

Ned Holmes reports

What is the main focus of this year's conference?

The main focus of this year's conference is around the changing landscape of the captive industry. We designed the conference to address new challenges for captive owners around issues like regulation, compliance, US tax reform, and innovative products, as well as emerging risks and other risk management challenges. We will also look at changing demographics in the workforce and issues concerning diversity in the industry.

There seems to be a lot of focus on diversity at the conference. Is this a theme that is very important to you?

It is a theme that we have developed to run through the conference in terms of the agenda, the sessions, and what we are trying to achieve. Not just diversity in terms of culture or gender, but also around diversity within the captive industry in Bermuda, so, yes, diversity of the workforce, but also diversity in the risks that our captives are covering.

The theme also refers to the diversity of different industries represented throughout Bermuda's captive sphere, as well as the geographic spread in our captive industry. We have captives from the US, Europe, Australia, Asia, Latin America, Canada—all over the world. Bermuda's captive industry is very diverse, so, when we talk about diversity, we're covering the spectrum of what that means to people working in this space.

Michael Parrish
Chair
Bermuda Captive Conference

As one of the leading captive domiciles, do you feel it's important you are an industry leader when approaching issues such as climate change and emerging technologies?

Yes, I do think it is important. Since the early development of the captive industry in Bermuda back in the 1960s, our market quickly developed a reputation as a leader and innovator, particularly in relation to how the captive industry addressed emerging risks and trends. So, we have tried to reflect that in the way in which the conference is set up, and through themes featured in our agenda sessions. Our sessions include new areas of risk in cyber, crypto commerce and climate change, all areas that are emerging risks for companies. We want to make sure the conference reflects the fact the captive industry is constantly evolving in the face of new and evolving risks faced by parent companies.

As an industry leader, do you believe you have a responsibility to aid emerging domiciles such as Canada and Latin America?

As the leading domicile, Bermuda does have an obligation to make sure companies in those emerging regions are aware of what we have to offer and are properly informed about the captive industry in Bermuda, and the value of captives in general.

The Bermuda Business Development Agency has been working in Canada for about three years now, sending delegations, informing and educating people about Bermuda and about captives in general. The agency has also done a fair bit of work in Latin America in the same way, and we do have a number of delegates from those territories coming to the conference.

Bermuda has a long history in Latin America. I was first working in Bermuda in the 1990s and I spent a lot of time developing captives in Latin America. We developed the first captives in a number of different countries that came to Bermuda. So, Bermuda is the established domicile for Latin America captives and we do certainly have an obligation to continue to reach out to those markets and make sure they understand what Bermuda has to offer and how captives work.

Are there any sessions you are particularly looking forward to?

We have some different sessions this year, including one highlighting captive owners. At last year's conference, I moderated the captive owners' session and it was very well received, so we're doing it again. I know delegates who are either owners of captives or considering forming captives who like to hear from their peers, so sessions featuring those with a long history in Bermuda's captive sector—industry figures who understand what the challenges, issues and opportunities may be—are always well received.

We also have a couple of sessions with an all-female focus, one of which specifically spotlights women leaders in the captive industry, again underscoring our theme of diversity. I think that will be very interesting and well-attended.

How have you found organising your first conference?

This is my first conference as chair, and I have to say I have found the whole process to be very refreshing. There is a lot of experience in our organising committee, and since the conference is now in its 14th year, many people have been involved for a long time, so the conference runs like a well-oiled machine. We have different committees that deal with various aspects, and I'm now looking forward to seeing the event unfold.

What new community initiatives have you included this year?

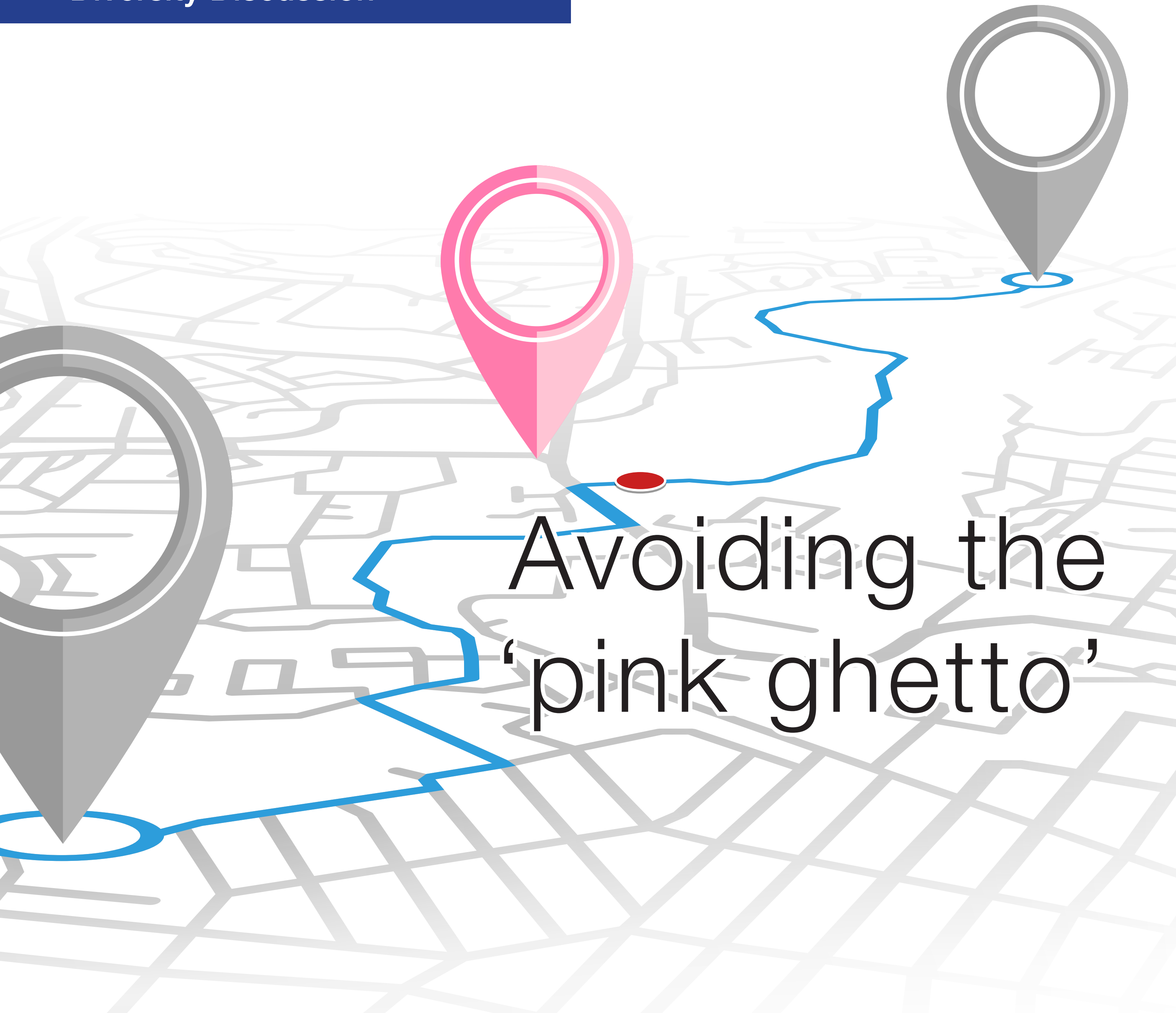
We have established a couple of new initiatives, one of which is to support a local nominated charity, which this year is Bermuda's only hospice offering palliative care to the island community. The conference will make a donation, and we'll also give the charity the opportunity to raise funds and public awareness during the event. This will now be an annual initiative in which we support a different Bermuda charity every year.

We are also trying to make sure the captive conference provides educational opportunities for those seeking to enter the industry. Students from two centres for training and development of risk professionals—the Bermuda Insurance Institute and the Bermuda Foundation for Insurance Studies—are invited to attend conference sessions, as well as to network with industry professionals throughout the event.

Any final thoughts as you are heading into the conference?

Delegates who have been coming to the conference for a number of years will notice some differences, for example, in the tradeshow and social functions. There's been a brand refresh, from the event website and marketing to the use of videos on site, even an app to streamline the schedule and delegate meetings. People who have been coming to the conference for a while will experience an updated look and feel this year.

We are trying to make sure conference delegates see a bit more of Bermuda and get the opportunity to understand what the island has to offer outside of the conference or captive industry. Our social activities include golf, a boat reef tour, and a walk along the South Shore sand dunes. We've also teamed with the Bermuda Tourism Authority to encourage people to return to Bermuda—not just as delegates to the next conference, but as tourists to the island for family vacations. **CIT**



Avoiding the ‘pink ghetto’

Ahead of the 2018 Bermuda Captive Conference, which will focus on diversity in the industry, Nicole Rozon of Dyna Management Services discusses women and equality in the captive industry

How well represented do you think women are in the captive industry?

It appears that women are well represented in the captive/insurance industry with over 61.3 percent employed in the captive/insurance market or 1.7 million, according to the latest US Bureau Statistics for 2016. Although, the industry is at parity, only 13.8 percent of women are represented in senior management. The vast majority of women remain in administrative jobs such as claims and policy processing. The industry tends to follow suite with the finance industry that is significantly lagging in leadership representation.

In Bermuda, we have seen women in the captive industry taking on more leadership roles especially within industry bodies such as Bermuda Insurance Managers Association, and Bermuda

International Long Term Insurers. Unfortunately, there remains a lack of women being appointed as CEOs or managing directors at the executive insurance level.

What challenges do you face as a woman in the captive industry?

Women continue to be faced with a 'men's club' culture. It was noted that women earn only 81 percent of what men earn and the captive/insurance is no exception. The insurance industry continues to reflect the gender pay gap with gross deviations anywhere from 57.2 percent to 17 percent for bonus and pay.

The captive/insurance industry remains unattractive to the future generation of women as a result of poor senior representation. Insurance, and in particular captives, are the last bastion of male dominated industry. This makes it difficult to recruit and retain women at a senior level.

Men have been encouraged to believe they're natural leaders and achievers, women have not, and this dynamic gets reinforced in the workplace.

This imparity has led to the inequity in pay and advancement for women. Women can end up in the 'pink ghetto'—that level of management seniority that may have the title, but doesn't have the progression to the c-suite.

What can be done to address those challenges?

The challenges can be addressed by first changing the mindset for those in the c-suite and management.

Bring the industry parity with those who have achieved income equality. This will attract senior management and directors that can provide representation of the female gender. There is no excuse for ignorance and apathy; the data is indisputable.

Organisational change has to start at the top; the executive teams should lead in the change culture by addressing the challenges for example; have HR audit pay and position, then address the gaps. Human resources can incorporate training programmes company wide.

Women can address these challenges by 'leaning in' and taking their place at the executive table, speak up and advocate for yourselves. Women should identify key assignments and lobby for them; they are critical if the goal is a place in the c-suite.

How can the captive insurance industry push to establish equality?

Senior managers and executives are the catalyst for change and can create equality in the industry. They can do so by encouraging women to apply for jobs for which they may not think they are qualified. They can ask younger women where they think they will be in 10 years.

In addition, they can provide women with opportunities to lead and have a voice in a decision making process including the board, advisory and industry committees. Lastly, they can invite one to two junior young women to attend industry, education and social events; expose them to new professional circles.

Does the Bermuda Captive Conference provide a good platform for conversation about diversity and equality in the captive industry?

Yes, like all conferences it's a great opportunity to invoke conversation and ideas. It's a venue that allows for access to key stakeholders and decision makers. It's a way to reach the target market and provoke thought and change at the ground level.

Truth Passes Through Three Stages: First, It Is Ridiculed. Second, It Is Violently Opposed. Third, It Is Accepted As Self-Evident. **CIT**

> "The captive/insurance industry remains unattractive to the future generation of women as a result of poor senior representation"

Nicole Rozon, assistant vice president of compliance and risk management
Dyna Management Services

Emerging Talent

Showcasing the new generation of captive professionals

Joseph McDonald, licensing coordinator at the South Carolina Department of Insurance

Personal bio

I hail from Hilton Head Island, South Carolina. I spend my free-time reading philosophy and theology, and studying about Orthodox spirituality. When I'm not reading, I'm at the beach and in the ocean, or on the mats training in Brazilian jiu-jitsu, which is a favourite activity of mine.

There's something pure when you're in the moment training and something that takes you out of yourself, but also increases your concentration to such a degree that you become truly engulfed in the elusive, yet eternal, 'present moment'.

Professional profile

For my undergraduate studies I double-majored in philosophy and religion, and then completed a master's degree in religious studies, both at the University of South Carolina. However, I had a bit of an inclination that, while the worthiest of pursuits, philosophy and theology might not help me repay my student loans.

So, while in school I also worked for the South Carolina Senate. This is what provided an opportunity for an internship with the Department of Insurance and eventually into the role that I fulfill there today.

How did you end up in the captive industry?

My friend and mentor, Scott Richardson, introduced me to the insurance industry, and got me started on this path after I finished my graduate studies. It was director Ray Farmer who opened the door for me into the world of captives when he offered me a position within the state's captive division.

I like to solve problems, and there were two problems to be solved at that time: firstly, my ambition was getting the best of me and I wanted a fresh challenge that would also be a pathway to further advancement; and secondly there was a promising position that had become open due to a retirement and needed to be filled.

So, I stepped in, and am now enjoying every minute of it!

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

I'll say two things. The first, the people I work with, both at the department, and the service providers in the industry. I've yet to be the smartest person in the room, and am grateful that every time I walk away from a call or a meeting, I've learned something insightful and worthwhile. The second is what I've learned about the captive industry, insurance structures, and the companies that form captives. The insurance industry as a whole gives you a 'peek under the tent' of so many companies in numerous industries, and it is fascinating how different companies do business, and exercise creative and idiosyncratic ways of adapting, and maneuvering in the changing tides and currents of the market.

What is your impression of the industry?

World class. Creative. Fascinating. Adaptable.

I am interested to see how the industry will continue to respond to an increasing number of onshore domiciles and the resulting competition, and how captives will be utilised by start-ups as technology continues to be employed to understand and quantify existing and emerging risk profiles.

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

To add genuine value to the organisation that I'm with and to our clients and their stakeholders—whether I remain in the public sector or eventually get into the private sector, as I mentioned earlier, I like to solve problems, and I think, wherever I am, I will aspire to serve others by doing that. **CIT**

> Joseph McDonald is already doing a terrific job serving as 'the face' of our department's captive division within Charleston's community of highly accomplished captive professionals, and we count on him to continue building his knowledge and elevating his profile for the benefit of our captive programme in the months and years to come

Jeff Kehler
Captive administrator
South Carolina Department of Insurance

Joseph McDonald

Tony Weller of Citadel Risk explains why being able to fully fund your cell captive is the most important thing for owners to consider when setting up

There is so much information available via the web or from alternative risk insurance experts extolling the virtues of segregated cell insurance mechanisms, that one more article on the subject might seem like overkill. This article does not set out to replicate something you can read on a regulator or lawyer's website. They have already outlined the technical issues very well but at the practical application level, there is still a lot of misunderstanding about segregated cells, how they can be used efficiently and their place in the transition of insurance programmes from incubator to full-fledged insurance.

A segregated cell is a very simple and relatively inexpensive way of setting up your own insurance or reinsurance company. There is a great deal of flexibility as to what it can do including a direct insurer providing coverages to its owner participants, as a reinsurance mechanism assuming risk from a commercial insurer or, as an insurance conduit allowing access to the commercial reinsurance market. As long as you (or a fronting insurer if necessary) are abiding by the laws of the jurisdiction that the insurance is being written, then the segregated cell can participate in the risk of choice under most circumstances.

Without too much difficulty or capital, you have your own de facto insurance or reinsurance company.

A captive cell is a 'company within a company'. The cell is associated with a 'core' company that arranges the affairs of the cell in a way that is economical and efficient. The core also provides the required expertise for holding the insurance license and has provided the basic capital necessary for the operations of insurance programmes within its cells. In every jurisdiction, the important thing to recognise is that the assets and liabilities of your cell are quarantined from the other cells. Bermuda in particular has created a legislative environment that has a balanced approach to regulation for cells, and a strong body of law surrounding segregated accounts that has withstood legal challenges unscathed.

An example of the Bermuda's balanced approach to segregated cells is the approval of cell structures within the core company management. Bermuda offers guidance on best practices for determining the quality of a cell's participant, however, leaves that decision to the core company. Some jurisdictions need to have business plans submitted outlining each different class of business and each geographic segment. The plans then gather dust on a regulator's in tray and this, frankly, is a very frustrating process, which is unknown to Bermuda segregated account participants.

Bermuda is a stringently regulated insurance domicile. It is a well-respected, regulated and mature jurisdiction. Solvency II equivalency, the robust reinsurance marketplace and the huge amount of capital based on the island has ensured that. The Bermuda Monetary Authority (BMA) has a thoroughly pragmatic side, and the administration of segregated cells is a good example of that.

Setting up a cell

When considering a cell for insurance or reinsurance business there is one key issue, and it is a critical one. The BMA want to know that, even in the worst possible case, the cell can honour all of its insurance obligations. Can it pay all its claims and creditors? That is what they really want to know. If you think about it, that should be the main function of regulators. Their great fear (and it should be) is an insolvency. They're messy, time-consuming and interminable. They are a fact of life, but one of those facts best avoided. It should also be the most pressing issue for the owners of cells. This is called 'fully funding' the cell and it means that the cell can pay or reinsure away every loss contingency that it may be faced with.

Setting up a cell in Bermuda is relatively simple, but the first question any responsible captive manager will ask you is how you intend to keep the cell fully funded. If you don't know the answer, then a proactive captive manager will advise you how it is done. If there is only one thing you take away from this article, it's that the cell must be fully-funded.

The most obvious answer is to ensure there is enough capital in the cell. That may be axiomatic, but it is also in many, if not most, instances completely impractical. There are programmes where the theoretical risk is huge, but the practical risk is miniscule, so nobody wants to over capitalise a cell like that. Other standard responses are letters of credit and bank guarantees. Again, a great theoretical answer, but for very large potential loss exposure impractical. The days of banks issuing letters of credit that are partially collateralised are over. Letters of credit normally need to be collateralised in full with cash, so you may as well put the cash in the cell and call it capital. There is an option, however, which will significantly reduce capital obligations; the purchase of aggregate stop-loss reinsurance.

Captive managers can be one-stop shops for setting up a captive, and a good one will be able to organise stop loss and excess of loss protection for the cell, by far the most capital-efficient method to keep a cell fully funded. If the risk is small, finding stop loss protection incepting at a loss ratio of 100 percent should be practical and relatively inexpensive. One method is for the reinsurer to charge a relatively high premium (to protect the reinsurer should unlikely events occur) but to pay back substantial profit commissions and commute the protection depending upon 'the tail' of the risk. The captive manager should have connections or access to carriers who are prepared to write this type of risk. He or she will then calculate the amount of capital required—normally the running costs of the cell.

The administrative process of setting up the cell is relatively simple and can be completed very quickly. The ownership agreement is fairly standard and the question of whether you prefer a profit-share agreement, where profits are shared in proportion to the agreed 'ownership' of the cell, or, a preferred-share agreement, where preferred shares are issued to the 'owners' of the cell can be discussed with the captive manager. Normally it is just a matter of personal preference. Sometimes it is just a question of what method the client can more readily understand. The length of time that it takes to set up is largely the responsibility of the 'owner' of the cell or the client. Like a broker who presents a complete, comprehensive, well set up and accurate presentation of a risk to an underwriter from the outset, a client who understands the risk and—importantly—can back it up, will give the captive manager confidence and result in a quick and efficient start to the life of a cell. Ownership agreements can be completed in a matter of days, but bank accounts typically take longer, and that is often the function that delays effective trading.

Setting up a bank account and the surrounding know-your-client (KYC) issues, can be challenging. The captive manager and the bank will want to know who the ultimate beneficiary of the programme is. Captive managers and banks are very sensitive about these issues, some of whom have had their fingers badly burnt. If you are not laundering money or doing anything illegal then, you should have nothing to fear, other than the fear of completing forms. Sometimes this proves the most challenging task if the ownership structure does not fit easily into the presentation of the forms that need to be completed. The most frustrating part is that there are normally a number of follow up questions as the captive manager or the bank really need to know that they cannot be accused of aiding or abetting anything illegal.

Other issues are the same as any insurance or reinsurance programme. Managing risk, underwriting, claims management, underlying documentation and all the usual administrative challenges that are part of commercial life. Given that a cell is like a real insurance or reinsurance company, a good captive manager will be proactive in managing commercial challenges. Most firms do the first bit well, which is completing accounts on a timely basis. The really interesting task is whether they can advise you adequately and proactively on investment management and any regulatory scrutiny. A good manager identifies a potential problem before a regulator does.

In my experience with the BMA, our queries have all been pretty well on the same issue—is the cell fully funded, and their questions have been good ones. So a good captive manager will consider, once he has posted all the journal entries, whether he can conclude that the cell is fully funded. If not, he needs to urgently bring this to the attention of the client. Once you have suffered from a regulatory bloody nose, it is hard to retrieve your reputation, so it is better not to get into the fight in the first place.

If you address that sole issue, it is an amazingly inexpensive way to participate in insurance risk. We have found a lot of brokers and agents who like a risk and want to make more than commission in life. It also gives 'external' reinsurers a great deal of confidence to see a broker or agent participating in a programme they are trying to sell to outsiders.

We don't often think about how something will come to an end when we are creating it, but this is another advantage to segregated cell structures. Segregated cells come apart almost as easily as they go together.

On one hand the segregated cell could be a very successful venture and the owner decides to move the programme to an owned captive company instead of a cell. On the other hand the programme may have outlived its usefulness and needs to be wrapped up.

Again, a good captive manager will have access and connections with carriers who will assume the risk of a cell once its active life is complete. It is really in nobody's interest for a client to incur unnecessary administrative costs while he waits for a couple of claims to be settled. It is important that this issue is discussed as forward planning in reinsurance also means considering what to do when the risk being underwritten is no long warranted.

As in the rest of life there are positives and negatives associated with the use of a segregated cell structure. Balancing the reduced cost and improved operational efficiencies are the need for the core company owner to purchase services on a bundled basis for all cells within the core.

This can eliminate some of the control that the cell owner can exercise in choosing their own service providers. Likewise, because the cell is an extension of the core, legal matters must be executed by the core's directors rather than at the cell level. Overall the advantages outweigh the disadvantages for many cell participants and that is why there are so many active cell programmes in the captive industry and in particular in Bermuda. **CIT**

Balancing the reduced cost and improved operational efficiencies are the need for the core company owner to purchase services on a bundled basis for all cells within the core

Tony Weller, CEO, Citadel Risk

The forward-thinking domicile

With 740 active captives at the end of last year, Jereme Ramsay of the Bermuda BDA suggests that Q1 2018 has already been extremely attractive

Ned Holmes reports

As the largest captive domicile, do you think Bermuda has a responsibility to be an industry leader when it comes to hot topics, such as emerging technologies and climate change?

Yes, absolutely. We are the world leader—at year-end 2017, we had 740 active captives and many of those represent Fortune 500 or 1000 companies. Innovation has always driven the Bermuda market, and we're always talking to existing captive owners about how to expand and grow their captives.

With regards to cyber, we are starting to see captive owners funding cyber programmes through their captives, which is very forward-thinking. These are large, significant captives that are branching out into cyber, healthcare and employee benefits. We are just scratching the surface with cyber, but it's a line of business we are starting to have more conversations about.

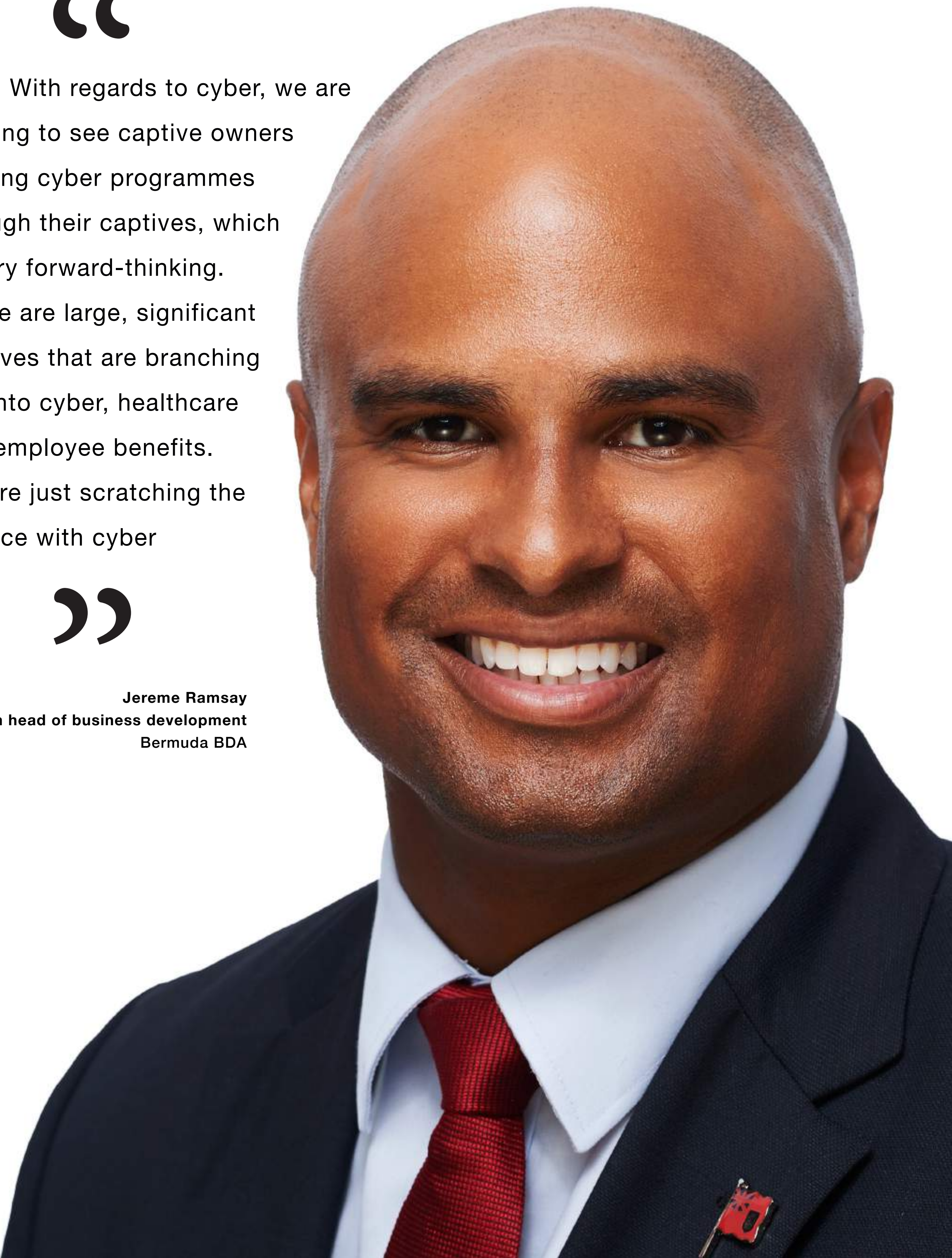
Being in such an innovative environment, we are able to foster a fruitful exchange with existing captive owners and highlight what we can offer to prospective captive owners. As a leading captive domicile, it is very much on our shoulders to ensure we remain cutting-edge, that we are pushing the envelope as far as what types of business should be placed in a captive. To be able to facilitate conversations at the Bermuda Captive Conference about thought leadership and innovation is something we feel strongly about as a leading captive domicile.

Bermuda has sent delegations to Canada and New York recently. Is reaching out to new/emerging domiciles important to the Bermuda Business Development Agency (BDA)?

The US is our key market, so we work hard to facilitate an environment where there can be educational forums targeting financial executives, brokers, and risk managers, and where our industry experts can collaborate to explain the benefits of setting up a captive structure and the benefits of Bermuda.

"With regards to cyber, we are starting to see captive owners funding cyber programmes through their captives, which is very forward-thinking. These are large, significant captives that are branching out into cyber, healthcare and employee benefits. We are just scratching the surface with cyber"

Jereme Ramsay
Interim head of business development
Bermuda BDA



Our BDA forums look at captives as risk-management tools and we highlight the benefits of the captive solution. We identify why Bermuda makes sense as a domicile, not just because it is the largest, but because we have the expertise, the regulatory environment, and the blue-chip reputation. All great reasons for captive owners to choose our domicile.

Why are these events important?

About four years ago when I joined the BDA, we were attending many conferences, but it made sense to develop that strategy and create our own forums that we could customise and that would allow a level of exclusivity. We were able to target gateway and regional cities with a brokerage community that needed more familiarity with the captive structure.

The events have really worked well, and they've translated into real business for us. When you have competing firms working together to raise the profile of a jurisdiction, that really speaks to the strength of the Bermuda market, and you don't see it with other domiciles.

We will continue to host these roadshows, because we're having really strong exchanges at our events including valuable one-on-one engagement.

These educational roadshows set up opportunities to talk to new players, such as the middle-market that has a growing interest in captives. Just to see that evolution or progression, from the initial conversation to actually setting up a captive in Bermuda, is extremely gratifying for the BDA as well our industry stakeholders. Our initiatives are working and translating to new business, which ultimately means new jobs.

In the risk space last year, we generated 61 new jobs and that's exciting for us because our mandate is to grow the market and job creation. So, we are hitting on every cylinder in that space.

Ahead, I think we have a really strong 2018, based on ensuring we connect prospective clients with our industry partners and leaving it to them to drive the conversation. We are really grateful to our stakeholders for their collaboration and leadership. Having competing firms in the same room talking about Bermuda really tells a story about the partnership and collaboration in the Bermuda market, and that's what helps drive innovation and more business for this island.

The domicile has tried to position itself as the world's first regulated hub for blockchain business, how do you think this will impact the captive insurance market?

I believe technology touches the entire market. Here at the BDA, we have five different pillars: risk solutions, asset management, high-net-worth services, emerging technologies, and economic diversification. There is a common theme across all these areas, and it's that technology and blockchain are coming to the forefront of every industry. Bermuda is a domicile for innovation, so it's a natural evolution. This is the next chapter and I think everyone is embracing this change; it's great that it's all happening here in Bermuda.

What does that look like for the captive industry, specifically? I think that conversation is still evolving, but it's great that the leadership of insurance managers, brokers, and reinsurers are all having that conversation.

How has H1 2018 been for the BDA?

We have had a fantastic year, specifically through the captive lens. The World Captive Forum kicks off the captive season, and it's always a great opportunity to go to Florida and meet with US and Latin American partners. It really sets the pace for the rest of the year from a business perspective.

On the heels of the 2017 figures, we have a phenomenal year of new captives setting up in Bermuda, and Q1 has already been extremely attractive—we had four new captive formations. Q1 is always a telling story, and it sets the pace for what's to come.

We are very optimistic about what this year is going to offer; we are definitely surpassing some benchmarks we set for last year. Specific to the captive arena, I've heard there are multiple entities in the pipeline. Things are looking pretty healthy.

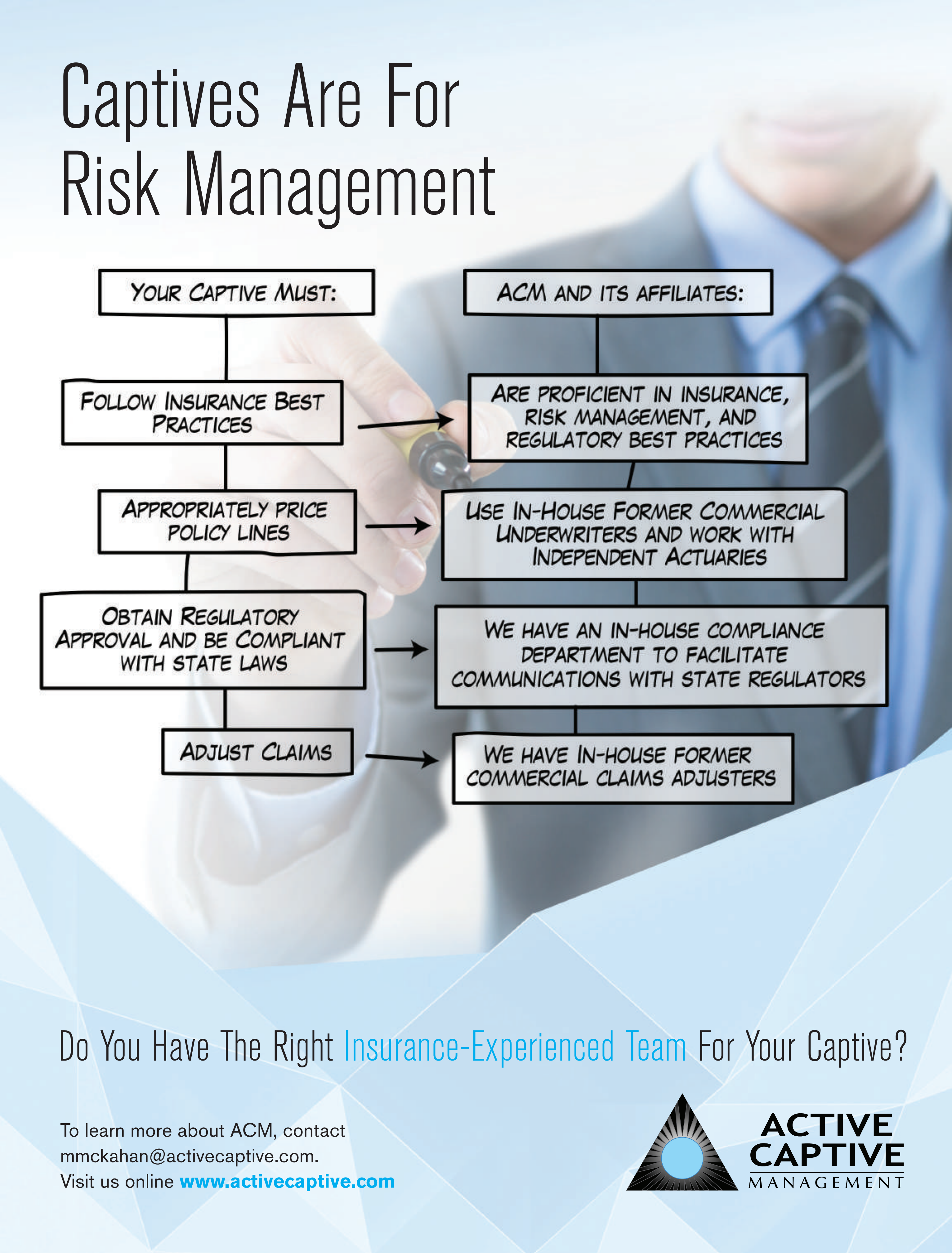
What are you most looking forward to heading into the conference?

It is always great to see the exchange between existing captive and prospective clients—talking about setting up a captive, the process, advantages, pitfalls, things to avoid, and also innovation. I think the agenda at the Bermuda Captive Conference reflects a lot of innovation and diversity of risk, products and talent.

What I'm looking forward to most is the Captive Hall of Fame, which highlights captive owners or captives that have been in the Bermuda marketplace for 25 years.

There is also a Lifetime Achievement Award that is presented annually to someone who has had a significant impact on the Bermuda market and has been a trailblazer of change and innovation.

Also, things are going to be changing this year, with the final reception shifting to a new location and some new panels and discussions. This year, we will be highlighting diversity and discussing innovation in the captive industry. **CIT**


Captives Are For Risk Management
Your Captive Must:
Follow Insurance Best Practices
Appropriately Price Policy Lines
Obtain Regulatory Approval and Be Compliant With State Laws
Adjust Claims
ACM and Its Affiliates:
Are Proficient in Insurance, Risk Management, and Regulatory Best Practices
Use In-House Former Commercial Underwriters and Work With Independent Actuaries
We Have an In-House Compliance Department to Facilitate Communications With State Regulators
We Have In-House Former Commercial Claims Adjusters
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ACTIVE CAPTIVE MANAGEMENT

Sean Rider
Executive vice president
Managing director of consulting and development
Global captive practice, Willis Towers Watson

The ART of appreciation

With a lot of activity in the captive marketplace, Sean Rider of Willis Towers Watson discusses why there is a continued appreciation for the value a captive can bring to an organisation's risk financing strategy

Ned Holmes reports

How would you describe the current global captive insurance marketplace?

We are quite bullish on the global captive marketplace. We see continued new captive growth and activity in the US and Europe. Captive owners are interested in expanded captive utilisation and building analytically-driven captive strategies. We also see a movement towards captive rationalisation and consolidation in the global accounts segment where organisations have inherited several captives over time through acquisition. In short, there is lots of activity in the captive marketplace, and a continued appreciation for the value a captive can bring to an organisation's risk financing strategy.

What's driving demand for captive formations?

We continue to see demand for captives in all four of the leading areas for captive utilisation: retained risk finance, risk transfer rate improvement, access to alternative capacity and entrepreneurialism. No single area is necessarily leading the charge, however, I think the opportunity for owners to use a captive as a vehicle for blending non-correlated global risks and converting that portfolio into a holistic risk transfer solution into the alternative risk transfer (ART) marketplace is becoming a very compelling proposition. I am quite excited about the growth and dynamism of the ART marketplace.

How are advancements in data and analytics influencing captive strategy?

Yes indeed, analytics are playing an expanded role in helping organisations make data driven decisions around risk financing and captive formations. Remember that the captive is simply an execution tool for an organisation's risk financing strategy, consequently the 'captive's strategy' is tied to serving the parent's risk financing strategy. As data is more effectively harnessed and analytics become more sophisticated, captive owners are making more effective and rational decisions around strategic risk finance, and ultimately the captive's strategy is evolving to serve the increasingly sophisticated decision process around organisational risk. This is something we are very focused on and we have made significant investments developing analytical capabilities around our captive financial value proposition, and we are excited to empower clients with new support tools like never before.

What is the outlook for the rest of the year? Have you got any exciting plans for H2 2018?

We are optimistic about the marketplace for the remainder of the year. We're particularly excited to launch our new analytical tool Captive Quantified, the first web-based, interactive captive financial modelling tool. It helps organisations evaluate the feasibility of a captive, helps them choose the best domicile for their needs and performs financial analysis and due diligence.

This will enable profoundly more sophisticated conversations with finance decision makers as to the value, volatility, and efficacy of the captive proposition at the feasibility stage and throughout the life of the captive. We view this as a real game changer and a further demonstration of Willis Towers Watson's leadership in the market.

Willis Towers Watson recently expanded its global advisory services for cybersecurity risk, do you predict any crossover between that and captives?

In short, yes. Captive owners are looking to consider including coverage for cyber risk in their captives, primarily we see cyber being added to existing captives but there are a few recent examples where cyber risk was actually the impetus for the captive formation. When evaluating cyber, it's more important than ever for us to be able to leverage our cyber risk advisory and cyber analytical tools in combination with our captive expertise to optimise the results for clients. CIT

Standby LOC

Martin Ellis from Comerica Bank explains why standby letters of credit are the most popular collateral option for captives and breaks down their current systems of governance

Captives are generally required to provide collateral to their insurance carriers on fronted programmes. The two main types of collateral provided are standby letters of credit (LOC) and reinsurance trusts. According to industry surveys, LOCs continue to be the most popular collateral option.

One of their biggest benefits is the investment flexibility, in which the banks generally allow some higher yielding bonds and equities to secure their LOCs, which should result in more investment income to the captive which many argue far outweighs any added costs.

Additionally, captives like the fixed dollar amount on LOCs, which caps their liability with the front.

One of the less talked about benefits of LOCs, and the focus of this article, is that they're governed by international customs and practices, so all parties to the LOC, including the issuing bank, the captive and the fronting insurance carrier, should know and play by the same rules.

The fronting carriers like this because they have access to the same rules as the issuing banks, so there is no ambiguity on how to demand payment (for example, draw) or amend a LOC.

They also like the simplicity of a LOC since it is generally a one-page document with standard language, and its ease of use since it automatically renews every year with the evergreen clause unless they hear otherwise. Each reinsurance trust in comparison, must be negotiated separately and is subject to different state laws, so reinsurance trust agreements can be complex and lengthy.

If you look in the last paragraph of a captive's LOC, it should say something like this: "This letter of credit is governed by the Uniform Customs and Practice for Documentary Credits (UCP) of the International Chamber of Commerce (ICC) (Publication No. 600)" which we'll call UCP 600 for short.

It might also say "This letter of credit is subject to the International Standby Practices (ISP 98) ICC Publication 590", which we'll call ISP 98. Either UCP 600 or ISP 98 is acceptable to govern a LOC, but ISP 98 is preferable because it is more detailed and it relates exclusively to standbys.

ICC

The ICC, located in Paris, calls itself the world business organisation and helps businesses of all sizes operate and trade internationally. It is a private organisation funded by its members. The governing body is called the World Council and consists of elected business executives and not government officials. The council appoints a chairman and there is also an executive board responsible for developing and implementing strategy.

It was founded in 1919 when no system of international rules was in place to govern things like commerce and trade. The ICC has over six million members including many of the world's largest companies, banks, law firms and local chambers of commerce in more than 130 countries. Members draw up rules and guidelines that businesses use to reduce costs and uncertainties on trade, services, arbitration, banking and law. In 1933, the ICC published the first rules for the UCP and has been revised six times over the years with the last revision being UCP 600 in 2007.

UCP 600

UCP 600 is a set of voluntary rules developed by the ICC's Commission on Banking Technique and Practice governing letters of credit. It is a form of self-regulation and the most successful set of private rules for trade ever developed and is used by most international banks. The latest update added new articles on definitions and interpretations, replaced "reasonable time" for acceptance or refusal with a maximum period of five banking days, and condensed the overall number of articles from 49 to 39.

Although UCP 600 applies to all documentary LOC's which cover both commercial (trade) and standby letters of credit, it was primarily designed for commercial LOC's since over half of its rules are applicable to commercial LOC's and not standbys. Documentary means that the obligations depend on the presentation of documents such as an original LOC or a draw request when requesting payment. Most LOCs issued for captives are standbys, which provide assurance that the captive will fulfill its obligations under its reinsurance contract with the fronting carrier. Standby LOCs are primarily used as back up and sometimes have a condition such as non-payment before they can be drawn. UCP 600 is more general when it comes to standbys even when defining some of the terms used with standbys.

The major terms are applicant (party requesting the credit be issued in our case this would be the captive), beneficiary (party in whose favour the credit is issued or the fronting insurance carrier), issuing bank, advising bank, presentation (delivery of the documents to the issuing bank), honouring of payments, and banking days. UCP 600 also covers issuance and usage of letters of credit, interpretations, original documents and copies.

ISP 98

ISP 98 was also developed by the ICC Banking Commission and became effective in 1999. It consists of 89 rules that reflect the current international standby LOC practices. Whereas UCP 600 only has a few articles relating directly to standbys, ISP 98 was written exclusively for standbys and has greatly reduced their drafting and negotiating time and limited disputes. ISP is more detailed and will cover things such as the definition of partial drawings and multiple drawings, and the extension of an expiry date to the next business day if the expiration date is on a non-business day. Rule 1.06 states that standbys are irrevocable, independent, documentary and binding undertakings when issued, which fronting companies like.

ISP 98 also gives a detailed description of the documents that are required to be presented such as a certificate of default if it's a contingent LOC and whether the documents can be presented in paper or electronic medium such as fax or Society for Worldwide Interbank Financial Telecommunications (SWIFT). Rule 3.13 covers the evergreen process and how LOCs are automatically extended for another year unless the beneficiary hears otherwise at a set period such as 30 to 180 days before expiration, which gives the beneficiary time to get a replacement LOC if necessary. Rule 3.03 states that the precise place for presentation of the LOC to the bank for payment should be specified in the LOC. ISP 98 covers what the beneficiary must do if a LOC is lost or stolen, and how the LOC can be transferred or assigned to someone else. ISP 98 also addresses confirmations where another bank adds its own undertaking to honour a standby. Confirmations are usually required if the issuing bank is not acceptable to the beneficiary or not on the National Association of Insurance Commissioners approved list.

SWIFT

SWIFT, headquartered in Belgium, is a member owned cooperative and the world's leading provider of secure financial messaging services. SWIFT is used by more than 11,000 financial institutions in over 200 countries. In 2017, over seven billion messages were processed via SWIFT. This is the common way that banks communicate with one another to securely transmit information and instructions. For LOCs, this is usually when the issuing bank needs to communicate with the advising or confirming bank, or when a bank needs to draw on a LOC issued from another bank.

Summary

LOCs are still the most popular collateral choice for captives and LOC usage continues to grow. Fronting insurance carriers prefer LOCs for their simplicity and ease of use, as well as the evergreen feature and the irrevocable nature. Captives prefer LOCs because of the investment flexibility which generally offsets any added costs, and the fixed dollar amount which caps their liability with the front. The types of LOCs issued for captives are standbys. They are governed by a common set of international rules developed by the ICC such as UCP 600 which is a little more general or ISP 98, which we prefer since it is exclusively designed for standbys with more detail covering current practices. Either way, all parties to the LOC are playing by a consistent set of rules. **CIT**

> One of the less talked about benefits of LOCs, is that they're are governed by international customs and practices, so all parties to the LOC, including the issuing bank, the captive and the fronting insurance carrier, should know and play by the same rules

Martin Ellis, senior vice president, Comerica Bank

Captives and the Common Reporting Standard

Stephanie Sanderson, partner at Beesmont Law, breaks down the Common Reporting Standard and explains the impact that the global compliance measure has on captives

The past decade has seen a sharp increase in global compliance measures and international cooperation in tax matters. The Common Reporting Standard (CRS) is a cross border tax information exchange regime, which has been widely adopted and impacts business industries across the globe, including the reinsurance and captive industry. Bermuda continues to be the domicile of choice for this sector and remains at the forefront of international tax transparency.

The Organisation for Economic Co-operation and Development (OECD) created CRS in collaboration with the G20 countries and the EU. Bermuda committed to the early adoption of CRS along with various other jurisdictions, including the UK, with its first exchange of information with participating jurisdictions occurring in September last year.

Bermuda now exchanges CRS information with its international CRS partners automatically on an annual basis. Financial institutions in Bermuda must be compliant with the CRS due diligence and necessary information requirements.

The CRS draws significantly on the US Foreign Account Tax Compliance Act (FATCA) intergovernmental approach and requires regular cross border automatic exchange of information between governments in respect of financial account information reported by financial institutions. The CRS sets out:

- The financial information required to be reported with respect to reportable accounts, including investment income
- The financial institutions that are required to report under the CRS
- Reportable accounts which include accounts held by both individuals and entities as well as 'look through' provisions for passive entities
- Due diligence procedures that must be followed to identify reportable accounts

Although the CRS is similar to FATCA, there are several differences and it is important to assess entities under the separate regimes to ensure the correct classification under each.

There may be entities that are not Reporting Financial Institutions (RFIs) under FATCA but are RFIs under the CRS. Captives and reinsurance companies will be RFIs under the CRS if they are classified as specified insurance companies or investment entities.

It is important to note that the definition of an 'investment entity' is wider under the CRS than under FATCA and will capture more entities than FATCA. The CRS does not recognise elections made under section 953(d) of the Internal Revenue Code.

Generally, for captives, the following definitions will be relevant in determining the correct classification of an entity under the CRS which largely fall into two categories—'financial institutions' and 'non-financial entities'.

Financial institution

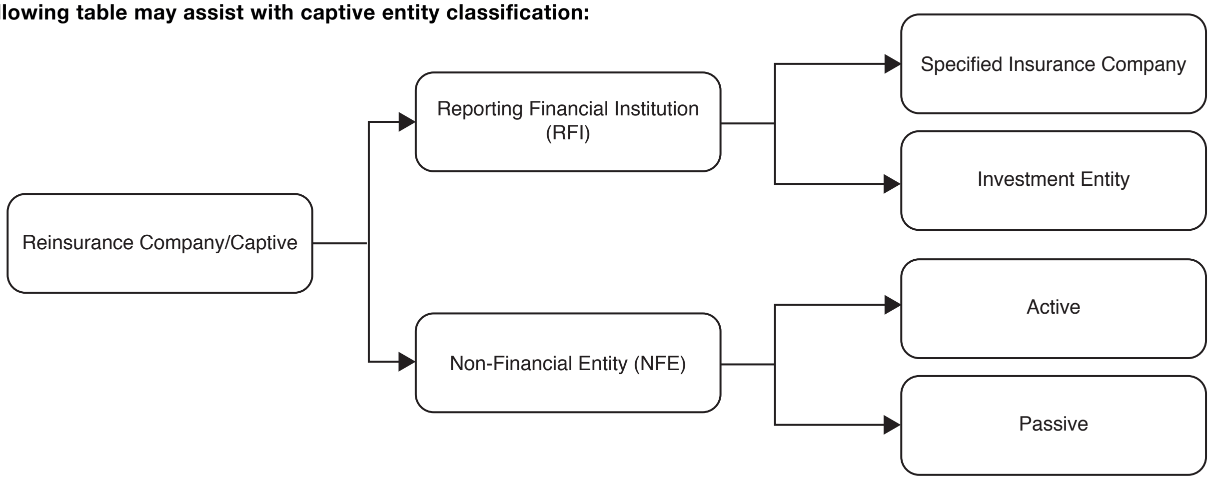
The term 'financial institution' means a custodial institution, a depository institution, an investment entity, or a specified insurance company.

The term 'specified insurance company' means any entity that is an insurance company (or the holding company of an insurance company) that issues, or is obligated to make payments with respect to, a cash value insurance contract or an annuity contract.

The term 'investment entity' means any entity: that primarily conducts as a business one or more of the following activities or operations for or on behalf of a customer: trading in money market instruments (cheques, bills, certificates of deposit, derivatives); foreign exchange; exchange, interest rate and index instruments; transferable securities; or commodity futures trading; individual and collective portfolio management; or otherwise investing, administering, or managing financial assets or money on behalf of other persons.

It can also mean the gross income of which is primarily attributable to investing, reinvesting, or trading in financial assets, if the entity is managed by another entity that is a depository institution, a custodial institution, a specified insurance company, or an investment entity.

The following table may assist with captive entity classification:



Non-financial entity

The term ‘non-financial entity’ (NFE) means any entity that is not a financial institution. The term ‘passive NFE’ means any: NFE that is not an active NFE; or an investment entity that is not a participating jurisdiction financial institution.

The term ‘active NFE’ means any NFE that meets any of the criteria set out in the CRS. The most common type of active NFEs are entities where less than 50 percent of the NFE’s gross income for the preceding calendar year is passive income and less than 50 percent of the assets held by the NFE during the preceding calendar year are assets that produce or are held for the production of passive income.

An entity may also be classified as an active NFE if its stock is regularly traded on an established securities market or the NFE is a related entity of an entity that has stock, which is regularly traded on an established securities market.

Understanding classification

Entities should ensure they understand their CRS classification as this will determine whether or not a captive has obligations under the CRS. If so, the RFI must comply with the Bermuda CRS Regulations and Guidance. Bermuda recently updated its regulations to require nil return filings, which means that RFIs in Bermuda must file a return even if there are no reportable accounts for any given reportable period.

Although many captives are NFEs it is important that the proper consideration is given to ensuring the correct classification under the CRS and that any changes are monitored. Financial institutions, such as banks, will require captives to submit self-certifications certifying entity classification and tax status and may impose consequences for failure to cooperate. If a reinsurance company or captive has reporting obligations under the CRS then its directors are responsible for compliance with the relevant laws, and for establishing the correct policies and procedures under the CRS. **CIT**

“CRS is a cross border tax information exchange regime, which has been widely adopted and impacts business industries across the globe, including reinsurance and captives”

Stephanie Sanderson, partner, Beesmont Law

Comings and goings at USA Risk Group, Willis Towers Watson, Aon and more

Adam Forstot swaps USA Risk for Artex.

Adam Forstot has joined Artex Risk Solutions as vice president of business development, effective immediately.

Forstot will be responsible for the marketing and development of new captives and alternative risk programmes for property and casualty, and employee benefits.

In addition, he will work on the structuring and implementation of alternative risk and captive mechanisms including fronted programmes, reinsurance and financial products.

Previously, Forstot served as USA Risk Group as vice president of business development. He worked at the company for just over 14 years.

Kevin Doyle, senior vice president of business development, North America, said: "We're so pleased that Adam Forstot has joined Artex's business development team. His depth of experience in the captive marketplace is a great fit for us and we know he'll bring great value to our broker partners and clients."

BDA makes Ramsay interim head of business development.

The Bermuda Business Development Authority (BDA) has appointed Jereme Ramsay as its interim head of business development.

Ramsay, who joined the BDA in August 2014, was previously business development manager of risk solutions and Latin America.

Prior to joining the BDA, Ramsay was assistant vice president of marketing at HSBC between 2010 and 2014.

Ramsay said: "Being in such an innovative environment, we are able to foster a fruitful exchange with existing captive owners and highlight what we can offer to prospective captive owners."

"We have had a fantastic year, specifically through the captive lens. On the heels of the 2017 figures, we have a phenomenal year of new captives setting up in Bermuda and Q1 has already been extremely attractive."

David Lewis has been appointed as the new non-executive chairman of Sure Insurance Services.

In his new role, Lewis will offer the benefit of his long-standing senior industry experience to support the further development of Sure Insurance.

As a market leader in cosmetic surgery insurance, Sure Insurance provides cover for hospitals, surgeons and patients, as well as British and International Surgeons Associations.

Lewis will continue in his current part-time role as director at Willis Towers Watson (WTW), having stepped down as European director of development of its global captive practice at the end of March.

The insurance industry veteran has spent more than 25 years at Willis Towers Watson, split over two spells; first between 1985 and 2001, and then from 2010 onwards.

Prior to joining rejoining WTW, Lewis was the managing director of Marsh Asia Client Services in London and the risk and insurance manager of a large private global business based in Europe.

Lewis commented: "Having worked with Sure Insurance in the past whilst in my role with WTW, I am very much looking forward to helping the team take this exceptional business to the next level."

Aon has appointed John English as its new CEO of Aon Captive and Insurance Management.

The move, which will be effective 1 June, will see English report to Aon Global Risk Consulting CEO, Rory Moloney, and work in close partnership with leadership teams across Aon's Risk business.

English, who is currently COO of Aon Captive and Insurance Management and managing director of Aon Captive and Insurance Management for Europe, the Middle East and Africa, will remain London-based.

An industry veteran with more than 30 years experience in the insurance, reinsurance and alternative capital markets, English joined Aon 10 years ago.

Prior to joining Aon in 2008, English was chairman and CEO of JLT's Bermuda market broking operations.

During his eight years at JLT, English established the group's captive management practice.

Moloney commented: "John English's diverse geographical experience, extensive knowledge of the captive industry and deep understanding of client needs means he is perfectly positioned to deliver innovative and market-leading solutions to clients."

He added: "His focus on key initiatives, including the use of data and analytics within our core captive management proposition and the development of our White Rock and Insurance Linked Securities Management business, will help the firm reinforce our leadership in terms of innovation and value creation."

Healthcare cyber risk management solutions provider Clearwater Compliance has appointed Bob Chaput as its new executive chairman, with Steve Cagle succeeding him as CEO.

Baxter Lee has been named as the company's new CFO, with current CFO Mary Chaput transitioning into an advisory role and continuing to serve on the board.

Chaput, who has been CEO since he founded Clearwater in 2009, will continue to guide the direction of the company in his new role. Prior to founding Clearwater in 2009, Chaput held executive roles at GE, Johnson and Johnson, and Healthways.

Cagle, who concurrently serves as chairman of the board of CMP Pharma, has previously served as CEO of Moberg Pharma North America and CEO of Alterna.

An established healthcare and technology executive who has held various positions banking, private equity, and mergers and acquisitions, Lee joins from Entrada where he has served as CFO since 2015.

An industry leader with more than 25 years of experience in healthcare cyber risk management, Bob Chaput said from the beginning that his intent was to create a company that could drive positive change across the healthcare industry.

He added: "We are extremely excited to welcome Steve Cagle and Lee Baxter as our next CEO and CFO, respectively."

Incoming CEO, Cagle said: "Bob Chaput's extraordinary vision and leadership has guided Clearwater to be one of the most innovative companies in healthcare cybersecurity."

"In his role as chairman of the board, Bob Chaput will continue to serve Clearwater with his unique insights and thought leadership."

"Mary Chaput was Clearwater's first CFO and leaves behind an incredible legacy at Clearwater, we're very grateful to her for her valuable contributions."

He continued: "I cannot imagine a more exciting and important time to join Clearwater."

Lee commented: "I'm excited to join the Clearwater team and look forward to continuing the company's strong discipline around costs and focus on driving growth."

Hamilton Insurance Group's Bermuda-based reinsurance platform Hamilton Re has appointed Carol Redahan as senior vice president and controller.

An industry veteran with almost 20 years of experience in financial services and reinsurance, Redahan joins from her previous role as controller at Equator Reinsurances Limited.

Prior to Equator, Redahan was controller at GreyCastle Life Reinsurance and financial controller of the Bermuda branch of Amlin AG.

Redahan will report to Vanessa Hardy Pickering, CFO of Hamilton Re.

Hamilton CEO Kathleen Reardon said she was delighted to welcome Redahan to the company.

Reardon added: "Her experience and expertise as a financial controller adds an important skill set to our finance team whose scope of responsibilities have expanded significantly as our company has grown."

"In addition, she will be a valuable asset to Vanessa Hardy Pickering who will now be able to concentrate on the more strategic aspects of her position as CFO." **CIT**

Reinsurance Collateral Trusts

The limitations and costs associated with traditional collateral options such as Letters of Credit have dramatically fueled the growth of alternative risk transfer strategies amongst insurers, reinsurers, captives and corporations. Fluid regulatory, financial and risk management environments demand lower-cost collateral solutions – solutions that afford maximum flexibility with minimal effort to set-up and maintain.

It's a need that has given tremendous traction to the insurance-linked securities (ILS) market and in particular the emergence of reinsurance collateral trusts.

The SunTrust advantage

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Our collateral trust product at SunTrust can help you with the following insurance needs:

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- Captives
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- State Statute Trusts
- Collateral/Depository Accounts

Our expertise, however, is only one aspect of what differentiates our reinsurance trust business from other firms. Additionally, we excel because of:

- **A Dedicated Single Point of Contact** – we steadfastly believe in the value of a dedicated client manager who knows the unique challenges of your business and quarterbacks your relationship with the bank.
- **Rapid Response Times** – while other banks can take weeks to respond, SunTrust can typically resolve covered loss requests in a matter of 24-48 hours; and because we're a custodian for the collateral that secured the contract, insurers get paid immediately.
- **Operational Efficiencies** – from pre-arranged agreements with major insurance carriers to streamlined onboarding and KYC processes, our knowledge of the reinsurance trust business helps ensure that things are done right and done fast.

To find out more about how SunTrust can support and enhance your reinsurance business, please contact:

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Why choose an Insurance Trust?

- **Improved Credit Availability** – an insurance trust has no adverse impact on your available credit.
- **Cost Effective** – insurance trusts generally save you in annual fees compared to other forms of collateral posting options.
- **Convenience** – insurance trusts are tri-party arrangements that require no annual renewals.
- **Reduced Liability Concerns** – insurance trusts may limit the range of acceptable investments; this is done to ensure adherence to all regulatory requirements.

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