www.captiveinsurancetimes.com

captive insurance times

The primary source of global captive insurance news and analysis

Conference Special - Issue 179

More than just HYPE

Is blockchain the future for captive insurance?

Follow the Leader

Vermont continues as a captive behemoth despite fierce opposition

ICCIE Scholarship

Hear from the VCIA Distinguished Scholar Award's 2018 winner

Foreign Insurers

Kerr Russell's Patrick Haddad discusses recent proposals from the IRS to the Internal Revenue Code

captive insurance times
The primary source of global captive insurance news and analysis

Conference Special - Issue 179

www.captiveinsurancetimes.com

Published by Black Knight Media Ltd

16 Bromley Road,
New Beckenham
Beckenham, BR3 5JE

Editorial

Editor
Barney Dixon
barneydixon@blackknightmedialtd.com
Tel: +44 (0)208 075 0928

Reporter
Maria Ward-Brennan
mariawardbrennan@blackknightmedialtd.com
Tel: +44 (0)208 075 0923

Contributors:
Becky Butcher
Rebecca Delaney

Marketing and sales

Associate Publisher/Designer
John Savage
johnsavage@captiveinsurancetimes.com
Tel: +44 (0)208 075 0932

Publisher
Justin Lawson
justinlawson@captiveinsurancetimes.com

Office Manager
Chelsea Bowles
Tel: +44 (0)208 075 0930

Follow us on Twitter: @CITimes
Published by Black Knight Media Ltd
Company reg: 0719464

Cover Image
Shutterstock
Naumov S
ID: 361040456

In this issue

Gastrologix and the DHN create MPL captive programme

Gastrologix and the Digestive Health Network have jointly created GastroAssure, a new captive insurance platform for medical professional liability (MPL) coverage.

The new platform is now available to independent gastroenterology practices.

Currently, there are seven independent gastroenterology practices across the US that share ownership in the risk-bearing insurance tool.

Practices will benefit from stabilised or lower premiums and administrative costs while having more control over claims.

As owners of GastroAssure, the practices will also share in the profits of the captive insurance programme.

Participating practices can also insure additional businesses such as endoscopy centres, pathology labs and anaesthesia services with the captive insurance framework that mirror their current medical professional liability policies.

Stephen Somers, principal at Gastrologix, said: "Having more control over medical liability insurance will help independent practices thrive."

He added: "GastroAssure is a great example of what can be achieved when independent GI practices come together to lower costs and create opportunities to build assets that can generate revenue."

GastroAssure was developed in collaboration with Curi, a Medical Mutual company, and Arthur J. Gallagher, the broker for the captive insurance programme.

Dr Tom Shireman of Digestive Health Specialists, who serves as the DHN insurance committee chair said: "As independent physicians, it is very important to us that Curi is doctor-owned and that A.J. Gallagher already works with more than 50,000 physicians. It's clear to us that both groups are committed to helping physicians succeed."

Dale Jenkins, CEO of Curi, said: "We're proud to partner with independent GI physicians as they navigate unique challenges and opportunities in today's ever-shifting health care environment." ■

Blue Ox Enterprises cuts 25 percent of healthcare costs with captive programme

Blue Ox Enterprises has reduced its employee healthcare costs by 25 percent in a year by using a self-funded captive insurance programme.

According to the Institute of Medicine, 30 percent of US healthcare dollars are wasted, with most Americans receiving healthcare benefits from their employers.

In a statement, Health Compass Consulting, which says it aims to eradicate waste from the US healthcare system, said that little attention has been paid to a small but growing number of businesses that have succeeded in this challenge.

One of these companies is Blue Ox Enterprises, which moved to a self-funded captive programme to cover healthcare for its 150 employees.

Aimee Kilpatrick, controller of Blue Ox Enterprises, said: "Unlike many of our peers, we pay for 100 percent of employee (only) coverage, and these savings also allowed Blue Ox to offer a voluntary onsite mobile wellness initiative at no cost to employees.'

She added: "Almost all of our employees have used the onsite wellness benefit."

Health Compass Consulting explained that innovative companies have "already demonstrated their ability to break the straightjacket of American healthcare and cure much what ails our American dream". ■


Missouri
Stability. Innovation. Your Gateway to Captive Success.
To learn more about starting your Missouri captive insurance company, please contact Captive Program Manager John Talley:
573-522-9932
John.Talley@insurance.mo.gov
insurance.mo.gov/captive
Missouri Department of Insurance - Captive Program
Chlora Lindley-Myers, Director
MO Captive
CLOSE TO HOME

Risk Strategies acquires Gerard B. Tracy Associates

Risk Strategies has acquired Gerard B. Tracy Associates in order to add to its employee benefits method.

Risk Strategies has recently expanded its benefits reach with the purchase of service businesses, including an actuarial firm and a healthcare claims auditing organisation.

Gerard B. Tracy Associates has a history of creating employee benefits programmes for a mixture of public and private entities, with a speciality focus on institutions of higher education.

John Greenbaum, Risk Strategies' National Employee Benefits practice leader, stated: "Risk Strategies was founded on the belief that specialisation and expertise are required to win and keep business because clients are facing complex, costly challenges."

He added: "Gerard B. Tracy Associates has endured and thrived because they can deliver that type of expertise. It's a great fit."

In addition to developing benefit programmes for higher education and other types of educational institutions, Gerard B. Tracy Associate's clients include several general and nonprofit organisations, largely located throughout the northeast of the US.

Tim Tracy, vice president of Gerard B. Tracy Associates, explained: "We know the power of specialisation and expertise coupled with truly understanding clients' needs and the complexity of their own business operations"

He added: "Joining a true speciality brokerage firm like Risk Strategies is a perfect way to connect our clients with additional resources while opening new paths to grow our business." ■

Caitlin Morgan Captive Management to be part of workers' comp captive programme

Caitlin Morgan Captive Management is taking part in a new national US captive programme alongside Cornerstone Insurance, for Kona Ice Franchise owners across the US.

This captive programme will focus on providing primary admitted property and casualty policy and workers' compensation coverage.

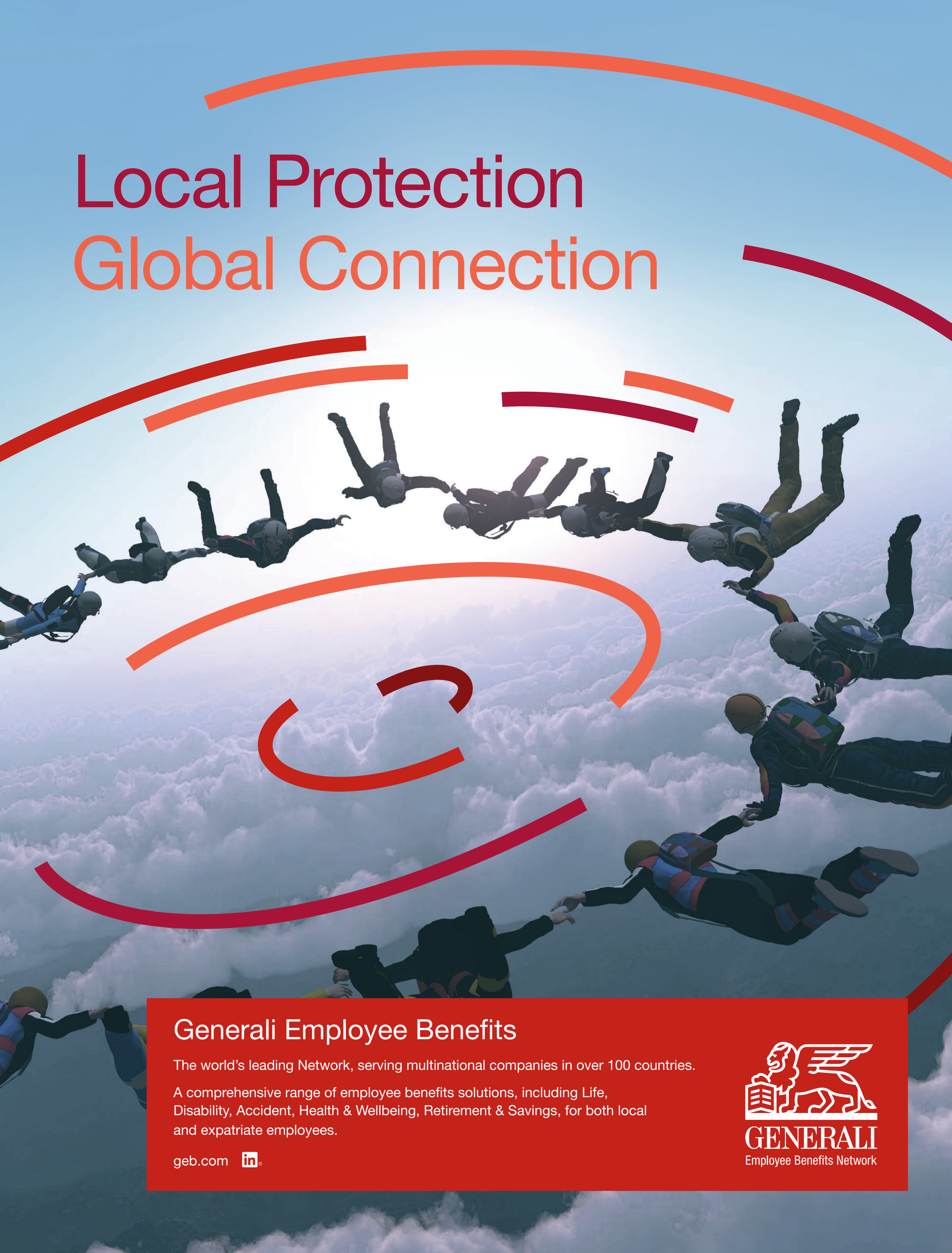
Chris Murray, CEO of Caitlin Morgan Captive Management said: "We are excited to start this new national program with Kona Ice, Cornerstone, and Great American."

The programme is based out of Hebron, Kentucky, and leverages a captive risk-sharing approach that is set to benefit the Kona Franchises, including maintaining rates, improving coverage and getting optimum value for the franchises.

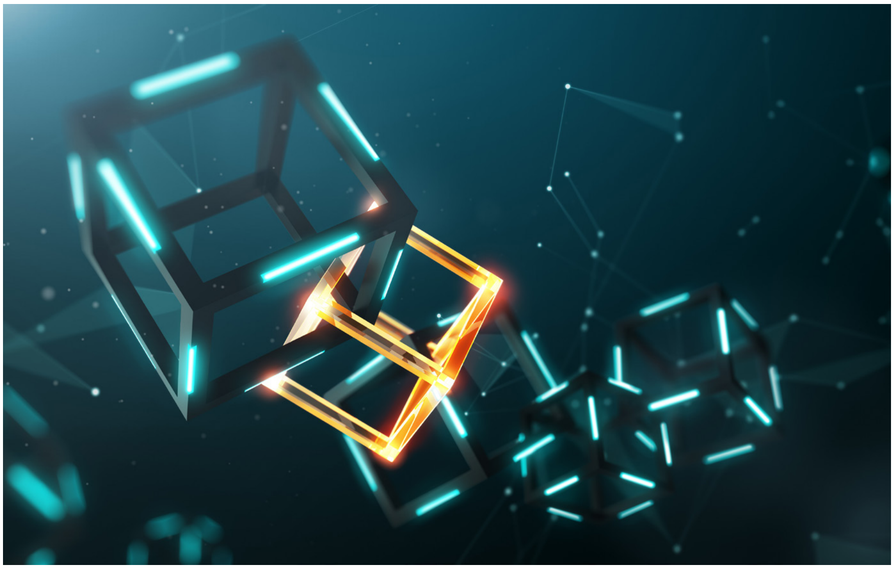
Rich Suter, divisional president for Great American Alternative Markets, commented: "We are looking forward to a long-term successful relationship with both Kona."

Mike Roaden, Cornerstone Insurance owner and principal, stated: "Despite being named number one in Franchisee Satisfaction by Franchise Business Review for the last seven years, franchise owner Tony Lamb is always looking for ways to improve the Kona Ice business for his franchisees."

He added: "We knew Kona Ice was a more appealing risk than other similar types of business. So, over the last five years we worked towards starting the captive insurance programme." ■


Local Protection
Global Connection
Generali Employee Benefits
The world's leading Network, serving multinational companies in over 100 countries.
A comprehensive range of employee benefits solutions, including Life, Disability, Accident, Health & Wellbeing, Retirement & Savings, for both local and expatriate employees.
geb.com
GENERALI
Employee Benefits Network

DLGA launches captive working group



The Distributed Ledger Governance Association (DLGA) has set up a captive insurance working group in Vermont.

The DLGA is a non-profit trade organisation focused on the blockchain industry.

It was founded in order to showcase ledger businesses and technology.

John Burton, DLGA chair, commented: “The DLGA is pleased to host a forum of engaged captive insurance stakeholders to accelerate the meaningful use of blockchain in the captive insurance space.”

He continued: “We look forward to facilitating what we believe will be lively discussions and important recommendations.” ■

Captive insurance: a new coverage for property damage by shooting attacks?

Schools can use captive insurance solutions against property damages caused by shooting attacks, according to a new report by A.M. Best.

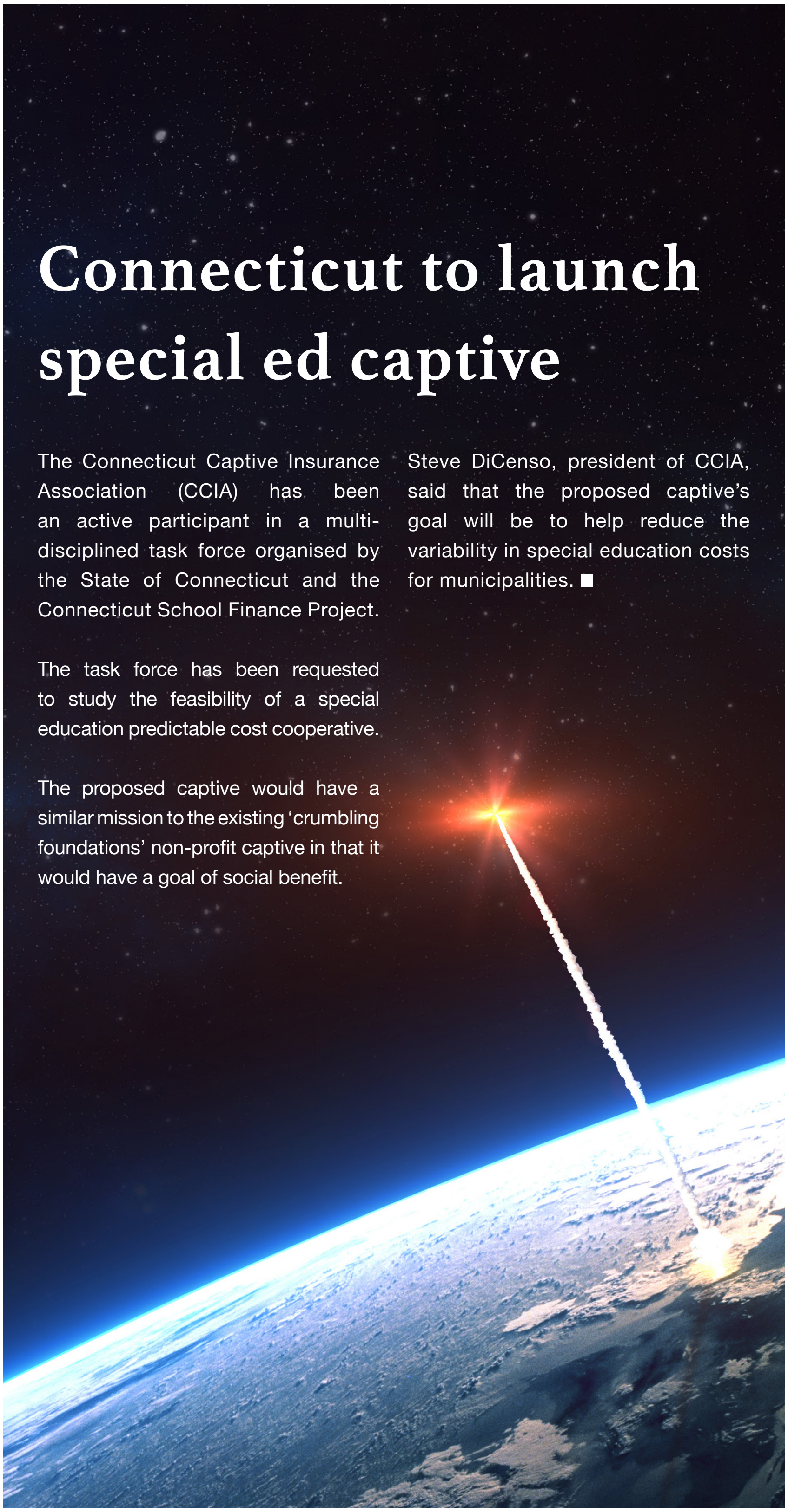
The report, entitled 'Insurers create new types of coverage for mass shooting attacks', identifies an "escalating trend" of active shootings in the US between 2000 and 2017.

Property damages caused in shooting attacks are not covered by traditional terrorism policies because they are not ideologically, politically or religiously motivated; instead, the majority tend to be triggered by personal or psychological reasons.

A.M. Best highlights the current gap in general liability policies that does not meet the existing market demand. In response to this, some insurers, such as Liberty Mutual, EMC Insurance and Church Mutual, are now offering coverage for this new category of risk.

This new type of coverage refers to "active assailant policies", which includes a pre-incident security vulnerability assessment, brand rehabilitation and PTSD-related support services.

A.M. Best also notes that although "no amount of preparation can completely prepare an entity for an active shooter incident", these new insurance provisions will promote education within businesses and wider communities on how to protect lives and property. ■



Connecticut to launch special ed captive

The Connecticut Captive Insurance Association (CCIA) has been an active participant in a multi-disciplined task force organised by the State of Connecticut and the Connecticut School Finance Project.

The task force has been requested to study the feasibility of a special education predictable cost cooperative.

The proposed captive would have a similar mission to the existing 'crumbling foundations' non-profit captive in that it would have a goal of social benefit.

Steve DiCenso, president of CCIA, said that the proposed captive's goal will be to help reduce the variability in special education costs for municipalities. ■

International Re introduces new mid-sized captive solution

International Re (I-RE) has launched a new medium-sized captive insurance and reinsurance product, I-RE SA.

The managing general agency aims to increase market access to commercial insurance and reinsurance solutions for mid-sized captives, allowing them to also retain up to 50 percent of their premium spend, as well as expand their client base.

This follows measures taken by I-RE to expand its offering in terms of both geography and product type.

Andy Jeckells, CEO and CCO at I-RE, commented: "I-RE is an ambitious managing general agent, bringing revolutionary, market changing insurance and reinsurance to smaller captives, currently underserved by the market."

He continued: "This growth opportunity is exciting interest from captive managers and brokers able to see opportunities to grow their client base exponentially by offering our innovative solution. As a result, our pipeline is very strong, and I-RE will see significant growth in the first year and ongoing in the future."

Rupert Taylor, CEO and chief underwriting officer at I-RE, added: "It's great to be able to offer mid-sized businesses the opportunity to participate in their exposures and actively underwrite commercial risks in this way."

"We've worked hard with captive managers, brokers and the market to deliver an integrated solution that offers numerous benefits for captives ranging from scope of cover, claims management, capital efficiency and delivers the financial benefits of sharing in potential profits." ■

Jupiter ratings confirmed by A.M. Best

A BP captive insurance company, Jupiter Insurance, has had its financial strength rating of 'A' and the long-term issuer credit rating of "a" affirmed by A.M. Best.

A.M. Best classified Jupiter's balance sheet strength as very strong, and noted its strong operating performance, neutral business profile and appropriate enterprise risk management.

Jupiter's is expected by A.M. Best to have its risk-adjusted capitalisation remain at the strongest level, supported by strong internal capital generation.

A capital base of approximately $6.5 billion at year-end 2018 supports the captive's high maximum line size of $1.5 billion.

Jupiter's investments are highly focused, with 98 percent accounted for by discount notes issued by BP International, with durations of between one and 12 months.

Consequently, A.M. Best considers Jupiter's financial strength to be combined closely to that of BP.

Jupiter's business profile assessment reflects its key role in BP's overall risk management framework, as its principal captive. ■

Saturn ratings affirmed by A.M. Best

Saturn Insurance, one of BP's captive insurance companies, has had its 'A-' financial strength rating and long-term issuer credit rating of "a-" affirmed by A.M. Best.

A.M. Best classified Saturn's balance sheet strength as strong, as well as its adequate operating performance, limited business profile and appropriate enterprise risk management.

Saturn's balance sheet strength is supported by its risk-adjusted capitalisation categorised as strongest, as measured by Best's Capital Adequacy Ratio.

Saturn recorded firm operating results in the 2014–2018 period, as shown by a five-year average equity of 7.1 percent, which was achieved despite a large workers' compensation claim that negatively impacted its performance in 2017.

The claim also shows the exposure of the captive's performance to volatility, which is an offsetting rating factor.

Saturn's track record of strong performance and full retention of earnings have supported growth in capital and surplus of 51 percent since the company's incorporation in 2011.

Saturn's business profile is assessed as limited, reflecting its small and strong portfolio of high-risk business arising from the BP group in the US.

The soft rate environment over the past four years has led to a decline in the captive's gross written premiums, by approximately 60 percent since 2014.

A.M. Best also affirmed the ratings of another BP captive, Jupiter Insurance. ■

British Virgin Islands meets OECD FHTP substantial activities standard

The OECD Forum on Harmful Tax Practices (FHTP) has acknowledged that the British Virgin Island's domestic legal framework meets its new substantial activities standard.

The FHTP standard requires that core income generating activities for certain sectors of business activity must be conducted with qualified employees and operating expenditure in the jurisdiction.

The review by the OECD follows the BVI Finance's implementation of the Economic Substance (Companies and Limited Partnerships) Act on December 2018.

Commencing in October 2019, entities that engage in a relevant business, are tax resident and incorporated in the BVI must report their activity according to the requirements of the act.

Beginning in 2020, FHTP will now proceed with an annual monitoring process, that will assess any changes in BVI's legal frameworks, as well as the implementation of safeguards and enforcement measures. ■

Strategic Risk Solutions

info@strategicrisks.com | strategicrisks.com

Services
Captive management
Captive Consulting
Program Management

Practices
Employee Benefits
Healthcare
Risk Retention Groups
Construction
Energy

Captive Management **Plus**

+ Delivering Outstanding Service
+ Helping Clients Succeed
+ Providing a Depth of Expertise

The World's Leading Independent Captive Manager

Tokio Marine Kiln Insurance portfolios to be placed into run-off

Tokio Marine Kiln (TMK)'s UK insurance company, Tokio Marine Kiln Insurance, will be placed into run-off, alongside portfolios of UK property, liability, marine and engineering risks it is currently underwriting.

TMK Insurance will stop accepting business from 1 July 2019. Japanese accounts will be unaffected until 1 January 2020, after which it will be underwritten by TMK's sister company, Tokio Marine HCC.

The company will ensure a neat run-off and that all policies and valid claims will be serviced accordingly.

Charles Franks, CEO of TMK, said: "This reorganisation enables TMK to play to its strengths, ensuring increased focus and investment on our Lloyd's business which has been operating since 1962."

He added: "We will continue to pursue our strategy to grow our specialist classes profitably and efficiently, with the financial and global strength of Tokio Marine."

"We are committed to supporting our customers, brokers and employees through this change."

Tokio Marine HCC will continue to use and enhance its specialty business through Tokio MHCC Insurance, Tokio Marine Europe and Lloyd's Syndicate 4141.

Its lines of business are unaffected by this reorganisation.

The decision is part of Tokio Marine Group's strategy to develop and enhance its profitably and efficiently in specialist businesses in the UK and Europe. ■

IASB releases IFRS amendments

The International Accounting Standards Board (IASB) has tentatively proposed amendments to its International Financial Reporting Standards (IFRS) in an Exposure Draft (ED).

In its discussions regarding primary financial statements, IASB stipulated that an organisation must be required to disclose how it calculated the income tax effect of management performance measure adjustments.

In addition, IASB decided to update the model's scope to be applicable to defined rate regulation, as well as to update the definitions of regulatory assets (the ability to add an amount to the charged rate) and regulatory liabilities (obligations to deduct an amount from the charged rate).

In discussions around a proposed updated analysis of the model's measurements, the board tentatively decided that an entity must implement the cash-flow-based measurement practice for all regulatory assets and regulatory liabilities, unless they relate to expenses or income.

It was agreed that the model would take an "indicator-based approach" when assessing regulatory interest and return rates as adequate for compensation.

Furthermore, IASB proposed deferral of IFRS 17 implementation by one year, to 1 January 2022.

Kamran Foroughi, senior director at Willis Towers Watson, commented: "We are helping clients across the globe with IFRS 17 implementation."

"In our experience, insurers are focusing on solving operational and technology implementation challenges, which are largely unaffected by the ED."

He added: "As well as considering the ED proposals, we believe firms should continue with implementation projects to address these challenges." ■

Follow the leader

Vermont continues to lead in the captive market but must keep up with liberalising market trends spreading across the US

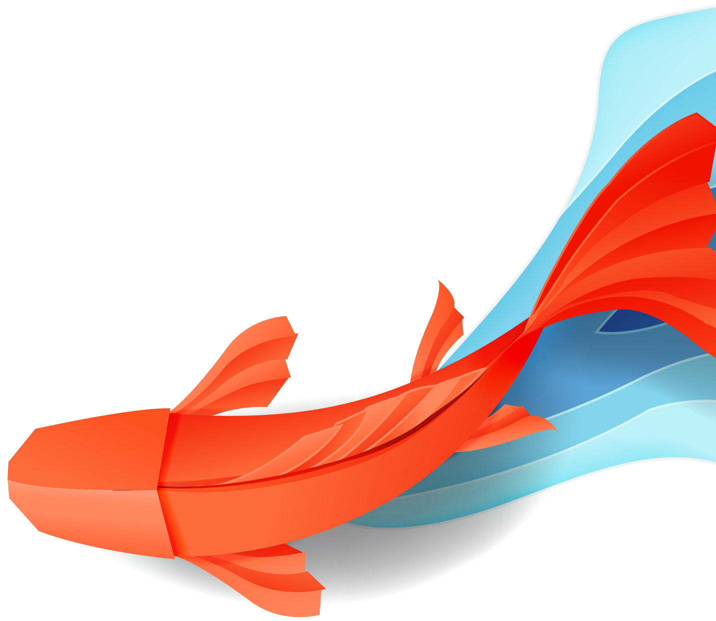
Vermont is a major hub for captive insurance—the largest captive insurance domicile in the US and the third biggest in the world in terms of the number of active captives.

Vermont has 1,137 total captive licences overall, with 558 active captives. Vermont licensed 25 new captives in 2018 and had 24 new captives licensed in 2017, showing its continued growth.

Ian Davis, director of financial services at the Vermont Department of Economic Development, says: "We are very proactive in terms of our marketing, communications and outreach efforts. The aim, ultimately, is to help ensure that the captive concept is well understood and communicated, including the benefits of being in a reputable onshore jurisdiction like Vermont."

"One of the most effective ways we can do that is by showcasing Vermont-domiciled captive owners. Fortunately, the majority of our captive owners are passionate about the industry and are willing advocates for both their programs and the state."

"My role as the chief marketing and business development professional for the state is to help communicate those strengths to prospective captive owners through traditional marketing and communications activities, thought leadership and legislative advocacy."



The captive statute

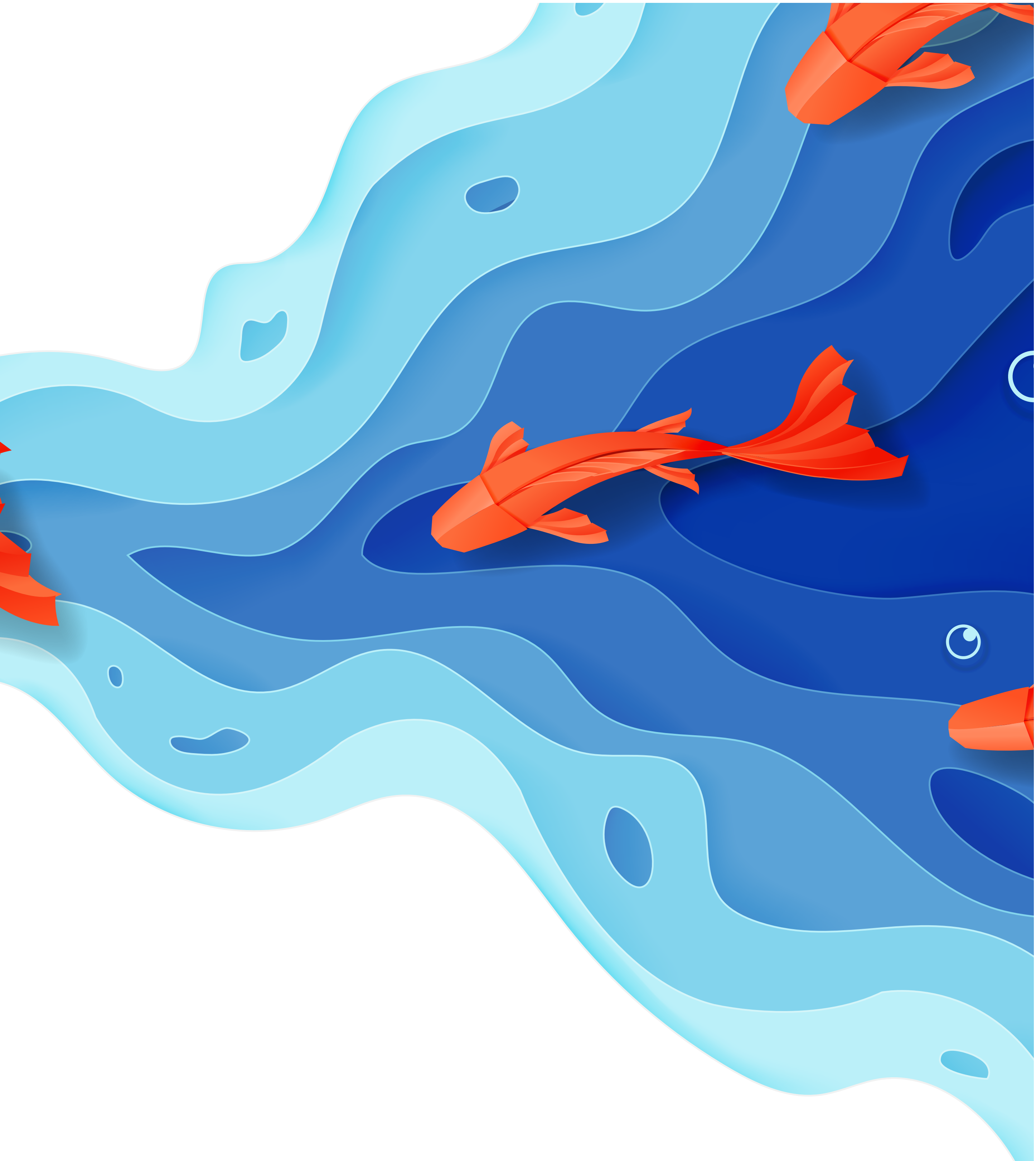
Earlier this year in Vermont, S.109, a consensus bill passed, that was composed by the state's Department of Financial Regulation (DFR) and the Vermont Captive Insurance Association (VCIA) after being presented to the Vermont General Assembly.

The consensus bill involved updating part of the captive insurance statute in the state's 2019 legislative session.

Vermont governor Phil Scott signed the bill into law that will seek a small number of changes to the statute. This included tweaks to amend the statute to identify nonprofit protected cells being eligible for dividends or distributions with commissioner approval and allowing the commissioner to excuse the attorney-in-fact from the bonding requirements under specific conditions.

The bill also suggests clarification of the definition of an independent director; a requirement for National Association of Insurance Commissioners statutory accounting for related reinsurance companies, the new captive structure introduced in the state last year; and specific inclusion of sole proprietorships among eligible businesses to be cell participants.

It would also allow captives to use any organisational form authorised by Vermont law, meaning the captive law will automatically stay current, and the Vermont Department of



Financial Regulation (DFR) still has lots of opportunities to decline an application or reject a business form if not appropriate for an insurance company, or a specific circumstance.

Other tweaks in this bill include requiring captives to be examined every five years, or more frequently if necessary, rather than every three years, which can currently be extended to five if the captive is audited.

Davis explains: "Each year we introduce legislation, be they technical amendments or more substantive changes, to help ensure that our captive statute remains clear, consistent and continues to position Vermont at the forefront of the captive industry."

"In this instance, the intent of the technical amendment was to better reflect, in statute, the state's practice of prioritising examinations based on assessment of the company's risk."

"The vast majority of our companies were already on the five-year plan, so there was not a real practical effect; now the default is five years instead of three, but the examinations will still be priority based."

"This practice of annually updating our captive statue also allows our state policymakers to stay engaged with the industry and is reflective of a domicile that is not content to rest on its laurels."

Cannabis

Within the past few years, a liberalising view on cannabis use has grown in Western societies resulting in the growing trend of legalisation of cannabis for medical use in the US.

Some 31 states, including Washington DC, Guam, and Puerto Rico, have already legalised cannabis for medical use, while nine permit recreational use.

This legislation has led to growth in the market, with cannabis sales reaching an estimated $9.7 billion in 2017. This market is expected to continue to grow as more and more US states and countries legalise medical cannabis.

By 2021, the international market is predicted to be worth $31.4 billion. This opens the window for the captive insurance market to position itself as an answer to the unique risks posed in the cannabis industry.

However, for Vermont, this door is still closed. Davis states: "Vermont legalised the recreational use of cannabis in 2018, and we understand that some captives are writing cannabis risks in other states."

"That said, as of now, we continue to be of the mind that as long as cannabis remains a schedule 1 substance at the federal level, we will not be able to licence these types of captives in Vermont."

Blockchain

For captive owners and managers in Vermont, blockchain could prove to be an answer to many new challenges.

Blockchain is a digital ledger technology designed to create a clear and validated record of transactions, which provides users with more efficiency, accuracy, and security than traditional record-keeping methods. It has become more popular within the captive sector as digital security becomes more of a hot topic.

Earlier this year, the DFR and the Office of the Vermont Secretary of State collaborated on a pilot programme that explored the use of blockchain technology in the captive insurance market.

Recently, the Distributed Ledger Governance Association (DLGA) have set up a captive insurance working group in Vermont. The non-profit focuses on the blockchain industry.

Davis explains: "This is a very topical issue at the moment, and we certainly believe that blockchain and other emerging technologies will have a substantial impact on the insurance industry."

"Our captive team continues to have robust discussions with companies around blockchain and its potential uses and benefits, however, at this point, we have yet to see anything implemented."

"That said, as a leading captive domicile, we have an obligation to keep up with these developments, and have recently launched a blockchain pilot program of our own to further explore its uses in the digital recordkeeping practices of the captive industry."

"The goal of the pilot is to examine whether or not the application of blockchain technology can improve aspects of the captive regulatory process, including providing increased efficiency, accuracy and security."

As Vermont faces these many important and new trends, it will likely continue to hold its place as the largest captive insurance domicile and grow. ■

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

SunTrust has a long history of escrow, trust and risk management excellence and expertise, with both domestic and international coverage. We work with large and small carriers alike to help mitigate risk for their insurance business needs.

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

- Reinsurance/Collateralized Reinsurance
- Regulation 114 Trusts
- Captives
- Surety Bonds
- 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:

Donny Tong
SVP, Business Development
212.590.0976
donny.tong@suntrust.com

Joseph Monaco
VP, Client Management
212.303.1746
joseph.monaco@suntrust.com

Barbara Aubry
SVP, Business Development
212.303.4164
barbara.aubry@suntrust.com

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.

SunTrust®

The benefits of an ICCIE Scholarship

Recipient of the VCIA Distinguished Scholar Award, Andrew Christie, discusses his experiences of his course

How did you hear about the programme and what attracted you to it?

I found it through a colleague who is involved in the International Center for Captive Insurance Education (ICCIE) and recommends the organisation. He knew this programme existed and with my background thought it could be useful.

Just to give you a little bit of context, my background is in captive management based in the Cayman Islands with Aon, then I moved to New York to perform a captive consulting position.

My colleague was correct in that this programme is very apt for my career. I was attracted to it because of the speakers and lecturers that are involved in the programme, as they tend to be pioneers in the US captive industry in terms of captive set up, captive management and consulting, tax advisory or law.

To be able to listen to these speakers and ask them questions on a subject matter that I deal with on a daily basis is a huge opportunity. Certainly, in the limited courses I have done so far, I have found their insights is useful and a fresh take on subjects I have certainly come across, such as accounting and legal tax.

Their specific experience in the business, and the challenges they have overcome, help those who are relevantly new to the business. Another aspect that attracted me to the course was improving knowledge gaps or revisiting certain areas; for example, I haven't worked in captive accounting for a few years now because I have been focusing on consulting—so again, that helps to go back to that area and get up-to-date. For the latest example, I have learnt about recent changes in accounting standards and that's the sort of thing the course addressed.

How was your first year?

It's coming on to one year. I have attended a couple of modules. It's been good—it's quite interactive, the majority of the grade is based on an exam, but there is also a participation grade and you get some homework assignments too.

Is there a module that you learned during your first year that stands out?

What stands out for me is not a particular course but more the interactive learning aspects of it. In a regular course at a regular university, you're just sitting in a lecture, listening and taking notes; this course is a little different, as you will have a speaker, and the majority of people are reasonably advanced in their career.

It's quite a proactive approach with a lot of interaction. It's great to understand all different angles of the subject matter. Because people are coming from different backgrounds, some are legal, some are tax, some are accounting, some are consulting.

What attracted you to captive insurance in the first place?

For me, I fell into it somewhat randomly, I was actually in London myself working for HSBC and I was really fed up with the winters.

I had been overseas before but just on a travelling basis. So I did my research and had a look at how can I use my background and go somewhere that's not the UK.

I was looking at the Cayman Islands, that's where the job came up. I interviewed with Aon and got the job via phone.

What attracted me to stay in the industry once I had the job was the interesting and creative structures that captives offer.

Captives are a relatively new insurance, only 50 years old. It offers solutions to traditional insurance problems that are a little different and involves insurance brokers.

Therefore, the likes of myself and my peers offer different solutions and different ways of approaching problems in a way that traditional insurance in the industry doesn't tend to do.

You're taking the risk through your own company as opposed to just buying the risk, and I like that aspect.

Large clients may not have their needs met by a traditional insurance market.

Have you personally learnt any new industry information having taken this course?

The course is pretty robust and covers all the bases of the captive insurance industry. Because of the nature of the speakers, you have industry professionals that provide different perspectives to different problems, as opposed to a single lecturer with one mindset teaching from textbooks.

> "To be able to listen to these speakers and ask them questions on a subject matter that I deal with on a daily basis is a huge opportunity"

The practical application of the speakers allows them to be pioneers of sorts, to set up a vehicle that has not been established previously. From that angle, it is much more beneficial than being taught by a textbook.

Would you recommend this scholarship programme?

I would; the programme is ultimately beneficial for people interested or involved in captives.

For someone who is trying to break into the industry, it's a great course too.

It can only improve your understanding of how to meet your clients' needs. The modules are pretty high calibre, and yes, overall I would recommend it. ■

Proposed treasury regulations: whether foreign insurers qualify as PFICs

Kerr Russell's Patrick Haddad discusses recent proposals from the Internal Revenue Service to the Internal Revenue Code on the determination of ownership in a PFIC for purposes of Code Section 1297(a)

On 10 July 2019 the US Department of Treasury, Internal Revenue Service, proposed regulations under the Internal Revenue Code on the determination of ownership in a passive foreign investment company (PFIC) for purposes of Code Section 1297(a).

They also address the treatment of certain income received or accrued by a foreign corporation and assets held by a foreign corporation. The proposed regulations furnish guidance on when a foreign corporation is a qualifying insurance corporation (QIC) under Section 1297(f) of the Code and on income and assets that a QIC excludes from passive income and assets pursuant to Code Section 1297(b)(2)(B).

This is referred to as the "PFIC insurance exception".

The proposed regulations also address the application and scope of certain rules that determine whether a United States person that directly or indirectly holds stock in a PFIC is treated as a shareholder of the PFIC, and whether a foreign corporation is a PFIC.

They affect US persons with direct or indirect ownership interests in certain foreign corporations. The proposed regulations withdraw regulations proposed in 2015 with respect to the PFIC insurance exception.

The proposed regulations were published in the Federal Register on July 11, 2019. Written or electronic comments and requests for a public hearing must be received by the Internal Revenue Service by 9 September 2019.

Background

Before amendment by the Tax Cuts and Jobs Act of 2017, Section 1297(b)(2)(B) of the Code provided that passive income generally did not include investment income derived in the active conduct of an insurance business by a corporation that is predominantly engaged in an insurance business and that would be subject to tax under Subchapter L (insurance companies) of the Code if it were a domestic corporation.

This is commonly referred to as the PFIC insurance exception. However, Congress had concerns about a lack of clarity in the PFIC insurance exception generally and particularly about how much insurance or reinsurance business a company must do to qualify under the exception.

In response, the act modified the PFIC insurance exception to provide that passive income does not include investment income derived in the active conduct of an insurance business by a QIC.

As modified by the act, the PFIC insurance exception provides that a foreign corporation's income attributable to an insurance business will not be passive income if three requirements are met: (1) the foreign corporation must be a QIC as defined in section 1297(f), (2) the foreign corporation must be engaged in an "insurance business," and (3) the income must be derived from the "active conduct" of that insurance business.

These standards apply to taxable years beginning after 31 December 2017.

Proposed Regulations

The proposed regulations address the requirements that a foreign corporation must satisfy to qualify for the PFIC insurance exception.

Foreign corporation's status as a QIC: The proposed regulations address the requirements that a foreign corporation must satisfy to qualify as a QIC. The 'insurance company' requirement provides that a foreign corporation would be subject to tax under subchapter L, if it were a domestic corporation, if it is an insurance company as defined in Code Section 816(a).

This Code section generally requires more than 50 percent of the corporation's business during the taxable year to be the issuing of insurance or annuity contracts, or the reinsuring of risks underwritten by insurance companies.

In addition, a foreign corporation must satisfy the '25 percent test'. This generally requires that a foreign corporation's 'applicable insurance liabilities must exceed 25 percent of its 'total assets'. This determination is made on the basis of the foreign corporation's liabilities and assets as reported on the corporation's applicable financial statement for the last year ending with or within the taxable year.

If, however, a foreign corporation fails the 25 percent test, the Code permits a US person to elect to treat stock in the corporation as stock of a QIC under certain circumstances. To make the election, the foreign corporation must be predominantly engaged in an insurance business, and its applicable insurance liabilities must constitute 10 percent or more of its total assets. A US person may only make this election if the foreign corporation fails the 25 percent test solely due to runoff-related or rating-related circumstances involving its insurance business.

When applying the 25 percent test to a foreign corporation, the Code provides that the amount of the foreign corporation's applicable insurance liabilities cannot exceed the lesser of (i) the amount that the foreign corporation reported to its 'applicable insurance regulatory body,' (ii) the amount required by applicable law or regulation, or (iii) the amount determined under regulations prescribed by the Treasury Department and the IRS.

The proposed regulations provide additional guidance regarding the limitation on the amount of applicable insurance liabilities for purposes of the 25 percent test and the 10 percent test.

Patrick Haddad
Member, Kerr Russell

“The regulations provide that ‘active conduct’ is based on all facts and circumstances”

Engaged in an insurance business: For purposes of the PFIC insurance exception, the proposed regulations define an insurance business as the business of issuing insurance and annuity contracts or reinsuring risks underwritten by other insurance companies, or both. Under the proposed regulations, an insurance business also includes the investment activities and administrative services required to support, or that are substantially related to, those insurance, annuity, or reinsurance contracts issued or entered into by the QIC. The proposed regulations provide that investment activities are any activities that generate income from assets that a QIC holds to meet its obligations under insurance and annuity contracts issued or reinsured by the QIC.

Active conduct of insurance business: The proposed regulations provide that ‘active conduct’ is based on all facts and circumstances. Generally, a QIC actively conducts an insurance business only if the QIC’s officers and employees carry out substantial managerial and operational activities. The proposed regulations provide that a QIC’s officers and employees are considered to include the officers and employees of another corporation if the QIC satisfies a control test.

Generally, to satisfy the control test, (i) the QIC must either own, directly or indirectly, more than 50 percent of the vote and value (for a corporation) or capital and profits interest (for a partnership) of the entity whose officers or employees are performing services for the QIC, or (ii) a common parent must own, directly or indirectly, more than 80 percent of the vote and value or capital and profits interest of both the QIC and the entity performing services for the QIC.

In addition, the control test requires that the QIC must exercise regular oversight and supervision over the services performed by the other entity’s officers and employees for the QIC. The QIC must also either (i) pay directly all the compensation of the other entity’s officers and employees attributable to services performed for the QIC for the production or acquisition of premiums and investment income on assets held to meet obligations under insurance, annuity, or reinsurance contracts issued or entered into by the QIC; (ii) reimburse the other entity for the portion of its expenses, including compensation and related expenses and add a profit markup, as appropriate, for these services performed for the QIC by the other entity’s officers and employees; or (iii) otherwise pay arm’s length compensation in accordance with Section 482 on a fee-related basis to the other entity for the services provided to the QIC.

The proposed regulations acknowledge that, for example, it is common to charge for investment advisory or management services via a fee calculated as a percentage of the underlying assets under management, and a fee calculated on this basis may be arm’s length under the principles of Code Section 482.

The proposed regulations provide that a QIC determines the annual amount of its income that is derived in the active conduct of an insurance business and excluded from passive income. To make this determination, the QIC must determine its active conduct percentage.

If the QIC’s active conduct percentage is greater than or equal to 50 percent, all of the QIC’s passive income is excluded from passive income pursuant to the exception for the active conduct of an insurance business.

If the QIC’s active conduct percentage is less than 50 percent, none of its income is excluded from passive income pursuant to the exception for the active conduct of an insurance business. ■


MORE
THAN
JUST
HYPE

Marcus Schmalbach analyses the Distributed Ledger Governance Association, which is aiming to bring blockchain to companies and service providers in the financial, insurance and captive insurance industries in Vermont

Dr. Marcus Schmalbach
CEO, RYSKEX

Blockchain is much more than just hype and research projects show that the technology will add value for the financial, insurance and captive industries. A pioneer in piloting and implementing this technology should look to target the world's largest onshore captive domicile, Vermont.

Accordingly, the Distributed Ledger Governance Association (DLGA) formed a blockchain working group, which is made up of local government figures, the Vermont Captive Insurance Association (VCIA) and service providers.

The Vermont blockchain-driven captive ecosystem

Personally, I am looking forward to working with established industry participants. In my opinion, the distributed ledger technology will have a major impact on the captive industry. Everyone is aware of this, but sustainable practical examples are still lacking. I am convinced that Vermont—with all its excellent prerequisites—will provide a remedy.

Vermont has a well-established reputation as a premier global captive domicile. It is the world-wide leader in captive

"The Vermont captive insurance industry welcomes the opportunity to explore the potential benefits of blockchain-enabled technology and where appropriate, use it to help our members succeed"

insurance by premium written and third in the world by active licenses. As the leading captive association in the US for over 30 years, the VCIA has been at the forefront of championing innovation in the captive industry.

The DLGA was organised in Vermont to carry out its mission to enable its members to successfully demonstrate and accelerate commercialisation of their DLT. DLGA believes this can best be accomplished through effectively engaging with government, industry, and other stakeholders in Vermont to help drive DLT innovation, economic growth and enhancing citizens' lives in Vermont and globally.

David Thelander, a DLGA board member, says that companies are already on board and that topics have been defined for the first pilot projects. Thelander is now looking forward to the continuous expansion of the participating institutions and to the first successful market implementations.

With this strong momentum underway in Vermont, VCIA and DLGA believe that the time is ripe to organise a captive blockchain industry working group involving both the DLGA and VCIA. The goal of this group is to encourage collaboration among captive insurers and managers, blockchain technology companies, entrepreneurs and other stakeholders to accelerate the opportunities for captive blockchain innovation both in Vermont and globally.

The close collaboration of captive industry stakeholders and service providers with government institutions creates a unique opportunity that could serve as a blueprint for the rest of the captive world.

Rich Smith, president of the VCIA, welcomes the development in Vermont. He says: "The Vermont captive insurance industry welcomes the opportunity to explore the potential benefits of blockchain-enabled technology and where appropriate, use it to help our members succeed."

John Burton, DLGA chair, adds: "The DLGA is pleased to host a forum of engaged captive insurance stakeholders to accelerate the meaningful use of blockchain in the captive insurance space."

He continues: "We look forward to facilitating what we believe will be lively discussions and important recommendations."

Stuart Quick, lead at AXIS Cyber Insurance Center of Excellence, adds: “The AXIS Cyber Insurance Centre of Excellence has enjoyed developing a cyber cover solution with RYSKEX and we are looking forward to continuing our work with them and with DLGA in developing parametric solutions.“

Strategy of the DLGA

Blockchains can be used anywhere information needs to be securely managed and verified. The technologies are based on a decentralised open source network that is driven by all network participants. This results in greater efficiency due to consistently verified, unambiguous transactions.

The captive industry is particularly well positioned to explore the potential benefits and risks of blockchain technology applications.

Potential benefits of blockchain technology to the captive industry include:

Efficiencies:

- Blockchains support the ability to efficiently develop and maintain client data across multiple geographies and parties with less human intervention, resulting in less errors
- Information (including client data) can be linked directly to administrative processes and policy contracts
- Stakeholders can receive and promptly act on information to enhance the customer/client experience while making smarter valuation, business process changes and other decisions
- Connecting client data, assets, transactions, and payments, which can accelerate effective capture and processing of claims data and related activities;
- Stakeholders realise significant operational savings from streamlining the work of large risk management, policy amendments, and claims processing staff
- Reduced administrative and compliance costs: less human intervention required, fewer errors, improved compliance

Transparency: parties have real-time visibility into the location, condition, and safety of high-value assets moving around the world, which leads to accurate, dynamic, and fair underwriting and pricing.

Industry (including the captive industry) challenges include:
- Potential disruption to well established industry processes
- Dated technology and IT support platforms
- High administrative and regulatory costs
- Lack of capacity for insurable and emerging risks
- Insufficient solution concepts for existence-threatening risks
- Sufficient capitalisation for risk investments
- Insufficient use of digitisation
- Potential risks related to use of blockchain technology

Potential opportunities of participating in the DLGA captive working group

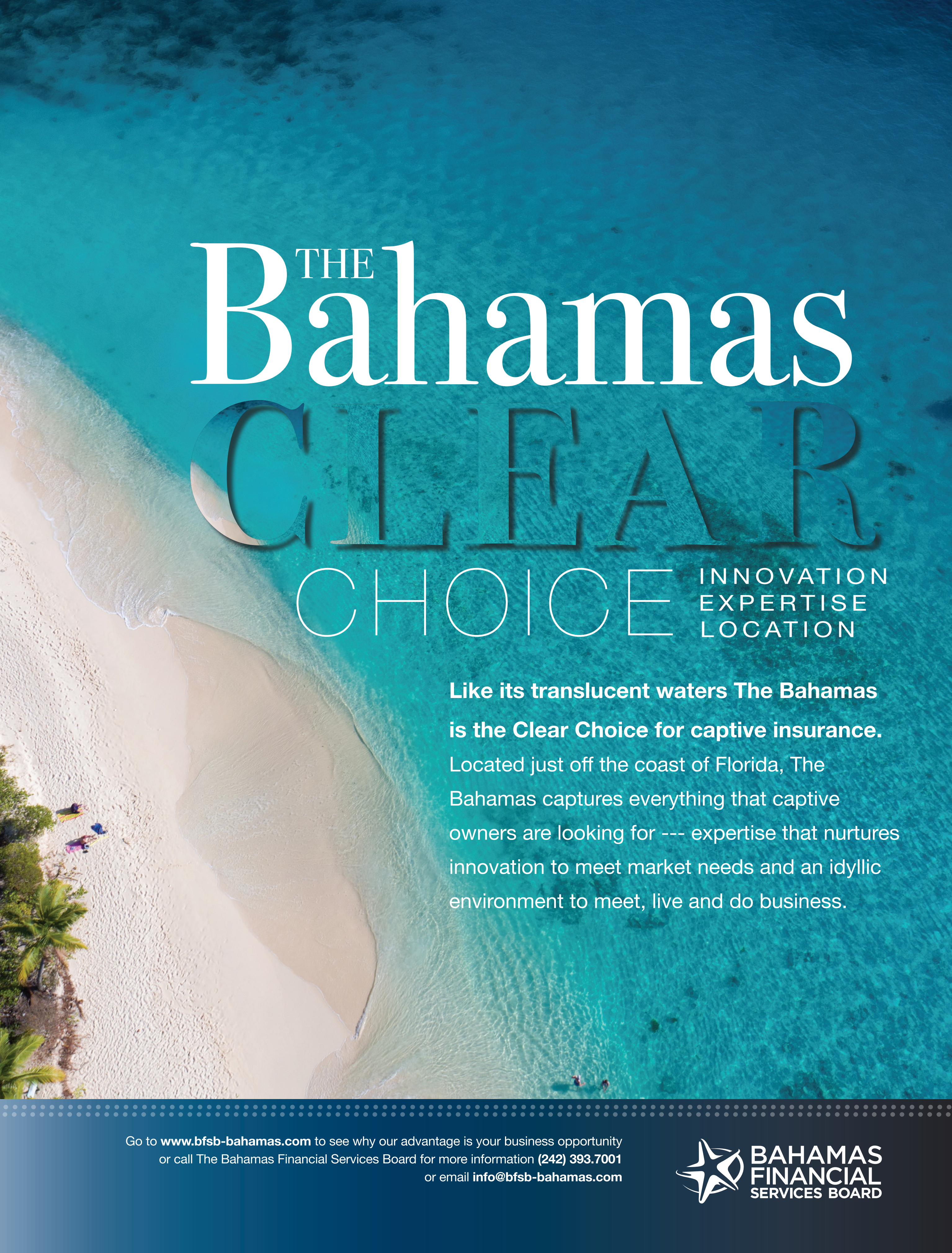
As a member of the group, participants will be able to collaborate, pilot, and experiment in the development of a number of different blockchain applications for the captive insurance industry, as well as identify hurdles and potential roadblocks. These applications include, but are not limited to:

- **Ecosystem:** Development of a blockchain-based ecosystem that links captive industry managers, insurers, owners, blockchain developers, and other service providers. Collaborating with captive regulators where appropriate, members can pilot new and innovative pilot solutions and products and services.
- **Risk trading platform:** Development of a P2P trading platform (proprietary or public) for traditional but also emerging risks. Innovative solution approaches like parametric solutions for hard to cover, hard to place risks, for example: artificial intelligence, cyber, climate change, terrorism, reputation, etc.
- **Standardised risk exchange:** A risk exchange based on blockchain, driven by AI that links demand (captives) and supply (third-party captives, insurers, reinsurers, ILS funds, capital market). Owing to the smart contract structure, contracts can be negotiated, fixed and documented within 24 hours.
- **Claims solution:** A claims process based on automated rules called parametric triggers, driven by smart contracts in the blockchain to speed up adjustment, management and settlement of claims and payment—even for large damages.

Blockchain is an emerging technology that has the promise to transform the captive insurance industry.

This group seeks to continue the collaborative nature of Vermont’s captive insurance industry in pursuit of the state’s position as the Gold Standard captive domicile.

If you are interested in working with DLGA, you can reach John Burton at john@dlga.com and David Thelander at dthelander@gravelshea.com. ■

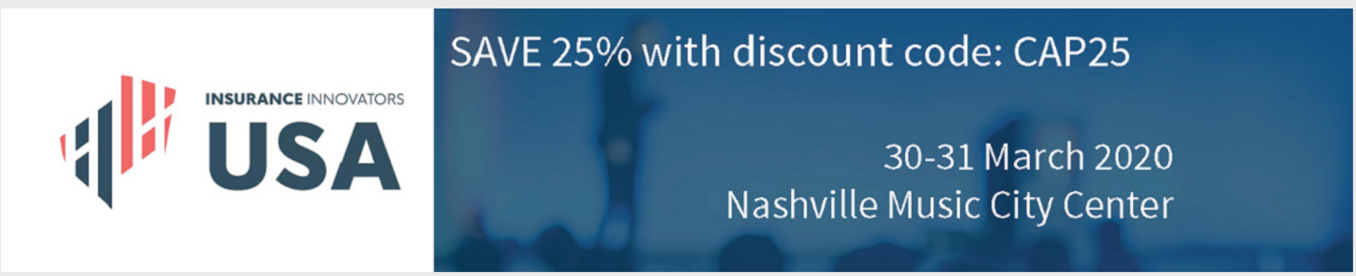

THE Bahamas
CLEAR
CHOICE
INNOVATION
EXPERTISE
LOCATION
Like its translucent waters The Bahamas is the Clear Choice for captive insurance.
Located just off the coast of Florida, The Bahamas captures everything that captive owners are looking for --- expertise that nurtures innovation to meet market needs and an idyllic environment to meet, live and do business.
Go to www.bfsb-bahamas.com to see why our advantage is your business opportunity
or call The Bahamas Financial Services Board for more information (242) 393.7001
or email info@bfsb-bahamas.com
BAHAMAS FINANCIAL SERVICES BOARD

IndustryEvents 2019

Don't miss your copy of
Captive Insurance Times

Event	Location	Month	Dates
Alabama Captive Conference	Alabama	September	25-27
Insurance Innovators Summit	London	November	13-14
ICRMC	Bermuda	December	04-06

For more information on the events listed visit captiveinsurancetimes.com



INSURANCE IRELAND

European Insurance Forum

IFS IRELAND
DELIVERING GLOBAL FINANCIAL SERVICES

As an industry we respond to the demands of an ever changing world. **EIF2019** will look at the past, present and future to offer an essential insight into factors that are shaping our insurance industry.

THURSDAY, 3rd OCTOBER 2019
CROKE PARK

Join us at **Insurance Ireland's** flagship conference.

[europeaninsuranceforum.com]

The latest moves in the captive industry

Vincent Barrett takes on new role at Aon

Vincent Barrett has been named regional managing director for Europe, the Middle East, and Africa (EMEA) of Aon's captive and insurance management business.

Barrett, who has worked at Aon since 2007, most recently served as a chief commercial officer.

Based in Dublin, Barrett will continue to report to John English. He will also remain as account chair on numerous complex global client accounts while leading the captive business development team across EMEA.

John English, CEO, captive and insurance management, Aon said: "Since joining Aon in 2007 Vincent Barrett has held a number of senior roles within our group, from leading White Rock to co-leading our solution for Solvency II and development of our insurance-linked securities value proposition."

He continued: "His knowledge and expertise places him in an ideal position to lead our EMEA operations.'' ■

McDougall named as president of PF+C Attorneys

Peter McDougall has been elected president and treasurer of Paul Frank + Collins Attorneys.

McDougall is a captive insurance and business lawyer having previously served on the company's executive committee as vice president since 2014 and as director in the corporation since 2012.

He will be replacing Stephanie Mapes who just finished her five-year term as president. She will remain as a director of the company and the head of the captive insurance team at PF+C.

During her time as president, Mapes worked to secure growth and positive professional development within the company, enforced strength-based strategic planning models, and has led the company to expand employee benefits, including paid parental leave.

Mapes said: "Peter McDougall is one of our amazing strengths, and I have no doubt that he will lead us to exciting opportunities in this ever-changing world, and great success as we start the next 50 years of the firm."

McDougall commented: "I am very excited about our future. PF+C is made up of amazing people who are not only outstanding at what they do professionally, but who care about each other and their communities."

"The culture and values of PF+C are paramount to the success the firm has enjoyed in the past and will lead to continued success of the firm in the future." ■


How is Rives working out for you?
How can I contact them?
Best decision we ever made!!
Visit RivesCPA.com