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The primary source of global captive insurance news and analysis

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A CHANCE TO SHINE

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16 Bromley Road,
New Beckenham
Beckenham, BR3 5JE

Editorial

Editor
Becky Bellamy
beckybutcher@blackknightmedialtd.com
Tel: +44 (0)208 075 0927

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

Contributor
Maddie Saghir
maddiesaghir@blackknightmedialtd.com

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

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Cover Image

Benjamin Whitehouse
Senior Counsel at Butler Snow LLP


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In this issue

Hong Kong strengthens risk management capabilities

The Hong Kong Insurance Authority has welcomed the introduction of two insurance amendment bills to strengthen its risk management capabilities.

The first bill, the Insurance (Amendment) Bill 2020, provides a regulatory framework for ILS through the formation of SPIs.

Additionally, it seeks to expand the scope of insurable risks of captive insurers set up in Hong Kong, helping the industry capitalise on business opportunities arising from the belt and road initiative.

The second bill, the Insurance (Amendment) (No.2) Bill 2020, aims to consolidate a clear and firm legal basis for the Hong Kong Insurance Authority to exercise direct regulatory powers over the holding companies of multinational insurance groups.

The legislative framework would set out the basis upon which the Hong Kong Insurance Authority would perform effective and efficient group-wide supervision and ensure that the insurance regulatory system in Hong Kong will continue to be conducive to the maintenance of strong, well-capitalised, well-managed insurance groups. The Hong Kong Insurance Authority has said it will maintain close dialogue with industry stakeholders on the details of the bills and will render its full support to the legislative council in the scrutiny process.

Moses Cheng, chairman of the Hong Kong Insurance Authority, said: “The central government has announced support for mainland insurers to issue catastrophe bonds in Hong Kong.”

“The proposed legislative amendments will pave the way for Hong Kong to become the preferred domicile for ILS, in particular catastrophe bonds. This will facilitate insurers to better capture business opportunities, and more importantly, extend the capacity of the insurance industry; thus enhancing its sustainable development.”

“Using a principle-based, outcome-focused approach, the new framework will put Hong Kong on a par with international standards and practices, thus strengthening its competitiveness in the global insurance market and reinforcing its position as a regional insurance hub,” Cheng added. ■

A.M. Best warns health insurers of COVID-19 potential risks

US health insurers will receive an increase in both the number of claims related to the COVID-19 pandemic, as well as a rise in the severity of claims, according to A.M. Best.

However, A.M. Best said that there will be a decline in non-urgent claims as it is being recommended that elective surgeries be postponed.

The rating firm explained that many in the US are likely to avoid doctor offices and clinics, which should offset some of the impacts of the claims from COVID-19.

US federal and state levels have encouraged social distancing, which is expected to curve the spread of the virus and reduce the length of time that the crisis persists, which A.M. Best suggested will, along with other initiatives, also have an impact on reported cases and related potential claims.

A.M. Best also outlined the economic risk for health insurers has multiple compounding effects, including layoffs by employer groups, which would result in lower premiums and reduced membership; potential new sales that could fall as companies and individuals are focused elsewhere and changing health insurers is not a priority; and credit risk from a client perspective for both premiums and reimbursements from administrative services contract (ASC) clients where the insurer fronts the payment of claims for the employers, both of which could be pressured if employers suffer financial difficulties.

“The spread of the virus, the severity of the illness suffered by those affected, and how long the outbreak in the US will determine the impact on health insurers”

Additionally, A.M. Best noted that other economic risk factors include credit risk from an investment perspective; and the impact to investment income from the decline in the equity and bond markets, which are expected to be significant (from both the decline in investment income and realised losses), as well as reinvestment risk from the low-interest-rate environment. According to the rating company, the operational risk for health insurers will be driven by the ability to process an influx of claims and inquiries from its members.

A.M. Best said: “The spread of the virus, the severity of the illness suffered by those affected, and how long the outbreak in the US will determine the impact on health insurers.”

While its outlook for the US health insurance industry remains stable, A.M. Best acknowledged that there is a potential for deterioration in capital from both an earnings and investment perspective.

The rating company said: “The favourable earnings trends over the past few years have resulted in the strengthening of risk-adjusted capitalisation for health insurers, which should aid in withstanding the financial impacts, both claims and investment market related, of the coronavirus.”

It added: “Besides, health insurer rates are set annually; if necessary, rates can be adjusted at renewal, so the financial impact to health insurers may be limited to 2020.”

A.M. Best said it will continue to monitor the coronavirus situation as it evolves and have discussions with health insurers regarding the potential impact. ■

NCCIA reschedules May conference due to COVID-19

The North Carolina Captive Insurance Association (NCCIA) conference has been postponed until 30 August to 02 September 2020 due to the COVID-19.

The annual conference was due to take place between 12 to 15 May at the Washington Duke Inn in Durham, North Carolina. The conference venue will remain the same for the postponed event later this year.

Thomas Adams, president and CEO of NCCIA, said: "Our board of directors has taken the position that we all want to control this unprecedented threat in modern times. We believe that by pushing back the conference three months will allow time for that to occur and the annual conference to safely proceed."

The association said that individuals, sponsors and exhibitors who have already registered for the conference will not need to re-register.

The "early bird" registration has also been extended to 15 June and for all who previously registered and those who plan to register before that date.

NCCIA explained that if there is a need for a refund between now and the conference, the refund will be made without the published administrative fee.

David Littlehale, chair of the annual conference committee, commented: "In the following weeks the committee will be contacting all speakers scheduled to attend the conference to confirm their ability to join us 30 August through 02 September."

He added: "We will then make adjustments to our programme based on what we learn."

"Undoubtedly there will be some programmatic changes and we will regularly update the conference agenda on the association website, www.nccia.org."

Additionally, it was noted that attendees who previously reserved a room in the NCCIA room block at the Washington Duke for May have been notified by the hotel that their rooms have been cancelled for the original conference dates.

However, it said that attendees will need to re-book rooms for the August/September dates on the NCCIA website. ■

Butler Uni's Zach Finn calls on US Government for Pandemic Risk Insurance Act

Zach Finn, director of the Davey risk management and insurance programme at Butler University, has urged the US Congress and Senate to create a Pandemic Risk Insurance Act (PRIA) or to amend the Terrorism Risk and Insurance Act (TRIA).

Finn has asked the US federal government to "immediately amend TRIA to retroactively cover pandemics, quarantine, etc.".

He stated that coverage needs to be retroactively offered to anyone who previously declined TRIA, and suggested that the government needs to trigger coverage and pay claims.

According to Finn, the US Government needs to create a risk pool that's "fair, organised and underwritten", adding that "we need the government to be the bank with other's premiums, not necessarily taxpayer money".

Finn has encouraged Americans to engage with their government relations team and call their representative.

He explained that if the US Federal Government immediately liberalised TRIA to include the peril of pandemics, President Donald Trump could make the TP-RIA declaration immediately and put capital in the market.

Additionally, Finn stressed that this applies to every business in the US, using Butler University as an example, noting that it is "out millions from the current COVID-19 pandemic".

He revealed that if another event was to occur in the autumn, the university and many industries could become bankrupt.

"It makes sense to amend TRIA to include pandemics then create a new vehicle as it should be faster and more efficient to ensure two uncorrelated losses that reduce standard deviation around expected losses", Finn said.

He added: "If coverage is not retroactive there will be years of claims litigation and it will only be a matter of time until a legislature or court invalidates coverage exclusions and destabilised insurance markets." ■

Marcus Schmalbach: pandemic impact 'well known and predicted'

Although the COVID-19 pandemic is really something new and very unpleasant" the effects are "well known and have already been predicted by various experts last year", according to Marcus Schmalbach, CEO of Ryskex.

He explained that after tragic events such as the COVID-19 pandemic, the same thing happens, parent companies raise the question of the added value and the necessity of a captive solution.

Schmalback highlighted that captive managers try to close specific gaps in coverage and some risk carriers lay down a special concept for the triggering events.

The economy follows a cycle, he said: "We have already had to survive the consequences of 9/11 and the Lehman crash in the 21st century."

Schmalbach suggested that based on "pure statistics", he can already predict that there will be another economic crisis at some point between 2028 and 2030.

He said: "Will it be triggered by terrorism, a banking crisis or a pandemic? Probably not. More likely it will be a natural disaster, a cyber virus, or something that no one is thinking about right now."

"Can this be insured? Many experts will now say no. I think this is the wrong approach. After the crisis, we should look ahead and open ourselves to the holy grail of modern risk trading, the development of a VUCA world policy", he added.

He explained that there needs to be a cover where the triggering trigger is almost secondary and only the impact is important for the payout, which he described as "a wonder weapon for the balance sheets of companies". ■

Airmic 2020 conference cancelled

The Airmic 2020 Conference has been cancelled due to the rapid spread of the COVID-19 illness.

The conference was due to take place in Edinburgh between 8 to 10 June, however, John Ludlow, CEO of Airmic, has revealed that planning for the conference had come to a halt.

Ludlow said: "We have taken this decision reluctantly. Our focus has to remain on the well-being of the risk community and an awareness of our wider responsibility to support the fight against the virus – health and safety remain our priority."

In the announcement, Ludlow also thanked everyone for their support and hard work.

Ludlow explained that the current circumstances have "highlighted the value of intelligent risk management, and Airmic has transformed itself into a virtual association in order that we can continue to support members and stakeholders through our education, training and technical output".

He noted that if there are opportunities to hold networking events later this year, then the association will do so, however, he explained that large conferences take a long time to organise so it's "highly unlikely" the main conference will take place this year. Our thoughts are with everyone affected by COVID-19, and we pledge to play our part as a responsible organisation in helping to overcome this crisis." ■

EIOPA delays Solvency II Review holistic impact assessment to June

The European Insurance and Occupational Pensions Authority (EIOPA) will extend the deadline of the holistic impact assessment for the 2020 Solvency II Review by two months, to 01 June 2020.

EIOPA revealed that in the coming days, it will communicate further details on postponing additional reporting and information requirements.

The authority highlighted that it is “increasingly clear” that the COVID-19 outbreak is having “significant consequences for the global economy, including financial services”.

Additionally, it explained that insurers are likely to face progressively difficult conditions in the immediate future, both in terms of navigating challenging market conditions and in maintaining operations, while taking steps to protect employees and customers.

In the announcement, EIOPA said: “Recent stress tests have shown that the sector is well capitalised and able to withhold severe but plausible shocks to the system.”

The Solvency II framework includes a number of tools that can be used to mitigate risks and impacts on the sector.

Additionally, EIOPA stated that along with national competent authorities, these tools are ready to be implemented “if and when necessary” to ensure that policyholders remain protected and financial stability is safeguarded.

EIOPA warned that insurance companies should take measures to preserve their capital position in balance with the protection of the insured, following prudent dividend and other distribution policies, including variable remuneration.

It added: “Notwithstanding existing tools and powers, and together with national authorities and the other European Supervisory Authorities and the European Systemic Risk Board, EIOPA will continue to monitor the situation and will take or propose to EU institutions any measure necessary in order to mitigate the impact of market volatility to the stability of the insurance sector in Europe and safeguard the protection of policyholders.” ■

The Nutmeg State

Captive insurance players in Connecticut discuss the importance of the state's captive legislation amendments to continue positive economic benefits and growth

Connecticut is located in the New England region of northeastern US, bordered by Rhode Island, Massachusetts and New York. The state is known for its large number of insurance professionals and its insurance hub is called the 'insurance capital of the world'.

The captive insurance market in Connecticut was first established in 2008. At the end of 2019, the Nutmeg State had a total of 17 licensed captive insurers including two new captives of Fortune 500 companies, headquartered in the state.

The Connecticut Captive Insurance Association (CCIA) revealed back in February that Ned Lamont, who is serving as the 89th governor of Connecticut since 9 January 2019, proposed to amend the current captive insurance statutes by introducing senate bill no. 339 "an act concerning the insurance department's recommendations regarding captive insurance companies" to promote new

“Having Governor Lamont’s support of these amendments to Connecticut’s captive law is a huge continuing vote of confidence for the growth of captives in the state”

tax incentives for captives that establish or redomicile in the state, as well as introduce other innovative “risk-based” regulatory changes.

By proposing this legislation to help expand and grow the captive insurance industry in Connecticut, Lamont included a projected $7.5 million in new revenue for the state general fund in fiscal year 2021/2022. The proposed legislation would provide a “positive incentive” for captive insurance companies insuring risks in Connecticut, and for those domiciled in other jurisdictions, to return and open new foreign branch captive insurance companies and begin paying premium taxes in the state.

Governor Lamont’s proposal also aims to reduce up-front capital requirements for pure/branch captives, amends the definition of “association captives” and makes other important technical changes.

The CCIA board of directors supported the legislation at the recent insurance committee public hearing on 10 March, explaining that the proposals “will increase captive formations and speed-to-market in Connecticut by reducing the need for unnecessary start-up cash on hand, reducing on-going administrative costs, and providing captive owners relief from the tax on premiums placed directly with unauthorised insurers”.

The board further explained that the changes will produce “a positive economic benefit to Connecticut via increased captive formations and premium writings in the state. They will help bring revenue

back to Connecticut from other states which collect premium taxes on these Connecticut-based companies' risks".

In the February announcement, the board said: "We strongly believe these important changes will result in Connecticut having one of the most innovative captive statutes in the country and will help to generate new premium tax dollars for the state."

The board outlined that due to the COVID-19 pandemic, governor Lamont has declared a civil and public health emergency for the State of Connecticut, forcing the closure of the entire State Capitol and legislative office building complex until at least 13 April.

Due to the current COVID-19 pandemic, the captive legislation will likely be taken up later in the year during a special session that will convene once the public health crisis has abated and it's safe to return to the complex, according to the board.

Steve DiCenso, CCIA president and, principal and consulting actuary at Milliman, believes that having Lamont's support of these amendments to Connecticut's captive law is a "huge continuing vote of confidence" for the growth of captives in the state.

He explains that it is also evidence of the positive impact of collaborative strategy between CCIA and the state government.

He notes: "The amendments themselves are quite innovative and cover a number of areas. They provide a positive incentive for captive insurance companies insuring risks in Connecticut but domiciled in other jurisdictions to return and open a new foreign branch captive insurance companies and begin paying premium taxes in the state."

"The proposal also seeks to reduce up-front capital requirements for pure/branch captives, amends the definition of association captives, and makes other technical changes," he adds.

Lamont has also been supportive to Connecticut Foundation Solutions Indemnity Company (CFSIC), non-profit captive insurance founded to provide funding to people in Connecticut who have cracked forming in the surfaces of their homes. These cracks are due to their homes being built using concrete made from stone aggregate mined from a quarry containing pyrrhotite.

The CFSIC was set up to provide funding to cover the cost of repairs to homes as the traditional insurance was not covering it.

Connecting the dots

Touching on trends from the captive insurance industry in Connecticut, Janet Grace, programme manager, State of Connecticut Insurance Department, says: "As the captive market matures along with some standard commercial market hardening we anticipate companies will expand their captives to write more and varied risks."

Grace notes that currently, captive insurers in the state underwrite a variety of traditional and non-traditional risks including casualty, property, medical stop-loss, professional liability, flood, and custom coverages via insurance and reinsurance transactions.

> “Connecticut has set its sight on second movers to the captive market including middle-market manufacturers and healthcare centres, key sectors of Connecticut’s markets”

She highlights: “We expect them to identify gaps in coverage as the commercial market tightens underwriting and insure those and emerging risks via a captive solution.”

DiCenso adds: “With the great work of our part-time executive director, Kathryn Dube, with the formation of two captives in late 2019 with billions of dollars in premium, with the governor’s stated support, and with a legislative proposal in tow, we can say that momentum is at an all-time high.”

Connecticut challenges

While Connecticut has momentum and its annual gross written premium figures makes the state a leading domicile, DiCenso explains: “We are still not as well-known as we would like to be. We want to have captive management firms know this is a place to do business.”

Grace explains that Connecticut approaches the regulation of captive insurers from a risk-based view and regularly reviews and updates its statutes and regulations to reflect its principles-based philosophy.

She says: “We anticipate the standard market will continue the momentum begun with InsurTech ventures who’ve been primarily mostly focused on personal lines products.”

Connecticut anticipates further growth in insurtech space, according to Grace, which requires the service providers and regulators to be nimble enough to support and regulate new strategic approaches to risk.

She adds: “The state is home to some of the best and most creative service providers in the risk business and our regulators are actively engaged in emerging approaches to risk.”

2020 and beyond

In recent weeks, the focus of many markets, including the captive insurance space, may have shifted to focus on the short- and long-term impacts of the COVID-19 pandemic.

According to Grace, the state anticipates “increased momentum in the coming year”, adding that Connecticut captive insurance helps businesses grow and prosper in the state.

She explains: “We welcome all companies that seek a domicile that offers regulation that is thorough but at every step of the way business-friendly and particularly invite firms looking for regulators with real-world experience in alternative and unique risks to consider domiciling in the domicile.”

Grace notes that Connecticut has set its sight on second movers to the captive market including middle-market manufacturers and healthcare centres, key sectors of Connecticut’s markets.

“We value well-intended small or large company captive formations. The state is expecting to help ‘bring home’ many captives owned by Connecticut- based health care facilities and physician practices and look forward to welcoming them to Connecticut,” she adds.

DiCenso emphasises that Connecticut is “most excited” about the captive legislation amendments being passed.

He concludes: “The state is also excited about a number of our on-going events; a captive cafe breakfast series, where we are meeting quarterly to discuss key captive issues; and a 2020 collaborative to be held at Dunkin Donuts Stadium in Hartford, which will have several thought-provoking educational sessions.” ■

A chance to shine

Ben Whitehouse of Butler Snow explains that in light of the COVID-19 pandemic many companies will likely be taking a second hard look at captives

If traditional insurance doesn't cover a pandemic such as COVID-19, what options are available to businesses?

Any company affected by the COVID-19 outbreak needs to look at all of their current lines of coverage to see what may be applicable. In addition to the general liability and property lines, this could also include any environmental or pollution coverage, as well as even directors and officers coverage. Even if there is a specific policy exclusion for pandemics, some pandemic-related losses may be partially covered under other policies.

Many policies have a clause limiting business interruption coverage for when there has been a direct physical loss to a building. Whether this pandemic has caused such a loss is going to get a lot of attention in the courts. Businesses that are being forced to close to curve the COVID-19 outbreak may face difficulty getting their claim timely paid while these coverage questions are resolved.

Businesses should expect insurance to cost more next year, especially if the market does not quickly recover most of its losses. Coverage will certainly be available, it just may come at a higher price, a higher deductible, and/or additional coverage exclusions. Insurers are likely going to raise rates to try and recover from the paid losses and extensive litigation costs as well as the shrinkage of their investment portfolios.

I would advise executives to contact their legal departments to find out what policies can cover, as COVID-19 could follow the same steps at the 1918-19 Spanish Flu epidemic, where there was a second influx of the pandemic.

We hear a lot of talk about 'flattening the curve.' Even when this first wave subsides, there are likely to be repeat breakouts as travel restrictions ease. Businesses need to be prepared for not only resuming operations in upcoming weeks and months but the possibility for additional rounds of social distancing over the next year or longer.

Do you think there will be an increase in interest around captives because of the COVID-19 outbreak?

Many companies likely will be taking a second hard look at captives. The immediate issue will be marshalling the capital needed to put a programme in place. Once we get out of the fog of the current crisis; risk managers and chief financial officers should be discussing it. Traditional commercial insurance policies do a great job of managing risks that are reasonably well known and understood. They don't work nearly as well as covering new and emerging risks. When they try, the policies are generally full of coverage exclusions or they are expensive, or both. Since business owners can design captive policies to meet their needs, they offer a tremendous amount of flexibility that no traditional policy could ever economically offer.

> "While it may not be as easy to start one in 2020 as it was in 2019 or 2018, it absolutely can still be a viable option"

It is this kind of environment where a captive insurance company can be given a chance to shine. A captive not only gives businesses the chance to recapture unused premium, but it also allows for more flexible policy forms without the fine print exclusions that lead to coverage gaps.

Do you see more companies moving to captive solutions, rather than traditional insurance?

Captives are always going to be just one piece of a business owner's insurance portfolio. There are many risks at certain coverage rates that it makes far more sense to buy a commercial policy than try to put it inside a captive. Traditional insurance brokers keep their clients by keeping them satisfied and meeting their needs.

There are fairly common business interruption-type policies being written by hundreds of captives today that many businesses will have wished they had implemented five years ago. An insurance broker who wants to keep his or her clients satisfied should be looking at those programmes and making some introductions.

What advice would you give someone who is looking to start up a new captive?

While it may not be as easy to start one in 2020 as it was in 2019 or 2018, it absolutely can still be a viable option. Be realistic about your capital commitments and starting small with a plan to grow available coverage over the next three to five years is always prudent.

Although a captive might seem like a solution for pandemic coverage, what challenges do you think companies will face setting up a new captive at this current time?

In the immediate future, businesses are going to be careful about how they deploy their capital. Getting a business to make the full commitment to forming a captive and adopting new risk management strategies to support it will be even more challenging if we are truly heading into a recession. A business who tries to set up a new captive with the hopes that they can 'beat the market' by merely replacing their existing policies with a captive programme that charges a lower premium usually end up being disappointed. Committing to a captive means understanding that the performance in year one or two does not necessarily indicate future success or failure. A good captive programme takes three to five years to fully develop and build up reserves.

I am certain that we will eventually see new insurance products to specifically address pandemic type coverage. I wouldn't expect to see them until this current pandemic subsides. I would expect them to be expensive and full of exclusions that limit their scope. The message those of us need to better explain to the business community is that just like COVID-19 didn't fit neatly inside of a box of currently offered traditional insurance policies, the next calamity to strike may not fit either. Captives provide the type of insured-driven flexibility to protect entrepreneurs that cannot be matched by the traditional market. Instead of just offering coverage for the last catastrophe, a captive can help actually insure businesses for the next one.

What trends do you expect to see in the captive space in the coming months?

I think you are going to see a lot of interest in deductible buy down captives. Renewal quotes are going to be higher and businesses are going to be looking at ways to manage their expenses. Taking higher deductibles on traditional insurance policies and putting more of that deductible layer inside a captive programme is a good strategy at any time. A broker or a risk manager may want to suggest forming or modifying their current captive to take on additional risk to defray these expected higher costs. ■


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IRS' decision under the pandemic magnifying glass

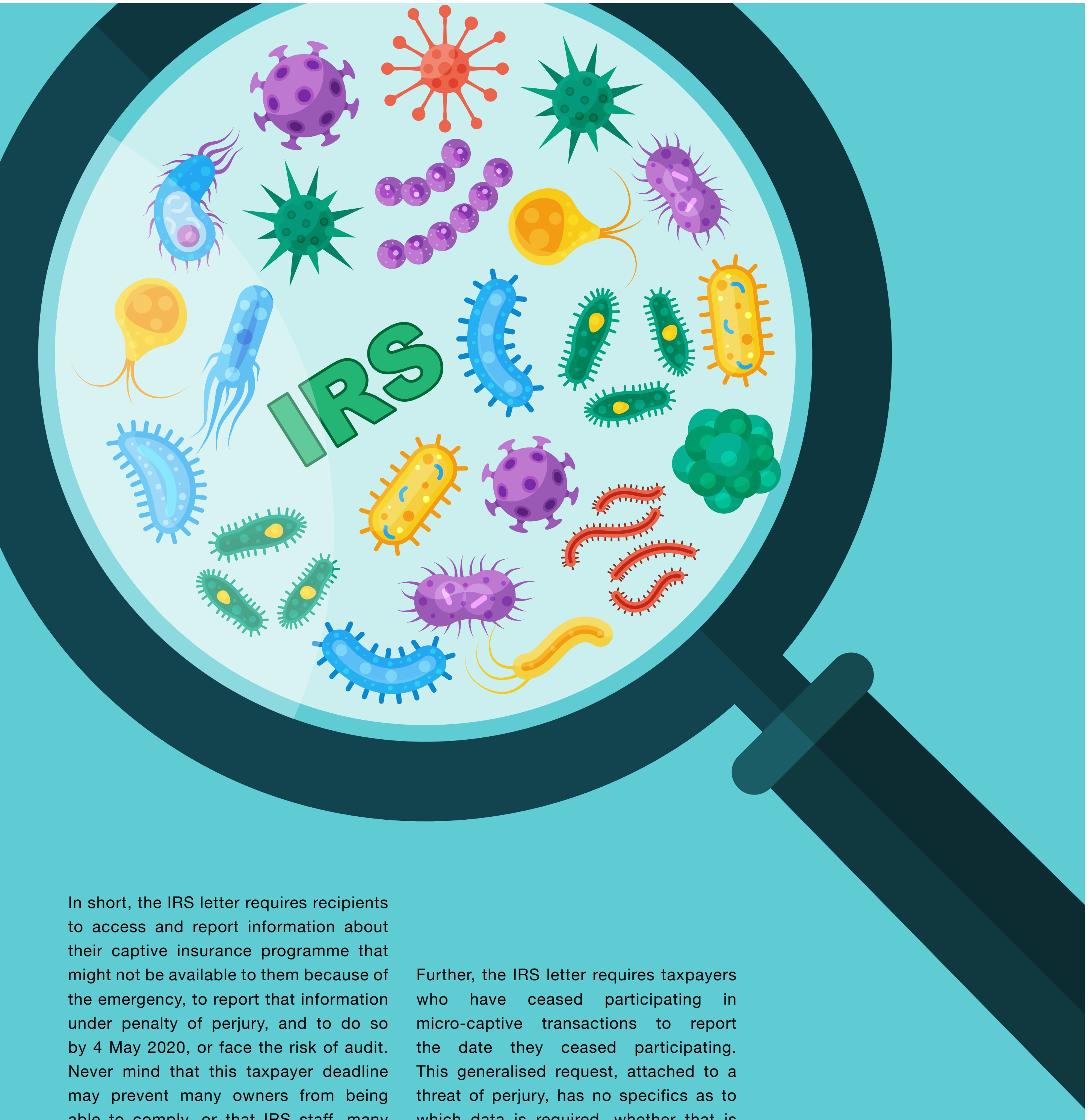
Ryan Work of SIIA discusses the IRS' 'ill-timed' letter to captive insurance companies and the future of business risk as many US states started to institute stay at home orders

Like so many individuals and companies around the world, those in the captive insurance industry are working hard to provide the support necessary to weather the current COVID-19 pandemic and the economic impact it has on businesses, their owners and employees. While parts of the industry, such as enterprise risk captives, or 831(b)'s, have been much maligned by the Internal Revenue Service (IRS) and others, these same captive insurance companies are now being vindicated as they play a critical role in helping businesses to survive the current crisis.

Many of the risks being faced during the COVID-19 outbreak, in general, are high severity, low-frequency issues. Addressing the hard commercial market the industry currently faces and finding coverage for related businesses risks such as supply chain disruption, loss of key customers, contaminated property clean up, business interruption and trade credit losses, in light of COVID-19 will be difficult to find in the commercial market for some time. As captive insurance comes into play in many of these situations, the important role it plays during these times of high severity risk is, and will continue to be, abundantly clear. In fact, when congress established Internal Revenue Code Section 831(b) in 1986, it sought to provide a risk mitigation tool for exactly such purposes, largely informed by the economic and embargo crises of the 1970s and early-1980s.

During a meeting with the IRS several years ago, agency staff questioned the validity of captive structures covering some of these current and very real risks, such as loss of key customers, supply chain or even contaminated property. They also continue to be critical of captives suggesting that a lack of paid claims generally, or within a specific time frame, is indicative of a lack of actual risk. This is a logical fallacy. Today's environment should not only change that erroneous perspective but demonstrates the ongoing need for captive insurance to cover such risk. Due to the lack of commercial insurance capacity in the market, along with the various exclusions for COVID-19-related claims, a significant portion of the risk is now being placed in the captive insurance market. Further, there is little doubt over the past two weeks that captives are paying a significant number of claims to their insureds resulting from this crisis and will continue to do so.

The same day that many states across the country began to institute 'stay at home orders' and require the closure of non-essential businesses, captive owners across the country received approximately 150,000 ill-timed letters from the IRS, sent out based on 2018 disclosures. Keep in mind that many of these businesses are shut-down, inaccessible, or operating at diminished capacity, scrambling to help customers and employees while keeping their operations afloat.



In short, the IRS letter requires recipients to access and report information about their captive insurance programme that might not be available to them because of the emergency, to report that information under penalty of perjury, and to do so by 4 May 2020, or face the risk of audit. Never mind that this taxpayer deadline may prevent many owners from being able to comply, or that IRS staff, many rightly teleworking, will even be receiving mailed forms.

Further, the IRS letter requires taxpayers who have ceased participating in micro-captive transactions to report the date they ceased participating. This generalised request, attached to a threat of perjury, has no specifics as to which data is required, whether that is the date of licensure, surrender, or even liquidation. If owners continue to operate

“This letter, and other IRS actions, mistakenly assume that everyone operating a captive that makes an 831(b) election is somehow doing something wrong”

Ryan Work
Vice president, government relations
SIIA

as a captive, the letter outlines the need for filings and consideration of amended returns, while outlining recent court cases, and increased enforcement and audit activities.

Among the threats and data requirements in the letter, there is one glaring omission. If the IRS looked into the tens of thousands of forms they required industry participants to file under Notice 2016-66, they would find most of this information at their disposal, simply by looking at Form 8886, a form which the IRS has required from captive owners, managers and participants for over two years. This begs a larger question as to what exactly the IRS is doing with the tens of thousands of paper forms they are holding.

At a time such as this when congress is enacting stimulus policy to assist these same businesses and their employees, and the IRS itself has delayed filing and tax requirements across the board, this letter is ill-timed and aimed at hurting the same businesses that congress and the administration are aiming to help.

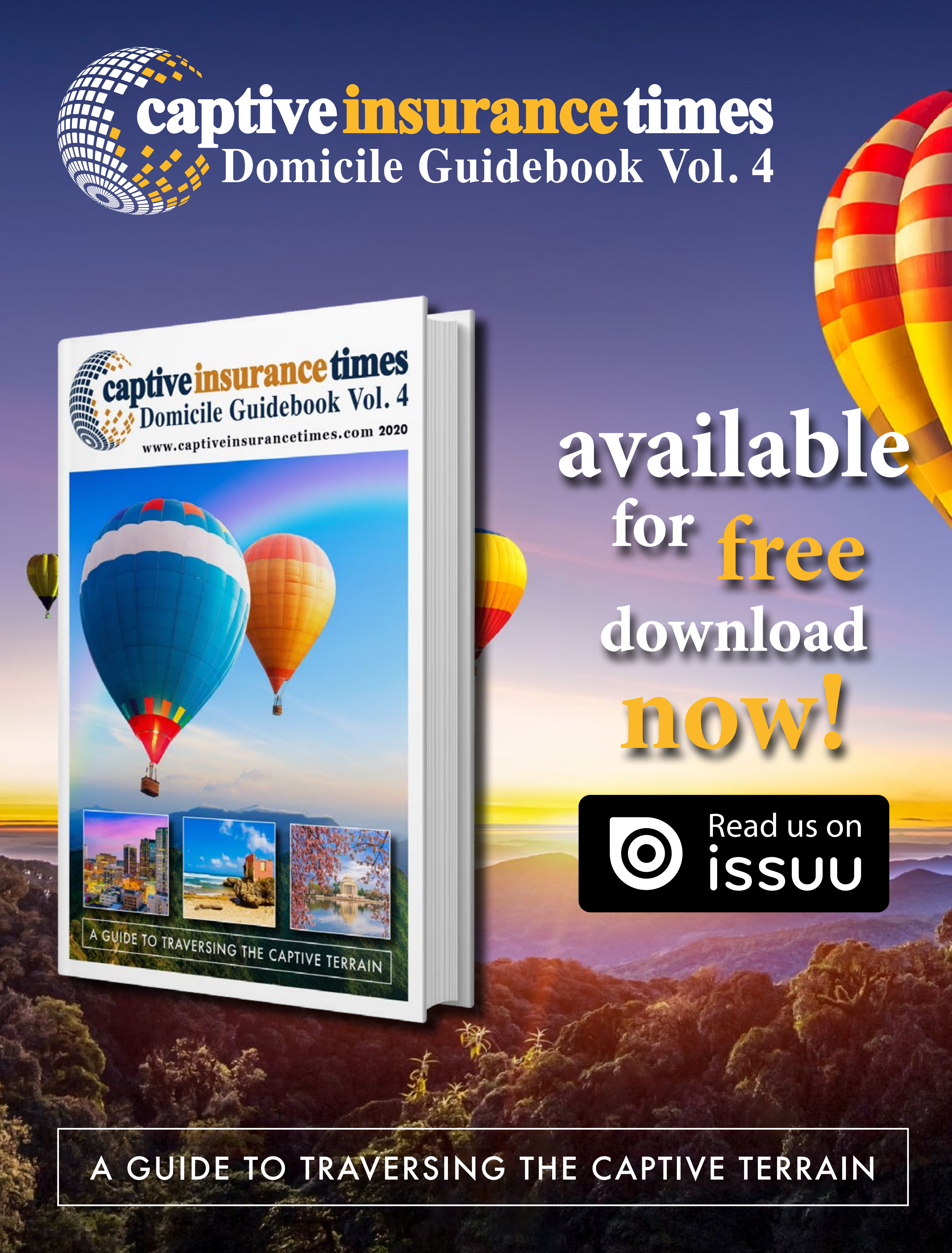
Given the current pandemic, combined with the timing and burden being placed on these businesses by the IRS, the Self-Insurance Institute of America (SIIA) and our members have asked that the IRS cease this wrongly-timed and unnecessary demand and allow these businesses operating captive insurance to mitigate the risks that congress and the tax code allows them to appropriately undertake.

Further, SIIA is talking with a number of members of congress on the egregious and unnecessary nature of the IRS’ actions on American business. For those not necessarily in the 831(b) space, this is a slippery slope that deserves attention and concern.

This letter is less about needed data collection and more of a scare tactic towards business owners in light of recent court wins, regardless of the risk or what the structure looks like.

However, while understanding the IRS’s ongoing concern over certain 831(b) captives, the fact remains that the vast majority of the industry and businesses who operate captives are doing the right thing. This letter, and other IRS actions, mistakenly assume that everyone operating a captive that makes an 831(b) election is somehow doing something wrong. This flies in the face of the underlying Internal Revenue Code and is contrary to recent actions by congress as outlined in the Protecting Americans from Tax Hikes (PATH) Act of 2015, provisions of which require the IRS to have yet to issue safe-harbour guidance for 831(b) structures. Despite it being almost five years after enactment, and after numerous congressional inquiries, the IRS refuses to do anything. The IRS was given tools in this law change to curb certain practices, yet has failed to do so while continuing to paint a broad brush across the 831(b) space. Business owners and captive industry participants deserve clarity and guidance.

While SIIA and its members appreciate the need to identify abusive captive structures, we can all agree that the timing and rationale behind the recent letter request are simply wrong and wrongly timed. America’s small businesses deserve better. If the IRS is serious about halting certain abusive practices, our longstanding and ongoing request for meetings to better understand and have a productive dialogue still stands.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Jelto Borgmann
Captive portfolio manager
HDI Global SE

Personal bio: I'm originally from Emden, which is located in northwestern Germany on the North Sea coast. In my free time, I enjoy listening to audiobooks, playing the piano, swimming and running. These activities help me relax, unwind and allows me to think more creatively.

Professional profile: I graduated with a master's degree in mathematics from the Leibniz University in Hannover. During my studies, I spent a semester abroad in Bristol and had the opportunity to gain initial professional experience through an internship at Allianz in Munich. In 2016, I started my job as a captive portfolio manager at HDI Global where I since have gained extensive experience in fronting and sophisticated captive structures for clients worldwide. Additionally, last year I supported our team at HDI Re in Dublin with their International Financial Reporting Standards (IFRS) 17 project for a six-month period. In addition to working fulltime, I studied actuarial science, completing my degree at the end of last year.

How did you end up in the captive industry?

For my first job, it was very important to focus on direct client contact and international experience. As most of the jobs in the actuarial field do not emphasise these points, I was excited to discover my job opportunity at HDI. After four years at HDI, I can happily say that I have never regretted it.

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

We had a very complex deal at the end of last year mainly due to client's requirements. Together with our legal team and the underwriters we found a great solution which greatly satisfied the client, was highly profitable and demonstrated to the market that HDI is much more than just a mere fronter. That was a great success.

What/who have been your influences in the captive industry?

There are so many people at HDI and in the market from which I learned greatly. I could not possibly list them all.

One person who is definitely on the top of that list is my manager Dirk Schilling. In addition to sharing his knowledge of the insurance industry with me, he gave me the opportunity to take responsibility right from the start.

He taught me that you do not need to have all the expertise yourself if you are surrounded by a network of highly capable people.

What is your impression of the industry?

It's a rapidly developing industry in which you can find a lot of smart people from different fields. Very often there is no standard solution for problems and, therefore, a great deal of creativity always is required.

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

We at HDI have great people with a great skillset. My aspirations are to work closely with these people and bundle their skills to provide our clients with the best service and solution they can get in the market.

What advice do you have for someone considering a role in the industry?

Build a network of great people who can help you in all the fields where you don't have the expertise and do not be afraid to try something new. ■

“Very often there is no standard solution for problems and, therefore, a great deal of creativity always is required”

“I rarely come across young talents who stand out like Jelto. He worked for me as an actuary during his time in Dublin and supported me with our IFRS 17 project. Besides his comprehensive actuarial skills, he is gifted with quick-wittedness and great charisma. While Jelto’s work has continued to pay dividends long past his tenure here, I certainly miss working with him every day.”

Matthias Schwarz, managing director, HDI Reinsurance (Ireland) SE

The latest moves in the captive industry

EPIC Insurance Brokers and Consultants (EPIC) has hired Matthew Marmorek as national practice leader, global employee benefits, based in New York.

Marmorek joins from Zurich Insurance Company, where he worked as a regional manager for over 10 years.

In this role, he provided employee benefits for multinational organisations to include multinational pooling and captives services, global programmes and local benefit solutions.

Marmorek brings extensive experience to EPIC such as guiding clients through the implementation of financing vehicles such as multinational pooling, global underwriting, and captive arrangements, both on and off-shore, including medical, non-medical, and pension coverage.

Craig Hasday, president, national employee benefits practice at EPIC, said: “Early in my career, I worked with Matt [Marmorek] on a global pooling arrangement for one of my first global clients and was very impressed with his knowledge and professionalism.”

He added: “Marmorek brings to EPIC the necessary skills, knowledge and commitment and I am pleased to welcome him to EPIC.” ■

Crawford & Company has appointed Jeff Carr as global relationship leader within its global client development team led by Benedict Burke, chief client officer, global client development.

Carr, who brings over 30 years of insurance experience to this role, will be responsible for maintaining and developing client relationships at both the executive and C-suite level.

In his new role, he will look to grow and optimise these relationships, further strengthening Crawford’s position as both a strategic and consultative partner.

Most recently, Carr served as director of client service for QBE European operations for five years.

Prior to that, he worked as head of client management and global client executive for ACE European Group.

Commenting on the appointment, Burke said: “Jeff [Carr] is a highly experienced and adaptable insurance professional with an extensive combination of leadership, technical and relationship management expertise and experience across a wide range of senior insurance industry roles.”

“As one of our three global relationship leaders, he will take a full enterprise and holistic view of our clients to ensure that Crawford truly understands their business-critical issues, adding value and contributing at all levels to our clients and their customers,” he added. ■

Lance Abbott, president of BevCap Management, has been elected as chair of the Captive Insurance Companies Association’s (CICA) board of directors.

Additionally, the board has elected Robert “Skip” Myers as vice chair and Renea Louie as secretary/treasurer.

Myers is the managing partner of Morris, Manning & Martin and co-chair of the insurance and reinsurance practice, while Louie is vice president of Pro Group Captive Management Services.

CICA has also elected Nicholas Hentges, co-CEO of Captive Resources, a consultant to member-owned group captives and Mary Ellen Moriarty, vice president for property and casualty at EIIA, both to a three-year term.

As previously announced, CICA has also appointed Erin Hackett, senior audit manager of Crowe, to a one-year term.

Returning CICA board members include Courtney Claflin, executive director of captive programmes, University of California, office of the president; Fredrik Finnman, group risk manager, Sandvik Group; Steve McElhiney, SVP and director of reinsurance, Artex Risk Solutions; CICA board immediate past chair; Michael Scott, attorney, law office of Allison & Mosby-Scott; Michael Zuckerman, assistant professor, Temple University; Colin Donovan, president, STICO Mutual Insurance Company; and Deyna Feng, captive manager, Cummins Risk International.

CICA president Dan Towle said: “We are excited to have Nick [Hentges], Mary Ellen [Moriarty] and Erin [Hackett] joining the CICA board.”

“Their expertise is a strong fit for CICA’s strategic priorities and our commitment to developing the next generation of captive professionals.” ■

Matt Atkinson has been promoted as senior vice president, business development for Artex Risk Solutions' North American division.

Based in Illinois, Atkinson is responsible for the production and project management of new business within the US.

Atkinson joined Artex in 2011 as an account executive, and was later promoted as regional director in 2014 and then to vice president in 2016.

Artex has also recently appointed Stewart McLaughlin as business development director for Europe, based in London. ■

Ed Koral has been hired as a managing director with BDO insurance, based in the firm's New York office.

In his new role, Koral will be growing BDO's capabilities in insurance and risk management consulting, focusing on captives, self-insurance, departmental organisation, insurance vendor and sourcing management.

His experience includes working with large corporate insurance, risk management, captives, self-insurance, alternative risk, casualty, property, professional liability, medical malpractice liability, hospital professional liability, and workers compensation.

Koral joins BDO after spending over 17 years at Deloitte Consulting as a specialist leader.

In addition, he worked as a board member at the Vermont Captive Insurance Association between 2011 and 2017. ■