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Insure the unexpected

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MAXIS GBN adds new captive tool to its OneClient portal

MAXIS Global Benefits Network (MAXIS GBN) has launched a suite of new data and digital services on its OneClient portal, including a new interactive dashboard for captive and global risk solution (GRS) clients.

This interactive dashboard will be available for all MAXIS GBN captive clients and will provide the latest quarterly data and enable more insight into the captive programme performance.

In addition, it includes filters by year, country, product, sub-product and policy and provides views of the programme on a reinsurance or cash basis and allows selection between two-loss ratio formulas.

MAXIS explained that a loss development triangle enables clients to evaluate risks and liabilities along with an assessment of premium and reserve levels.

Meanwhile, the enhanced data visualisations allow loss ratios to be displayed as an interactive heatmap by country and product and provide a complete performance breakdown of a captive, including income, expenses and incurred benefits.

The interactive graphs enable the captive client to identify outliers and badly performing policies.

Commenting on the captive dashboard, Helga Viegas, director of digital and innovation, MAXIS GBN said: "The interactive captive dashboard was a much-awaited development after the successful launch of our pooling dashboard last year. We're constantly investing in our suite of digital solutions to ensure our multinational clients have the right tools to manage their investment in employee benefits."

"Through these digital tools and dashboards, we help clients to better understand the drivers of spend and develop strategies and interventions to help reduce costs in future," Viegas added.

In addition, MAXIS is also launching a new interactive GRS dashboard, which allows clients to have a better understanding of their GRS performance over their three-year cycle.

MAXIS stated that the data visualisations highlight the overall performance, premium and expenses distribution, loss ratio heatmaps, results and reserves overview, among other visualisations. The interactive dashboard for pooling clients has also been upgraded to improve navigation.

MAXIS GBN explained that pooling clients will be able to manage new local policies potentially being added into their global programme with the ability to review new local policies, exclude specific ones and download information about policies previously added.

MAXIS GBN originally launched OneClient in 2017, with the aim to provide clients with access to reports, as well as to compliance and market data on employee benefits markets worldwide.

The employee benefits network relaunched the OneClient portal in 2019 with new analytics tools to give its global multinational clients access to comprehensive claims reports, programme performance metrics, market analytics and intelligence. ■

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ABTA's new bonding scheme to 'protect captive', says Chris Photi

UK trade association for tour operators and travel agents ABTA has "significantly departed" from its long-established published bonding scheme to a new unpublished maximum protection bond structure in order to protect its captive, which Chris Photi, head of travel and leisure at White Hart Associates (WHA), said is "causing difficulties" for many of its members.

Photi explained that ABTA has faced some material failures over the last year, including STA Travel and Cruise and Maritime Voyages, and the impact to its captive is currently unknown.

He said that such failures have led ABTA to "significantly depart" from its long-established published bonding scheme to a new unpublished maximum protection bond structure which he said is "causing difficulties" for many of its members.

ABTA's members "have had no prior notice or any clarity of this new approach", according to Photi.

The only guidance notes for members are the ones available on the ABTA website which was published in February 2015, he explained.

The new bonding approach has not been published to members in revised guidance notes and is being implemented on a case-by-case approach without prior rounded consultation or discussion with members.

Photi suggested ABTA's new approach is evidently to "protect" its captive.

Commenting on the suggested new bonding approach, John de Vial, director of membership and financial services at ABTA, explained: "Chris Photi is stating that in some cases ABTA has increased bond requirements, which is true in a relatively small number of cases."

de Vial suggested that Photi has made "a jump of logic" because a bond for a particular trader has increased when a trader is doing less new business during the COVID-19 pandemic, and ABTA must therefore have changed its scheme/approach.

He said: "The reality is that in those cases the increased bond reflects an increased value of customer money held over from cancelled bookings in 2020, which the law requires traders to protect."

The travel industry has been hit hard especially recently with the COVID-19 pandemic and the travel bans implemented across the world. It has also been hit in the UK by several travel groups collapsing including Thomas Cook Group in 2019.

However, as de Vial pointed out ABTA and ABTA Insurance PCC have been completely unaffected (financially) by the impact of the Thomas Cook Group failure.

ABTA revealed that its captive was not affected by that collapse, which Photi accepted after the UK travel association recently confirmed this publicly.

de Vial dismissed explained that ABTA's approach has not changed, it is the exposure represented by the trader.

He noted: "This is because, for some traders, despite a reduction in new business, there are very large values of pre-payments made for 2020 holidays that are being carried forward to 2021."

"These values can exceed that which would normally be held through the winter and into the pre-summer booking period, hence a level of bond required to reflect that," he added.

de Vial highlighted the ABTA scheme of financial protection, as a Department for Business, Energy and Industrial Strategy (BEIS) approved body scheme, it is required to implement a regime that brings all participants into compliance with the 2018 regulations.

He explained that this is a question of compliance with the law and providing effective security to achieve that. It is not a change of policy by ABTA, it is a change of risk and exposure pattern as a result of this crisis.

"Photi says that this is difficult for traders, and we completely agree," de Vial stated.

He commented: "The bond market, both with banks and insurance surety providers is difficult. Additional security and costs are common, at a time when traders can least afford it. But, ultimately, it is a business decision for a trader to rebook customers to a future season and to retain their funds. With that business decision comes the legal obligation to protect consumer prepayments in relation to package travel."

"Consumer confidence rests, in part, on the assurance of financial protection and it is our role to ensure that ABTA bonded packages are properly protected," de Vial added.

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UK grants Solvency II equivalence to EEA states

The UK Government has revealed that the UK has granted Solvency II equivalence to the European Economic Area (EEA) states, including the member states of the European Union.

In the statement, the government confirmed Solvency II regulation will form part of UK law at the end of the transition period with the EU, stating the purposes of Articles 378, 379 and 380 of the solvency regulation will form part of the UK law.

It explained that the direction covers all three equivalence decisions covering both reinsurance and group capital treatment.

The government also noted that a full set of Solvency II equivalence decisions for the EEA states is beneficial for the UK by providing certainty and continuity.

The Solvency II directive, which came into effect on 1 January 2016, is an EU law that codifies and harmonises the EU insurance regulation.

Also in the statement the UK Government revealed that the Credit Rating Agencies Regulation Equivalence Directions 2020 will determine that, for the purposes of Article 5 of the Credit Rating Agencies Regulation which will form part of UK law at the end of the Transition Period, the EEA States are equivalent.

It said: "This means non-systemic credit rating agencies (CRAs) authorised or registered in the EEA States will be able apply to be certified in the UK, subject to certain regulatory requirements."

Endorsement also allows for the cross-border use of ratings between the UK and the EU, which the government said will allow UK-registered CRAs to endorse credit ratings issued from affiliated EU CRAs which allows them to be used for regulatory purposes by UK firms.

However, one condition for endorsement is that the EU regulatory and supervisory framework is deemed to be 'as stringent as' the UK framework, the government explained.

The Financial Conduct Authority concluded a positive endorsement assessment in March 2019.

The UK Government said: "To provide clarity and stability to industry and reflecting the government's commitment to be as open as possible HM Treasury announced as many decisions as we can in advance of the end of the transition period provided for under the agreement on the UK's withdrawal from the EU on 31 December 2020."

It added: "Granting these equivalence decisions provides a range of benefits, including supporting well regulated open markets, facilitating effective pooling and management of risk, and supporting UK and EEA clients' access to financial services and market liquidity."

In October, Rishi Sunak, the chancellor of the exchequer, announced that the government had started the first stage of reviewing the Solvency II regulation by calling upon the UK insurance industry for evidence.

The UK Government's aim of the review is to "ensure that Solvency II properly reflects the unique structural features of the UK insurance sector".

The main objectives of the review are "to spur a vibrant, innovative, and internationally competitive insurance sector" in order to "to protect policyholders and ensure the safety and soundness of firms". ■

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Captives set to benefit from revisions to Insurance Oversight Act in Switzerland

Captive insurance companies active in Switzerland are set to benefit from the partial revision of the Insurance Oversight Act (IOA), which regulates the supervision of re/insurance undertakings and insurance intermediaries in Switzerland.

The IOA aims to protect insured parties from the risks of insurer insolvency and abuses.

The revision areas of the IOA include new possibilities to restructure, consumer protection-based regulatory and supervisory concept, and insurance intermediation.

Under the revisions, captives that are subject to Swiss supervision will profit from regulatory relief when they provide insurance or reinsurance services exclusively to companies of their group that are not active in the professional insurance business of third parties.

Diana Lafita, attorney at law at Loyens & Loeff, an international law and tax firm with offices in Switzerland and the Benelux, explained: "In particular, they will be relieved from establishing tied assets and an organisation fund, as well as from affiliating with an Ombudsman – the latter being a requirement for insurers and independent insurance intermediaries under the revised IOA."

For the part of the risks which captives do not underwrite from the same group of companies as described above, Lafita suggested that captives may still profit from a similar regulatory relief on request of the Swiss Financial Market Supervisory Authority (FINMA), if the relevant policyholders qualify as professional clients under the revised IOA.

Professional clients are mainly clients that have professional risk management with certain exceptions.

She said: "For the part of the insurance business where the mentioned relief does not apply, the standard regulatory provisions apply, following like this the principle of proportionality."

In order to be able to profit from the regulatory relief, captives must state in which business they will be acting within six months from the entry into force of the IOA. Lafita noted: "They will be able to choose between a) wholesale business with professional clients; b) intra-group captive business as described above and c) non-professional business (with no regulatory relief). A mixture is allowed with the consequences as mentioned above."

Reinsurance captives that are established outside of Switzerland are already excluded from Swiss supervision under the current regime. Under the current regime, reinsurance captives established in Switzerland are subject to regulatory relief according to which tied assets provisions do not apply.

According to Lafita, the regime of relief for reinsurance will continue under the revised IOA and will be aligned with the new relief for intra-group captive re/insurance and professional clients. "The main effect of the new provisions relates, therefore, to direct insurance captives domiciled in Switzerland or abroad."

"Direct insurance captives domiciled abroad are mainly subject to Swiss supervision when they insure risks located in Switzerland," she added.

Lafita explains that mixing insurance and reinsurance risks within captives subject to Swiss supervision also allows a proportional approach, the provisions on tied assets not applying to the reinsurance part of the business.

Revision areas

Under current law for the right to restructure, applicable insurance law obliges the Swiss Financial Market Supervisory Authority (FINMA) to order bankruptcy proceedings as soon as an insurance undertaking gets into financial

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difficulty. However, the Federal Council suggested that restructuring would be better from the insured parties' standpoint, as they generally have an interest in seeing their insurance policies continue.

The proposed right to restructure closes this gap and should strengthen consumer protection.

For consumer protection-based regulatory and supervisory concepts, the bill proposed the introduction of client categorisation.

The Federal Council explained that insurance undertakings should benefit from relaxed supervisory requirements if they deal solely with professional clients, for example, large companies with professional risk management that do not have a special need f or protection.

In addition, the Federal Council noted that there is the possibility for small insurance undertakings with innovative business models to be either wholly or partly exempted from supervision.

On insurance intermediation, the Federal Council stated that the legislation on intermediation should be modernised and consumer protection strengthened, in particular by introducing a general requirement to affiliate to an ombudsman.

It also stated that there are to be new special requirements on avoiding conflicts of interest, and, for independent insurance intermediaries, on disclosing compensation from insurance undertakings or third parties.

The federal council said: "As regards the sale of certain insurance-based investment products, special conduct rules and a duty to provide information will be introduced – as has already been done for financial instruments under the new Financial Services Act."

During the consultation, the bill met with a positive response overall, according to the federal council. ■

ProSight onboards four captives since January launch

ProSight Global, a property and casualty insurance company, has written more than $19 million in its captive solutions since launching at the start of this year. It was announced in January that ProSight would expand its insurance solutions into the captive insurance market.

Anthony Ciofani, alternative markets officer at ProSight, stated: "We are excited about our entry into the captive market."

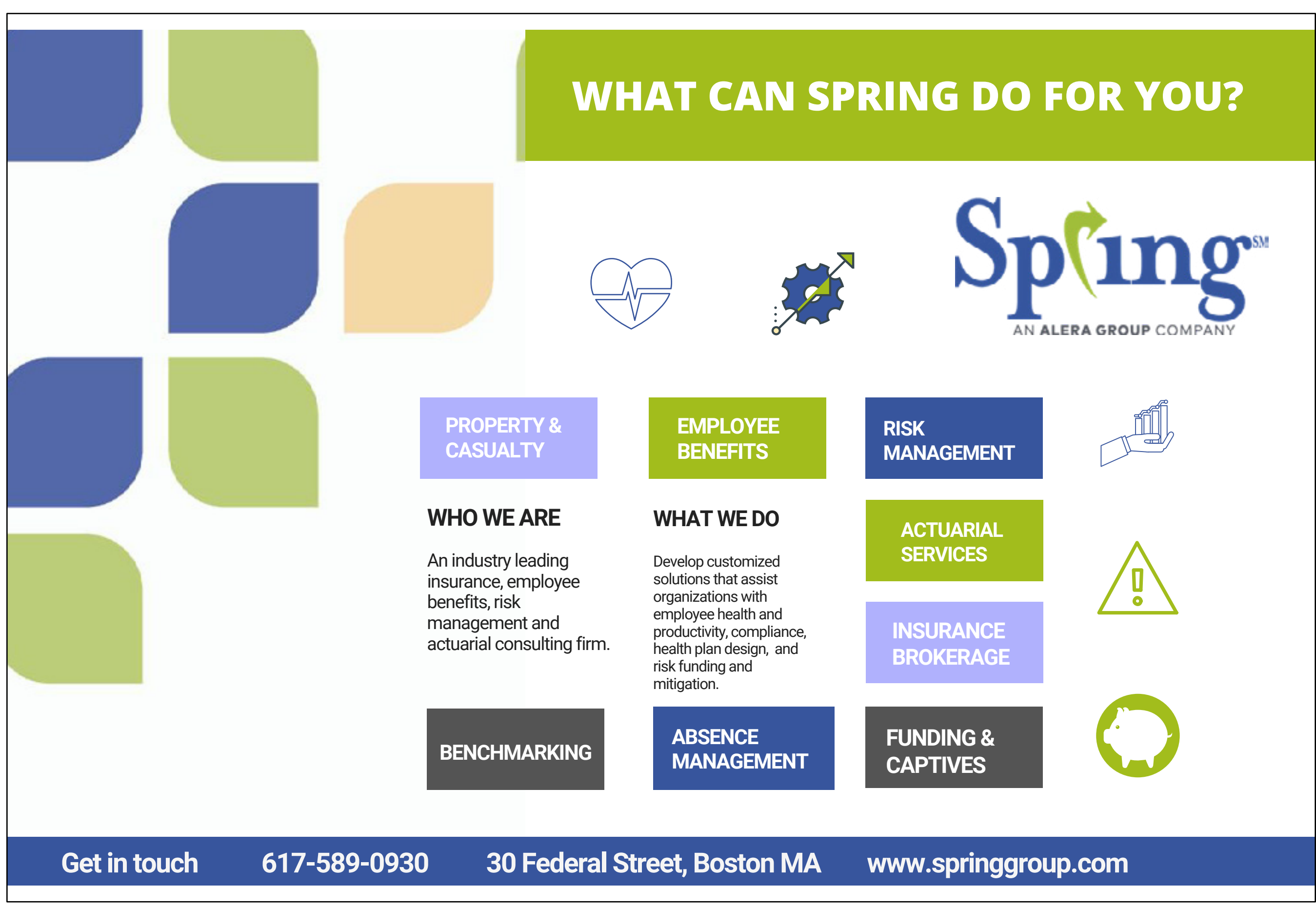
He revealed that since ProSight's captive launched earlier this year, it has written $19.7 million on a year-to-date (YTD) basis. Ciofani outlined that currently, it has four captives onboard and three others being launched shortly.

"In addition, we have numerous high-quality opportunities in the pipeline," he added. Ciofani explained: "We see this a direct extension of our niche-driven approach to business in that these customer groups are taking that 'next step' in terms of controlling their own risk management expense, and we are happy to help and provide whatever support and guidance they require."

Recently, ProSight reported that Q3 2020 was the largest catastrophe quarter in the company's history. The results showed pre-tax impact of catastrophes of $22 million, which includes over $16.9 million of net losses and $5.1 million of related reinstatement premiums on reinsurance contracts.

ProSight explained that most of the loss activity stems from hurricane Laura, which hit the Gulf Coast of the US in August of this year and the California and Oregon wildfires. It also reported a combined ratio of 108.3 percent compared to 98.3 percent in Q3 2019, which ProSight said reflected 11.6 points of catastrophe losses and the impact of related reinstatement premiums in Q3 2020 compared to zero points in Q3 2019.

The combined ratio excluding the impact of catastrophes is 96.7 percent for the current period compared to 98.3 percent for the Q3 2019. ■



WTW: ILS market remains resilient amid test and ongoing challenges

With recent tests and ongoing challenges over the past three years, the insurance-linked securities (ILS) market remains resilient, according to a new Willis Towers Watson (WTW) report on the ILS market.

The report showed that most end investors are satisfied with their ILS performance, with 86 percent of ILS funds expecting market growth of 5 percent or more cumulatively during the next five years.

It also highlighted that more than half of reinsurance and insurance companies surveyed worldwide now use ILS capacity.

The survey was conducted between June and August 2020 and included 122 global ILS market participants to provide a snapshot of the views of the ILS industry.

Participants came from four segments including end investors, ILS funds, insurance and reinsurance companies, and corporate risk managers.

The survey showed that across the board, ILS funds and end investors expect further growth driven by factors such as the impact of climate change and the positive ESG characteristics of ILS.

End-investor respondents identified non-catastrophe weather insurance (64 percent) and life, accident and health risks (46 percent) as suitable for ILS mandates, but less than a quarter found appeal in ILS for other perils, with only 5 percent interested in securitised cyber risk.

Other results showed that over 80 percent of end investors expect to either increase their ILS allocation in the next 12 months or expect it to be unchanged.

Meanwhile, about a third of end investors indicated that they had postponed new ILS allocations as a result of COVID-19.

At the end of 2019, before any potential impacts of COVID-19, two-thirds of ILS funds reported trapped collateral of 5 percent or less of their assets under management, according to the survey.

It also revealed that four in five fund manager respondents expect climate change to create significant threats and opportunities for the ILS market during the next five years.

The use of ILS remains stable over the last two years with, similar to 2018, over half (56 percent) of insurers and reinsurers accessing ILS capacity.

However, only 17 percent, down from 27 percent in 2018, still derive more than 20 percent of their capacity limit from ILS.

Elsewhere, the survey showed that 70 percent of the North American insurers and reinsurers who access ILS capacity derive between 11 percent and 30 percent of capacity from ILS, while 70 percent of their international counterparts say ILS is the source for less than 10 percent of capacity.

Commenting on the report, William Dubinsky, managing director Willis Re Securities, said: "The survey suggests that the ILS market may have adapted more swiftly and effectively than generally reported to the challenges posed by Hurricane Irma and subsequent events over recent years, but the story is not over. Notwithstanding guarded optimism, COVID-19 and continued uncertainty around other property-related losses have created additional challenges for end investors, ILS funds, and cedants alike."

Nadia Schmidt, alternative capital practice group leader, Willis Re International noted: "The survey also reveals some disconnects. Insurers and reinsurers would like to use ILS capacity to protect risks beyond natural catastrophes, like cyber and casualty risks, but end investors have little appetite. Investors and funds see steady growth ahead, but some buyers have been more restrained in their behaviour towards ILS."

"However, these seem to be relatively minor concerns. Overall, our survey reveals that ILS capacity providers and ILS capacity users alike remain committed to the market and feel positively about the health and future of ILS," she added.

The survey constituted 58 providers of ILS capacity and 64 capacity users including insurance and reinsurance companies and corporate risk managers. It aims to capture global and regional trends with 44 percent of capacity users respondents coming from North America and 56 percent coming from the rest of the world. ■

Pacific Life Re completes UK longevity swap via Guernsey-based captive

Pacific Life Re, who manage clients mortality, longevity, and morbidity risk, has completed a longevity swap transaction with the Trustee of the Prudential Staff Pension Scheme.

The longevity swap covers pension liabilities of £3.7 billion relating to over 20,000 pensioners in the scheme and was structured using a Guernsey-based captive insurance company.

The swap aims to protect the scheme from the financial risk of an unexpected increase in life expectancy and to make the scheme more secure to the benefit of all its members.

Elaine Murphy, longevity director at Pacific Life Re, explained the completion and size of the deal as a "huge achievement" despite the challenges of the COVID-19 pandemic.

Murphy said: "We are delighted to have worked with the Trustee of the Prudential Staff Pension Scheme and Willis Towers Watson on this transaction."

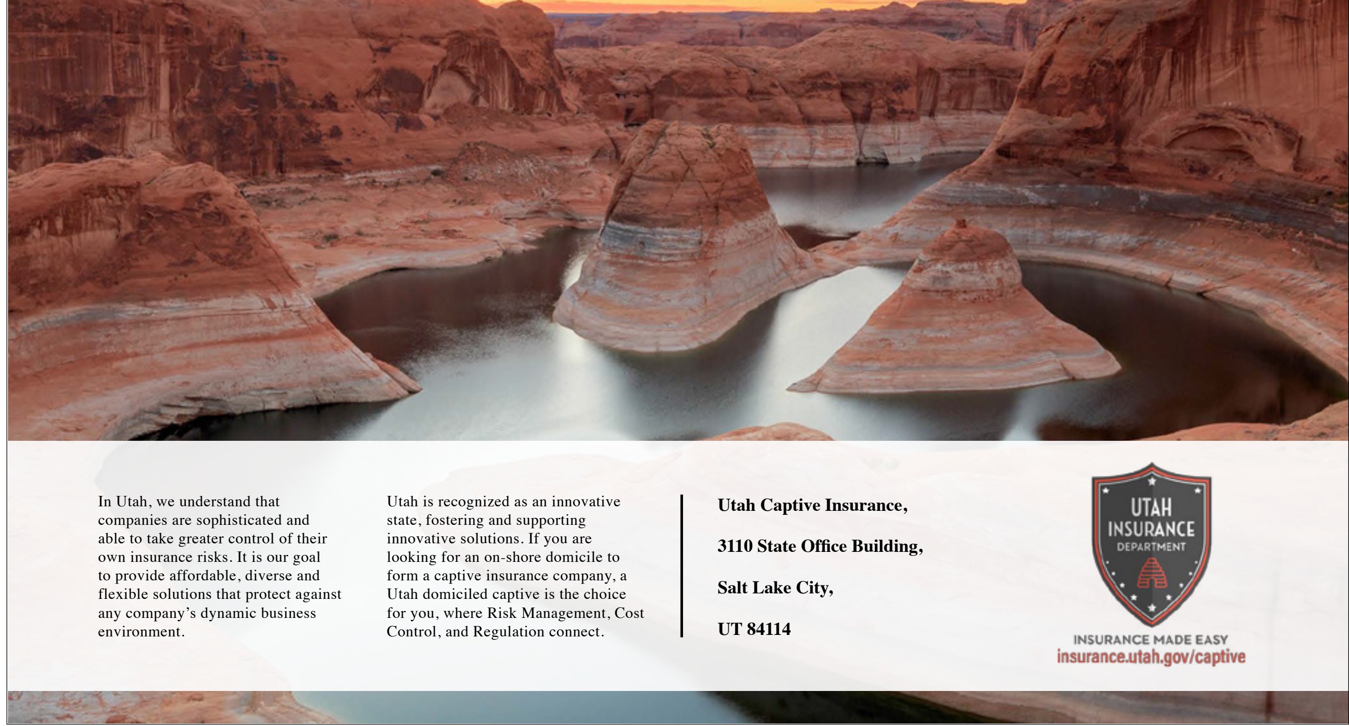
She added: "This transaction demonstrates the continuing strength and capacity of the reinsurance sector to support pension scheme de-risking in a time of increased uncertainty with regards to future life expectancy."

Willis Towers Watson led the advice for the trustee and CMS provided external legal counsel for Pacific Life Re.

Ian Aley, head of transactions at Willis Towers Watson, noted: "This transaction follows a period of working with the trustee to identify the optimal solution. Within a vibrant market and following a very competitive process including many bidding reinsurers, Pacific Life Re was selected."

"We were pleased to be able to build on the trustees' in-depth understanding of this type of transaction to help them achieve attractive terms that reduce risk and enhance member security. The transaction demonstrates both the appetite of defined benefit schemes to de-risk their liabilities and how transactions can be successfully structured within the current environment," he concluded.

In addition, in June, the Willis Pension Scheme entered into a longevity swap transaction with Munich Re to manage longevity risk concerning £1 billion of pensioner liabilities.



Civen and GIC acquire insurance broker Miller

Specialist insurance and reinsurance broker Miller Insurance has been acquired by Cinven, the international private equity firm, and GIC, Singapore's sovereign wealth fund from its partners and corporate member, Willis Towers Watson.

The transaction, which is expected to complete Q1 2021, represents the first investment from Cinven's new financial services sector-focused strategy, which will be looking at similar long-term opportunities across Europe.

Financial details of the transaction are not disclosed.

Miller, which operates in the UK, Lloyd's and internationally, works across a number of specialist areas, including marine, energy, credit and political risks, delegated authorities, professional risks, property, casualty, sports and entertainment and reinsurance.

Headquartered in London, it places approximately £2 billion worth of premiums annually.

Miller also has offices in Ipswich, Brussels, Paria, Singapore and Geneva.

Cinven Funds has previously made investments in the European insurance sector including Guardian Financial Services in the UK, Eurovita in Italy and Viridium in Germany.

It has also made other UK-headquartered financial services investments such as Partnership Assurance, NewDay and Premium Credit.

Meanwhile, GIC has invested in Rothesay and RAC in the UK, Mass Mutual Asia in Hong Kong, and China Pacific Insurance group in China.

Yong Cheen Choo, chief investment officer of private equity, GIC, said the company look forward to supporting Greg Collins, CEO of Miller, and his team on future expansion opportunities for Miller.

Choo added: "As a long-term investor, we are confident in the growth potential of the specialty insurance sector, and of Miller within it."

Commenting on the acquisition, Collins explained: "We are very pleased to be partnering with Cinven and GIC, whose knowledge and insurance investment expertise will enormously support our business as we enter this important next phase of growth."

He noted: "We are excited about bringing together our combined expertise to bolster our best in class client service and solutions and strengthen Miller's position in our core activities. This includes making incremental targeted, strategic investments as we look to realise our ambition of becoming the leading independent specialist reinsurance broking firm. I would also like to take this opportunity to thank Willis Towers Watson for their support over the last five years."

Luigi Sbrozzi, Partner of Cinven, commented: "Miller is a highly attractive, resilient specialist insurance business with strong long-term growth opportunities across all of its segments and a history of consistent growth through various economic cycles. We see opportunities both organically, by recruiting new specialist brokers, and through incremental mergers and acquisitions over time." ■

Labuan reports a strong H1 with seven new captives

The Labuan International Business and Financial Centre (IBFC) has seen more than 50 percent increase in licensing application approvals for H1 2020, resulting in more than 800 licensed entities currently operating in the domicile.

In reinsurance, Labuan IBFC continued to see growth in the insurance industry with 11 new licenses being approved of which seven were captive insurance entities.

"Captive insurance is certainly growing in size as it now attributes 31.4 percent of total gross premiums underwritten in Labuan IBFC, amounting to $267.9 million with 72.8 percent of the total captive premiums from international markets," Datuk Danial Mah Abdullah, director-general of Labuan Financial Services Authority (FSA) said.

Abdullah continued: "This is in line with the status of Labuan IBFC as a regional wholesale risk intermediating centre. In fact, for the first half of 2020, 64.5 percent of total gross written premiums of the reinsurance industry originated from international markets."

"We expect this percentage to increase as we develop Labuan even further as a centre of risk management and reinsurance through innovation. For instance, Labuan IBFC is the only jurisdiction in Asia that offers protected cell companies (PCC)," he added.

In September, Labuan IBFC reported that it registered seven new captives between January and June this year, bringing the total to 56.

Farah Jaafar-Crossby, CEO of Labuan noted: "The growth in licensed entities definitely evidences Labuan IBFC's relevance as intermediaries

US Treasury proposes rule changes to TRIP, including participation of captives

The US Department of the Treasury has issued proposed rules to implement technical changes, including the participation of captives, to the Terrorism Risk Insurance Program (TRIP) required by the Terrorism Risk Insurance Program Reauthorization Act of 2019.

The proposed rules include clarification on how the treasury will calculate property and casualty insurance losses for purposes of considering certification of an act of terrorism and insured losses when administering the financial sharing mechanisms under the programme.

The proposal said this would include the programme trigger and programme cap; and incorporate into the programme rules prior guidance provided by the treasury in connection with stand-alone cyber insurance under the programme.

The treasury is also seeking further public comment concerning the certification process under the programme, and the participation of captive insurers in the programme, to facilitate further analysis and study by the Federal Insurance Office (FIO) of the programme and potential future rulemakings in these areas.

It noted that comments must be in writing and encourage early submission. The deadline is by 11 January 2021.

Background

After the 9/11 terrorist attacks in New York in 2001, the majority of businesses could not purchase insurance protection for future terrorist attacks as the attack on New York cost an estimated $40 billion.

TRIP, a federal law was enacted and signed into law by President George W. Bush on 26 November 2002. TRIP provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism.

The act has been extended four times, most recently in December 2019, the House of Representatives voted to approve the Further Consolidated Appropriations Act, 2020, which included the 2019 Reauthorization Act. President Donald Trump signed the bill into law.

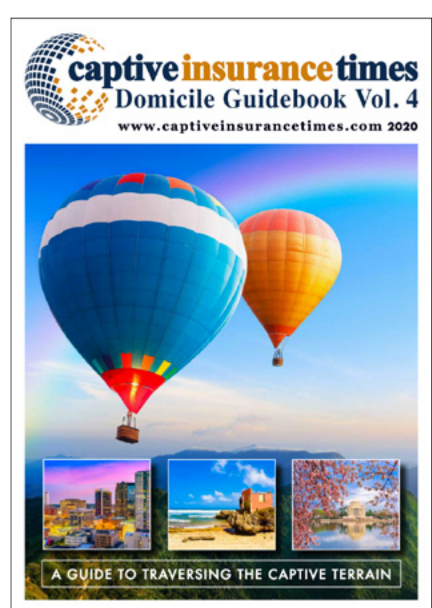
It is scheduled to expire on 31 December 2027. ■

continue to look for safe harbour jurisdictions, that are well regulated to international standards set by global multilateral organisations."

Speaking at the Asian Captive Conference (ACC) earlier today, Abdullah outlined in his opening remarks, "notwithstanding the challenges and movement restrictions due to the COVID-19 outbreak, we are glad to continue to have growth, an increase in licenses approved during H1 2020".

"Having said that, we remain cautious on the outcome in the second half of the year but am optimistic that we will pull through this 'COVID-19 rollercoaster year' on a positive note," he added.

"We in Labuan FSA are cognisant of the COVID-19 situation. Other than the safety precautionary measures, we have provided regulatory reliefs aimed at alleviating the operational difficulties of the market. We will continue to support the market players during this difficult and challenging time as we navigate the 'new normal' together. We are always engaging with our players on this," he concluded. ■



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Insure the unexpected

AXA XL's Owen Williams discusses the current captive market and the most significant challenges facing the industry

What are the biggest trends in the captive industry right now?

By far and away the biggest trend in the captive industry is the effect of the hardening of the insurance and reinsurance market. This is having three main impacts on clients. The first is an increase in pricing for most lines of insurance and reinsurance. The second is a retraction of capacity – clients cannot currently always secure the capacity they require from the insurance market. And thirdly, the breadth of coverage to which clients have become accustomed is not always available.

Clients are using captives to counteract all three of these effects. Many are taking larger primary layers within their captive to reduce the cost of their insurance spend. Clients are also using captives to fill gaps in their tower where they cannot find capacity in the insurance market. And risk managers are using captives to obtain coverage for their corporate entity that isn't readily available in the insurance market or where terms and conditions have severely tightened.

Clients are using existing captives more and we are also seeing great interest in setting up new captives. We are certainly seeing increased numbers of captive feasibility studies being undertaken at the moment.

"Putting risk into a captive is not the same as buying insurance from an insurer"

How has COVID-19 impacted the captive industry? Do you think it has had a positive or negative effect?

First and foremost, COVID-19 has been a human tragedy on a huge scale. And it continues to affect societies and industries across the world. For the captive industry, it is probably too early to say what the medium and long-term impacts will be.

The pandemic has probably contributed to what was an already hardening insurance market, particularly with respect to the availability of coverage for risks such as non-physical-damage business interruption. Many clients are looking to use captives to respond and I would expect to see greater use of captives for non-insurable risks.

What do you believe are the most significant challenges firms are currently facing?

Beyond the very immediate impacts of the pandemic, such as uncertainty about companies' ability to trade and the effect of restrictions on the movement of people, the number one concern for risk managers is the hardening of the insurance and reinsurance market.

For the past several years, risk managers and insurance buyers have been able to go to their boards showing year-on-year price savings on insurance and expanded coverage. This year, however, for the first time for a very long time that will not be the case. Risk managers and insurance buyers are not necessarily used to this situation or communicating the fact to their boards. A captive can help to lessen the impact of the hardening insurance market. It reduces a company's reliance on insurance and its exposure to the vagaries of the insurance cycle.

It's important to remember, however, that putting risk into a captive is not the same as buying insurance from an insurer; as a captive owner, you are taking on risk rather than transferring it. Taking the time to discuss forming a captive, or putting more risk into an existing captive, in a strategic way, is vital. I would urge clients not to rush forming a captive and its relevant insurance/reinsurance structures as a response to the conditions in the insurance market, but instead to take the time to talk about it with their brokers, advisors, captive managers and others in order to fully understand what can be achieved and what the longer-term plan might be. Early engagement from all partners and providers in those discussions is important.

Do you think 2020 has been a positive year for the captive industry? Are you expecting to see overall captive formations increase for this year?

This year has certainly provided an opportunity for captives to demonstrate their relevance and value to their corporate owners.

Following the prolonged soft market period, current insurance market conditions mean that risk managers increasingly now are able to show their boards the cost and coverage benefits of having a captive, as well as the longer-term strategic benefits that a captive can bring to an enterprise risk management programme.

We are certainly seeing an uptick in interest in captive formations and I would expect captive numbers to increase, globally, this year.

Moving forward, what you do expect to see over the next few years within the industry? What will be the biggest talking points?

It will be interesting to see if those companies that currently are exploring setting up a captive, or expanding current captives, continue with that strategy when conditions in the insurance market change. Many will likely continue to use their captive as an important part of their risk management and transfer strategy even when capacity and coverage become more available in the traditional market.

I think the ability of captives to take on uninsurable or intangible risks will be one of the biggest talking points in the months and years to come. Most risk managers' risk registers contain several risks that cannot be insured in the traditional sense. If this year has shown us anything, it is that unexpected, uninsurable risks can and do happen.

In the past, captives were typically used to provide capacity for more run-of-the-mill, well-understood property and casualty-type risks. But the current pandemic and its effects, both on the insurance market and society and industry more widely, have prompted interest in using captives to underwrite risks that are not currently insurable in the traditional market.

I believe that the ability of captives to play a part in managing and transferring emerging and previously uninsurable risks will be a major talking point. ■

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Relocation, relocation, relocation

Industry experts discuss why companies are choosing to redomesticate their captives and the opportunities it provides them

Choosing the right domicile is an important part of the set up of forming a captive insurance company.

However, things can change within a business which mean the original domicile isn't always the forever home of the captive.

Changes can vary as well as unpredictable and uncontrollable, for example, regulatory changes, a change in the regulator personnel, a change in the service provider as well as various other factors.

Adam Miholic, senior consultant, captives at Hylant, explains that the evaluation of a captive's current domicile should be an annual focus, which often means taking the form of legislation or operational update at the board of directors meeting.

However, Miholic notes that many current captive owners are proactively seeking the guidance from their managers and advisors on what impact, if any, a domestication of the captive may have.

"Many of these conversations are a result of two main environmental factors: the current economic status for many captive owners during this challenging environment, and the intense focus of some states to actively seek out and impose taxes and/or fines on captive owners who have domiciled out of their 'home state'," he adds.

Reasons for redomestication

As mentioned above there are a number of factors why a captive chooses to redomesticate.

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Miholic suggests that most redomestications occur when the parent company/companies experience a change in operations or structure that impacts the captive.

He says: "These changes could stem from merger and acquisition activity, corporate legal or tax structure, ownership transitions, and many more. No matter the genesis of the change, the redomestication process should always focus on ensuring the captive remains aligned with the goals and objectives of the parent company."

Martin Eveleigh, chairman at Atlas Insurance Management, says that reasons can vary considerably.

In some cases, Eveleigh explains it can be the unwillingness of some banks and investment managers to open accounts for foreign captives leads to a move onshore while in others it can be a change to a captive's business plan, expansion of its underwriting activities or new fronting or reinsurer relationships can lead to a reassessment of domicile choice.

He states: "This is particularly true where the captive is established in one of the lesser offshore domiciles."

Eveleigh also suggests there have been some captive owners choose to move onshore as a result of the Internal Revenue Service's (IRS) campaign against captives taking the 831(b) election; the concern being the consequences of revocation of a 953(d) election.

The IRS ramped up its scrutiny in November 2016 with the release of Notice 2016-66, which identified certain micro captive transactions as having the potential for tax avoidance and evasion.

Under section 831(b) of the US tax code, captive insurers that qualify as small insurance companies can elect to exclude limited amounts of annual net premiums from income, so that the captive pays tax only on its investment income.

Procedure

Before captive decides to relocate it should complete a full analysis of the current domicile as well as the proposed new jurisdiction.

Miholic suggests that a thorough review of the strategic, operational, and financial aspects of the domiciles should be considered.

He adds: "Once a decision has been made on redomestication, it is important that all requirements pertaining to notifications, claims and policy administration, and legal matters are followed in order to properly transition the captive to another jurisdiction."

Eveleigh adds that the process is different depending on the domicile in question.

"In essence, there is a regulatory process in which the captive seeks approval from its existing home regulator to leave and approval from its new domicile for the move and the issuance of an insurance licence there," he explains.

Alongside that, Eveleigh notes, there is the legal process of moving the company from the corporate register of one domicile to that of another.

He highlights that a redomestication does not involve the replacement of one corporate entity with another; the company that arrives in the new domicile is the same corporate entity as the one that left the old domicile. Although he does explain that it will be subject to different laws.

Opportunities

Although there are very few challenges associated with redomestication, Miholic says it has the opportunity to provide both financial and operational benefits to captive owners.

He suggests that potential tax benefits and annual fees are often a focus of the financial considerations among active captive domiciles.

"In addition, many captive owners are interested in active captive regulators who offer the flexibility and control commonly associated with captive insurance," he adds.

As both new and existing captive domiciles update their legislation to reflect the needs of the industry, Miholic explains that many current captive owners also re-evaluate their business plans.

Eveleigh says apart from any beneficial tax consequences, there are three main types of opportunity.

The first is for the captive to present itself differently to those with whom it does business.

He says: "For example, a fronting company may be influenced by the domicile of a captive that needs access to the admitted paper."

The second that Eveleigh notes is the opportunity to transact business that is permitted by the new domicile but not the old.

Finally, he explains there is the opportunity to take advantage of different company law regimes, perhaps by using a corporate form available in one jurisdiction but not another such as a series LLC. ■

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Latin America - By Maria Ward-Brennan

A lesson in captives

Latin America continues to be one of the world's largest emerging markets, and although challenges remain, education has been key to the region's captive insurance market growth

Recognised as one of the world's fastest-growing emerging markets, Latin America is starting to gain more traction, particularly in its captive insurance industry.

Although not every country within the Latin America region is excelling, Colombia and Mexico are leading the way.

Eduardo Fox, Latin America consultant, private client and trusts and corporate at Appleby, explains that traditionally both countries have been at the frontline of the industry, due to their advanced knowledge of offshore and captive markets and have tax information exchange agreements (TIEA)'s in-effect with Bermuda and other global jurisdictions.

Although Colombia has the advantage at the moment, due to the consistency and unity of their markets, according to Fox, Brazil could have been the leader not only because it has the largest economy in Latin America but because they have the largest insurance market in the region.

According to the MAPFRE Economic Research in 2018, Brazil's premium volume was worth $57.57 billion, versus the second largest, Mexico, at $27.25 billion. In comparison, Argentina, Chile and Colombia come in at $13.93, $13.85 and $9.22 billion respectively.

Fox explains that Brazil's reinsurance monopoly stopped its international growth, however, with the help of business partners, there is a huge effort to revive the captives' interest and company formation.

He says: "We are also in renewed talks to finalise negotiations and put the signed TIEA into effect, in order to fully affect transactional work."

Argentina and Chile, both with TIEAs in-effect with Bermuda and possibly other offshore jurisdictions and neo-progressive industries' regulators, are next on the list and already making serious plans and enquiries, on which we are advising at the moment, according to Fox.

COVID-19

The captive market has been around for decades and went through different insurance cycles and pandemic risk events. Adriana Scherzinger, head of international business and captive services at Zurich, suggests that the growing interest in (re) insurance and risk transfer solutions means captives will remain, as they are, "a valuable mainstay for addressing the need in self-insurance".

Even before the breakout of the global COVID-19 pandemic, following a prolonged soft market cycle, insurance premiums had been rising.

In this environment, Latin American customers and brokers are facing increasing challenges.

Scherzinger says: "Increasingly, customers need to manage their incubating risks, increased deductibles, greater risk retention and increased reinsurance premiums as best as they can. These factors lead to increased use of captives, with new formations and expansion in several coverage lines."

images by elena_suvorova/stock.adobe.com

"We could cautiously aim for progress and growth in captive formations from the region, beginning in Q2 2021"

Even though few of the more recently created captives specifically cover pandemic-related losses, Latin American companies are making use of their captives which are designed to support them through the COVID-19 pandemic.

"The result is that the captive owners are better able to respond to their risks, which leads to better protection of their employees and assets," she adds.

Agreeing with Scherzinger, Fox predicts that there will be a promised rise to continue next year for a number of reasons.

Fox explains that the adaptation of Latin America's private sector to the "new normal" has created an unprecedented level of innovation in planning and strategy that will deliver positive results. He suggests that there is now more knowledge sharing and exchange of ideas between industry members.

"A good example of such cooperation can be seen within the Energy industry of Colombia, where the giant, mixed stock-holding corporation, Ecopetrol, was pivotal in the development and creation of, not only one of the first captives from that country, its own Black Gold Re but several other captives," he says.

Such influence continues to date and has given rise to a renewed view of captive formation planning, efficient offshore investment and formation of risk coverage vehicles.

Fox highlights that there has been a new wave of interest from Brazil, which has re-opened its market to the international reinsurance market, following the abolition of the 70-year-old reinsurance monopoly of the Instituto de Resseguros do Brasil (IRB), and has resulted in private/public sector joint ventures and their linking with global service providers, in order to form captives or other reinsurance vehicles outside of the ex-monopoly's influence.

Education is key

Latin America's captive industry has always struggled with a lack of education in the sector, which has been a contributing factor to its minimal growth over the years.

Alejandro Santos, Marsh advisory, analytics and captive solutions, Latin America and Caribbean (LAC), states that education related to captive concepts and risk management is one of the most important factors to help promote captives in the region.

Large multinational companies know captives quite well, with several of them operating their insurance programmes using captives as a means to reduce cost, increase flexibility on coverages, and provide alternatives for lack of capacity. However, Santos highlights that many local companies and smaller multinationals do not have a complete picture of how captives can create value for them.

Scherzinger also emphasises that education for growth in Latin America's captive industry presents a major opportunity.

There has been a lot of progress in the region over the last few years; knowledge of captives has deepened, and they have become more acceptable as a result.

With the rapid growth in captive utilisation, she comments: "A number of factors are behind this, such as the evolving role of risk management, changes in the needs of insurance and risk managers, increased education and promotion of the captive sector in the region among insurance carriers, brokers, captive managers and regulators."

Fox also weighs in suggesting that education is "crucial and useful" to both the public and private sectors in the region.

He explains: "During our business development visits, face-to-face meetings/presentations with potential private sector clientele, their risk managers and brokers/advisers, combined with discussions with the public sector, require clear and concise guidance on the usefulness and advantages of establishing a captive."

"For example, Bermuda negotiated and obtained the first offshore jurisdiction's TIEA with Mexico, which was also the first with a Latin American nation, through a robust learning process between the two governments' International Treaty teams. This TIEA was signed in October 2009 and came into effect in January 2011, and became the Organisation for Economic Co-operation and Development (OECD)-compliant international standard for the rest of Latin America."

Fox suggests that if the education process in Latin America was not patiently conducted, "Bermuda would not have obtained the reputation it earned from the governments of the region or the establishment of an estimated two-thirds of Latin America's world-wide captives".

Regulation

Aside from the previous challenges around education in Latin America, regulation has also been a key factor stubbing the growth of the region's captive industry.

Discussing if new regulations are being implemented to help the growth of captive insurance in Latin America countries, Scherzinger states that Latin American governments are taking a 'substance-over-form' approach with general anti-avoidance rules (GAARs).

The aim is to establish a clear direction to taxpayers so that they can define substance in the view of tax authorities.

This is currently being codified for the first time in Colombia, Peru and Brazil. Mexico has recently introduced GAARs to ensure that new captives are formed for business rather than tax reasons.

Scherzinger states that in this instance, business reasons are defined as objectives such as risk retention, actual risk transfer and asset protection. With any loan structure established through a captive, Mexican captive owners must record in writing the business reasons behind such lending.

She says: "Many Latin American governments are moving towards the promotion of transparency and exchange of information, particularly Colombia and Mexico. Again, Mexico also recently introduced transparency measures and reporting obligations to disclose information about 'reportable schemes', similar to the OECD guidelines for mandatory disclosures."

This will be effective from 1 January 2021 and the measures will define tax benefit as reduction, avoidance or deferral, with tax advisors as the primary responsible party.She highlights that one evolving focus of Latin American governments is on anti-deferral rules, to prevent the accumulation of wealth without appropriate reinsurance coverage. Unlike Chile and Peru, Brazil does not yet have these rules in place.

"Overall, the efforts of Latin American governments have the common objective of increasing the amount of tax they collect," Scherzinger adds.

Additionally, Juan Pablo Cuartas, Carpenter Marsh Fac, captives vice president, Latin America, states that they are not seeing specific captive-related regulation in the Latin America region.

However, he notes: "Some countries are relaxing their insurance and reinsurance regulations through law and tax reforms and that might eventually result in changes favouring the creation of captives."

In addition, Santos suggests that as each country in Latin America is facing its own political challenges, in many cases, law reforms and regulator decisions may come with consequences in terms of market capacity restrictions, so captives could be a way to add capacity for some specific lines, such as director and officer (D&O).

What next?

Although it may be hard to paint a picture of the future given the ongoing uncertainty around the pandemic, the outlook of the captive insurance market in Latin America remains positive with Scherzinger expecting to see increased captive utilisation across Latin America over the next 12 months.

A hard market could prompt risk managers to decide to finance more risk within captives because of traditional market underwriting restrictions or pricing.

Scherzinger highlights: "I am seeing more interest from customers looking to better manage their multinational exposures. They are looking for stability and certainty in these unprecedented and uncertain times."

Although Santos believes that there are many hurdles to tackle within the region, he predicts that in the near future, there will be many opportunities for new formations as well as more active utilisation of existing captives.Santos notes that the key to a successful project is to focus on the strategic use of the captive for risk management.

He explains: "This includes a risk retention review to determine whether a captive is feasible to assist in increasing flexibility in the underwriting process; accessing reinsurance market capacity or facilities; and reducing the cost volatility of insurance for the organisation."

Once we see scientific advance in controlling or minimising the effects of the pandemic and that there is more economic certainty in the world, Fox believes that all parties involved should emerge stronger and better equipped to recover Latin America's captive market.

Assuming a return to a 'new normal', after COVID-19, Fox concludes: "We could cautiously aim for progress and growth in captive formations from the region, beginning in Q2 2021 and exponentially growing after that." ■

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Bron Turner

Director, financial services audit
KPMG in Bermuda

Personal bio: *For the past seven years, I have resided in Bermuda. From my accent, you would know I hail from South Africa. I am passionate about learning, personally knowing more and sharing that with clients and colleagues. People interest me.*

I am enjoying creating the path for people to be their most successful selves, to work to their strengths, expand their comfort zone and to ultimately achieve beyond their expectations. Watching those I work with have success and knowing I played even a small part in that is fantastic. It is important to me to be accessible, to spotlight my energy on delivering on promises and contributing to a consistent standard of excellence.

Professional profile: *I have over 10 years of experience providing audit and advisory services to a variety of industries, and have been based in South Africa, London and Bermuda. I have a Bachelor of Commerce - Accounting (Honours) from the Nelson Mandela Metropolitan University in Port Elizabeth, South Africa (previously University of Port Elizabeth) and I'm a CA(SA) and certified public accountant.*

Since joining KPMG in Bermuda in 2013, My focus has been on insurance, reinsurance, and captive clients. My experience in the captive sector covers all structures across various traditional and emerging risks and I was a panellist at the Bermuda Executive Forum in Miami, speaking on captive solutions, strategies and innovations. I have also had the privilege of leading global multi-disciplinary and multi-location engagement teams.

How did you end up in the captive industry?

There are many reasons why I chose to come to Bermuda, but the key reason was its reputation as a world-leading financial services jurisdiction. Little did I know that Bermuda was, and still is, the leading captive domicile.

As a leading service provider, KPMG has afforded me the opportunity to work on a wide range of (re)insurance clients including captives. And having taken up a leadership role in the captive sector, I have the privilege of working closely with key stakeholders across the island, and globally.

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

That's a great question as I've been fortunate enough to have been involved in captive incorporations in new industries such as cannabis and crypto. However, the highlight for me has been working with Butler University's student-run captive. I'm a big supporter of 'on-the-job' learning, and what better way to learn how this industry works than incorporating and running your own captive insurance company.

I have the pleasure of hosting the students every year for an educational 'lunch & learn' session and it's been fantastic to see how engaged they are and the ideas they bring to the table clearly demonstrates the value of practical learning.

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

I think the Bermuda marketplace has been my biggest influencer. As the largest captive domicile in the world, Bermuda has provided me with the opportunity to see some incredible, innovative solutions. I'm able to collaborate with industry professionals that cover all aspects of a captive's lifecycle, and witnessed first-hand the pragmatism of the regulator bringing innovative solutions and tailored regulation to the market. It's an exciting space to be working in right now.

What is your impression of the industry?

Agile, able to adapt quickly, innovate and stay current.

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

Captive sector lead at KPMG in Bermuda and KPMG Islands Group; working closely with industry professionals across all service providers promoting the captive concept globally and educating aspiring professionals on the role a captive insurance company can play in an organisation.

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

Captives are a critical risk management tool for all types of companies.

As insurance rates harden, more companies are turning to captives to ease pressure on premium spend while retaining insurance protection and financial flexibility. Existing captive owners are re-looking at ways to better manage their current captive to its full potential. The opportunities are quite endless for anyone willing to think beyond the traditional. ■

I worked with Bron as our external auditor for multiple years. I found him to be highly responsive and open in his communications with us, which was critical in ensuring there were no surprises. He is receptive to feedback and seeks to make the process better each time. His technical knowledge of US Generally Accepted Accounting Principles and SOX matters allowed for a collaborative exchange of ideas and positions and was highly valued throughout the audit process.

A key component of our audit was the management of multiple jurisdictional audit teams. Through regular meetings and discussions, Bron managed those other teams successfully and kept us up to date on the status of the work. Bron was proactive in identifying possible issues or bottlenecks and worked with us and the other audit teams to resolve any matters in a timely fashion.

David Shead, assistant vice president, professional liability, Markel Speciality

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Artex Risk Solutions has appointed Adrian Lynch as executive vice-president North America, effective March 2021.

In this newly expanded role, Lynch will be responsible for the oversight and growth of Artex's captive management offices across the US, Bermuda and the Cayman Islands. He will report to Jennifer Gallagher, president of Artex North America.

Lynch will join Artex after fulfilling his contractual obligations to Aon captive and insurance management. He has served as captive strategy leader for the Americas and managing director of Aon Cayman for the past seven years.

As part of this transition, Kevin Heffernan, executive vice-president, has announced his plans to retire from Artex in March next year.

Heffernan has been with Artex for 15 years in a number of operational and domicile management roles.

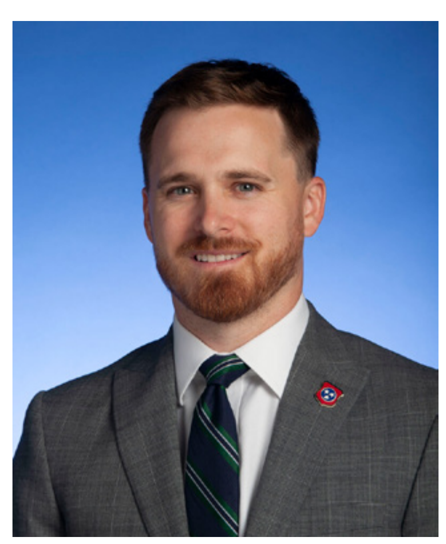
For the past 14 months, Heffernan has led captive operations across the US while overseeing day-to-day operations in our Mesa office.

Artex thanked Heffernan for his "innumerable contributions" and wished him well on the next stage in his life's journey.

Commenting on Lynch's appointment, Gallagher said: "Adrian Lynch brings us valuable expertise and is a proven leader in the captive insurance marketplace."

"Our growth strategy will be enhanced by his strong history in business development and sales. He is a great fit for our culture and I'm looking forward to working alongside him as we continue to build our enterprise," she added.

Last November, Lynch, who is a deputy chair of the Insurance Managers Association Cayman (IMAC), discussed with Captive Insurance Times about what the association is currently working on as well as developments in the Cayman captive insurance market. ■



Tennessee governor Bill Lee has appointed Carter Lawrence as commissioner of the Tennessee Department of Commerce and Insurance (TDCI).

Lawrence currently serves as chief deputy commissioner and chief operating officer at the TDCI.

In addition, he worked on Tennessee's economic recovery group throughout the COVID-19 pandemic, assisting governor Lee's efforts to reboot the state's economy.

Lawrence's appointment comes after Hodgen Mainda, the previous commissioner stepped down from the role after just one year.

Commenting on his new role, Governor Lee said: "Carter Lawrence is a proven public servant who has stewarded key priorities for the administration throughout his tenure and I'm confident he'll continue to support Tennessee businesses and consumers with integrity."

"We appreciate his dedication to the TDCI and look forward to his continued service," he added. ■

Gary Hall has been appointed as senior vice president and chief underwriting officer at Citadel Risk's American Millennium Insurance Company (AMIC).

AMIC, which was acquired by Citadel in October 2011, will be restructured into three business divisions, a current and prospective business unit, a financial and regulatory reporting unit and a run-off unit which will be responsible for the management of problematic and discontinued managing general agent (MGA) business and claims.

The company insures a large market share of New Jersey's taxis and limousines and is a niche writer of New Jersey trucking business, specifically owner-operator and small fleet motor carriers.

Based in the firm's New Jersey office, Hall will lead the current and prospective business unit.

Previously, he was part of the Citadel Risk Group, serving as president and CEO of Great Falls Insurance Company, until its renewal rights were sold to Eastern Alliance Insurance in 2017.

At Eastern, Hall managed the integration of Great Falls Insurance Company's book of workers' compensation business into the Eastern/Pro Assurance organisation.

Prior to that, Hall served as regional vice president of CNA, where he headed up the Boston and Hartford, Connecticut offices.

Commenting on his appointment, Hall said: "I am pleased to have the opportunity to rejoin the senior management team of Citadel to further develop AMIC's presence in the US. We face many challenges in today's environment, but with those challenges come opportunities. I expect to capitalise on those opportunities."

Tony Weller Citadel Risk Group's CEO, added: "Gary Hall is a proven resource within the Citadel Risk Group and for our counterparties. This is a very strong strategic appointment that can only take AMIC forward after a challenging year."

"The prospective business has been operating well since 2017 and Hall has been asked to continue and improve that process." ■

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