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20 January 2021 - **Issue 215**

New US administration proposals on captives

Teresa Jones, Diana Hardy and Daniel Milan of RH CPAs provide commentary on the new US President Joe Biden's major tax proposals and how they will affect the captive industry

Malta's captive position in Europe | Cyber coverage challenges | Latest industry appointments

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Davies acquires Northshore International Insurance Services

Davies Group has acquired Northshore International Insurance Services, a provider of audit, claims management and subrogation management and consulting services to the global insurance market. Based in Massachusetts and Illinois, Northshore and International Subrogation Management will join Davies' existing insurance services business unit, led by Steven Crabb, CEO of Davies.

As part of the acquisition, Steve Murphy, CEO of Northshore, will continue to lead the business and all Northshore employees will join Davies' global team.

In July 2020, Davies acquired Citadel Management Bermuda and Cedar Consulting (Citadel Risk), a captive management and consulting businesses of insurance and reinsurance specialists.

Commenting on the deal, Dan Saulter, group CEO of Davies, says: "I'm delighted to welcome Steve Murphy, David Ives and the Northshore team to Davies. Our insurance clients are seeking ways to manage cost and risk across their portfolios, and the new domain expertise that Northshore brings will allow us to better support our 750 plus clients around the world."

Saulter explains that in 2021, Davies will continue to invest and push for organic growth in all our core markets, as well as working with businesses via merger and acquisition "to ensure we can deliver for our insurance and highly regulated clients".

Steve Murphy, CEO of Northshore, notes: "We are extremely pleased that the Northshore team will be joining Davies and will be part of its investment and growth plans in North America. Davies' story of growth and investment in people and technology is one that resonated with the team at Northshore."

DARAG acquires US retailer

Legacy acquirer DARAG Group has concluded a transaction with a major US retailer to provide finality to its legacy workers compensation liabilities.

The transaction was conducted through one of DARAG North America's insurance entities.

Commenting on the transaction, Tom Booth, CEO of DARAG Group, says: "This transaction demonstrates DARAG's ambitions in the US market and how our diversified legacy platform can provide a variety of solutions related to insurance liabilities held by corporates in the US market."

Booth continues: "We are very pleased to be able to assist one of the major US retailers and offer them a clean and efficient exit from their legacy workers compensation liabilities which allowed them to free up a significant amount of trapped capital."

"It is more important than ever for companies to focus on their core business and improve operational efficiency. We believe there will be an increase in such transactions and our team will work closely with our clients to provide effective and advantageous solutions," he concludes.

In December 2020, DARAG completed an acquisition of Arisa Assurances, an automobile and travel insurance company previously owned by ADAC Versicherung.

DARAG declined to disclose the terms of the acquisition. ■

BevCap expands into North Carolina with new formation

BevCap Management (BevCap), an alternative risk programme manager with captives domiciled both on and offshore, has created HatterasRe. HatterasRe is an on-shore domiciled option for BevCap Health's medical stop-loss (MSL) programme.

Commenting on the formation, Mike Causey, North Carolina insurance commissioner, says: "I am delighted HatterasRe made the decision to domicile in North Carolina and I welcome them to our vibrant captive insurance programme."

"I am confident HatterasRe will experience tremendous success as they operate within our state's strong, healthy captive insurance environment. Welcome aboard," he explains.

Lance Abbott, president of BevCap Management, notes: "We are excited to officially become a North Carolina licensed captive insurance company."

Abbott adds: "Our team at BevCap is energised by what the future holds for HatterasRe, both with our existing MSL programme, as well as other bespoke captive programmes for our clients, programmes, and agency partners."

Recently, it was announced that Fleming Reinsurance, a Bermuda-based class 3A insurance company, established a custom reinsurance facility with BevCap P&C Protected Cell. ■

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CICA, VCIA and CIC-DC respond to proposed TRIP rule changes for captives

The Captive Insurance Companies Association (CICA), the Vermont Captive Insurance Association (VCIA) and the Captive Insurance Council of the District of Columbia (CIC-DC) have all submitted a response to a request for public comment regarding the participation of captive insurers in the Terrorism Risk Insurance Program (TRIP) established under the Terrorism Risk Insurance Act (TRIA).

In November 2020, the US Treasury Department requested comment on a number of proposals that would limit the access of captive insurers to TRIP.

The comments included information on the modelling of insured terrorism losses done by the Federal Insurance Office (FIO).

The modelling has shown that the coverage provided by captive insurers participating in TRIP is important to ensuring the effectiveness of the programme, especially with respect to nuclear, biological and chemical risks.

The associations also suggest that the access of captive insurers to TRIP would “seriously undermine” the stability provided by TRIA and be directly contrary to US Congress’s purposes in enacting and reauthorising TRIA.

It also highlights that captive parent revenues to captive insurers for the purpose of TRIP deductible calculation could make terrorism insurance provided by a captive insurer unaffordable for many insureds.

The associations explain that this would reduce the capacity for terrorism insurance and threatening the stability of the market.

Also, it notes that singling out captive insurers for the disclosure of sensitive information would be detrimental to TRIP and contrary to the purposes of TRIA.

Commenting on the responses, Dan Towle, CICA president, highlights that captive insurers have played a “critical role” in achieving the market stability TRIP was designed to ensure by providing insurance for terrorism risks for which coverage from other insurers is insufficient or unavailable. We were pleased to partner with VCIA and CIC-DC and other leading industry experts on a collective captive industry response.” ■

W. R. Berkley Corporation launches SPI in Bermuda

W. R. Berkley Corporation has launched Lifson Re, a special purpose insurer (SPI) registered in Bermuda and licensed by the Bermuda Monetary Authority (BMA).

Lifson Re has been capitalised with more than $250 million of equity from a small group of sophisticated global investors with long-term investment horizons, including a minority participation by W. R. Berkley Corporation.

The SPI will participate alongside traditional reinsurers in a broad portfolio of property and casualty reinsurance treaties ceded by W. R. Berkley Corporation's subsidiaries on a fully collateralised basis, which started 1 January 2021.

Lifson Re's assets will be managed by an affiliate of W. R. Berkley Corporation.

Robert Berkley, president and CEO of W. R. Berkley Corporation, says: "The creation of Lifson Re is part of an important strategic initiative to efficiently manage our risk and capital. This venture is a significant step forward in allowing us to partner with knowledgeable third-party capital that has extensive experience in the insurance industry."

"Through a unique long-term arrangement, Berkley will be the sole source of risk ceded to Lifson Re, providing Lifson Re's investors with access to an attractive, specialised and diverse book of insurance risk," Berkley adds. ■

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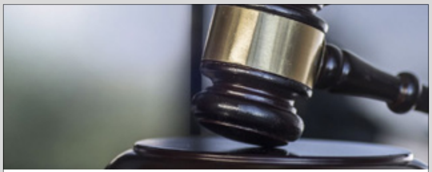


IRS wins micro captive court case

In the US District Court for the northern district of Georgia Atlanta division, District Judge Leigh Martin May has ruled in favour of the Internal Revenue Service against Moore Ingram Johnson & Steele, a law firm providing micro-captive advice.

Judge May adopted parts of the opinion and recommendation of Magistrate Judge Linda Walker as the opinion of the District Court.

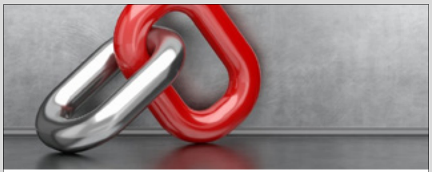
Read the full article online

Pro Global opens new Brazil office

Pro Global Holdings, global re/insurance outsourcing and consulting specialist, has expanded its services within Latin America with the opening of a wholly-owned office in Sao Paulo, Brazil.

The new office will provide services to the local re/insurance community across Pro's underwriting, claims, technical accounting, auditing and outsourcing verticals.

Read the full article online



MAXIS GBN partners with ICAS World

MAXIS Global Benefits Network has selected ICAS World, an employee assistance programme platform, as a global provider of counselling support and assistance.

As part of the partnership, MAXIS GBN's multinational clients will be able to choose to work with ICAS World, giving their employees access to counselling and work-life services including legal and financial advice, wellness coaching and family care support.

Read the full article online

BMS expands into Asia

Specialist insurance and reinsurance broker BMS Group has launched its Asia broking operations, headquartered in Singapore and with proposed operations in Hong Kong pending regulatory approval.

BMS Asia will initially focus on mergers and acquisitions insurance broking, aiming to enhance the group's existing capabilities in that class of business in London, Canada and Australia.

Read the full article online

R&Q acquires Marillac Insurance Company

Randall & Quilter II Holdings, the wholly owned subsidiary of Randall & Quilter Investment Holdings, has completed the acquisition of Marillac Insurance Company, the Cayman captive insurer of Verity Health System of California.

The transaction, which has received bankruptcy court and all regulatory approvals, was the second Cayman captive acquisition completed by R&Q in 2020.

Read the full article online

Fleming Re establishes reinsurance facility with BevCap

Fleming Reinsurance, a Bermuda-based class 3A insurance company, has established a custom reinsurance facility with BevCap P&C Protected Cell.

The facility will provide BevCap's members to eliminate seasoned risks by providing full economic and legal finality and on an annual basis.

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THE Bahamas
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Like its translucent waters The Bahamas is the Clear Choice for captive insurance.
Located just off the coast of Florida, The Bahamas captures everything that captive owners are looking for --- expertise that nurtures innovation to meet market needs and an idyllic environment to meet, live and do business.

Innovation ahead

Malta expects to expand its captive position in Europe with its unique PCC legislation and ongoing innovation focus

Malta boasts a strong economy, which was confirmed when it received an A+ rating from Fitch in January last year. This was affirmed again last month.

The country, like the rest of the world, was hit with the COVID-19 pandemic in early 2020, but industry experts suggest the pandemic had little impact on the captive market.

That being said, Malta only licensed one additional captive last year, according to Romina Bonnici, senior manager, regulatory and compliance at Mamo TCV Advocates.

But Bonnici suggests the number is "anticipated to increase" in view of the increased risk appetite which the Malta Financial Services Authority (MFSA) has recently shown in relation to captive structures. As we start the new year, Bonnici anticipates that the 'new normal' will prevail in 2021 with the emergence of technological innovations and new digital solutions which will further transform the way in which insurance business is carried out.

She adds: "This will apply to all types of reinsurance undertakings including captives."

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"Brexit should definitely be a boost for Malta to help it confirm itself as a captive destination of choice"

Elsewhere, although Malta only welcomed one new captive, Ronan Ryan, managing director, Robus Risk Services (Malta), says he is seeing an uptick in captive enquiries from a wide range of company sizes and industries.

Ryan says: "We expect to see existing captives being asked to participate in new lines of business and possibly more sophisticated reinsurance structures being involved."

"There may also be a demand to increase capital efficiency by way of loss portfolio transfers for older lines of business and this is where the run-off market will have a role to play," he adds.

Working to attract more business and ahead of competitors, the MFSA published its supervisory priorities for 2021.

The five cross-sectoral priorities included corporate governance and culture; financial crime compliance; the impact of COVID-19; ICT risk and cybersecurity; and fintech and innovation.

Edmond Zammit Laferla, partner at Mamo TCV Advocates, expects that the MFSA will prioritise the need for reinsurance undertakings including captives "to align their internal control framework to meet with the MFSA's expectations".

Brexit

As of 1 January 2021, the UK officially left the EU. Being a member of the EU, the MSFA highlighted in its priorities for this year that "it is not excluded that some market volatility and disruption to financial services could arise from the UK's exit from the single market at the end of the transition period".

But MSFA explains that it will continue engagement with the industry to mitigate the risk posed to the economy, consumers, the financial system and the regulatory environment.

In preparation for a hard Brexit, Bonnici states that during 2020, Malta continued to see a further influx of Brexit-driven applications/licenses, with some international entities choosing to set-up a standalone insurance company while other UK or Gibraltar-based entities taking the route of creating a protected cell into existing protected cell company (PCC) structures.

Ryan points out that there has been a particular interest for cell insurance structures for smaller books of EU business, but by far the most significant interest has come from the intermediary market.

Speculating on whether Malta will benefit from Brexit as a captive domicile, Ivan Grech, chief operations officer at Finance Malta, states: "Brexit should definitely be a boost for Malta to help it confirm itself as a captive destination of choice."

Grech explains that more traditional 'captive jurisdictions' which fell under the umbrella of the UK are now ruled out of the race when it comes to EU risks.

With the general captive destinations of choice within the EU being limited, and Malta being the only one with PCC legislation, Grech says: "2021 looks upbeat for Malta in relation to captives seeking solutions for their EU risks."

But it isn't all coming up roses, Zammit Laferla suggests that Brexit will also create challenges particularly in view of the insurance industry's historical ties with the UK.

For example, Maltese insurance intermediaries will not be permitted to use the services of UK intermediaries unless the latter obtain an insurance intermediary license from an EU-based jurisdiction.

"To date, not all UK intermediaries have set-up an EU-based counterpart and Malta did not implement a temporary permission regime for the insurance sector which would have enabled such UK entities to continue certain business after 1 January 2021," Zammit Laferla adds.

Technology

In 2018 it was reported that the Maltese government was working on initiatives surrounding blockchain and emerging technologies.

On 20 July 2018, the Maltese Parliament approved three new pieces of legislation; the Malta Digital Innovation Authority Act; the Virtual Financial Asset Act and the Innovative Technology Arrangements and Services Act.

Bonnici explains that they laid the foundations for Malta's so-called 'innovative technology' sector, and established the smallest EU member state as one of only a handful of jurisdictions worldwide with a fully regulated industry for businesses operating in the distributed ledger technology (DLT) sector.

As blockchain requires heavy investment in information technology infrastructure, Zammit Laferla suggests it will take a few years until Malta will see a prevalent use in the insurance industry.

However, he highlights, over the long term not having blockchain technology will be a competitive disadvantage.

Zammit Laferla adds: "With collaborative regulators, educated workforce and local expertise, Malta is well placed to become the natural hub for this new technology-based industry."

In May last year, Babel Cover, a technology startup, started the development of its range of digital first inter-connected financial services products, following its announcement for the project in December 2019.

The intention of the pilot was to perform live and controlled product and technology testing laying the framework for the release of new products and more countries.

But Ryan suggests the initial influx of new entrants has been less than expected, with progress moving at a slow but steady pace.

He adds: "It is still very much on the government agenda and with such investment a flourishing blockchain and digital economy sector can be achieved."

PCC

By being a member of the EU, like the 27 other countries in Europe, Malta has to follow the same guideline, such as Solvency II. However, by having PCC legislation, Malta has something that makes it stand-out in the competitive European market.

Malta is the only full EU member state with protected cell legislation, which came into force in 2004. This is used for captives, direct insurance including consumer business, reinsurance, brokers and insurance managers, all regulated by the MFSA.

Reflecting on how crucial the PCC legislation is for Malta, Julian Boffa, regulatory advisor at GANADO Advocates, states many companies are opting for Malta as their base jurisdiction because of the attractiveness of the PCC legislation and at least its availability in Malta.

He adds: "It certainly gives Malta that competitive edge."

PCC legislation is considered to be "one of the crown jewels of Malta's insurance industry", according to Bonnici, which sees Malta as the only EU jurisdiction having such legal framework in place with over 15 years of practical experience.

She adds: "In addition, the application of the securitised cell company concept makes Malta the first EU member state to legislate for the use of protected cell companies as securitisation vehicles."

Looking at whether Malta will explore more into the insurance-linked securities (ILS) market in more depth, Grech notes the relevant legislation is already in place in Malta, with the first structures being set up in 2020.

"There is an opportunity for small to medium-sized deals which can benefit from lower set-up costs and faster licensing turnarounds, where timing is a fundamental factor especially in the ILS world"

The legislation is there, Boffa explains, it is more for the ILS market to explore the opportunities which Malta offers, rather than the other way round.

With the first structures already 'testing the waters', the ILS market is one major area expected to really take-off for Malta this year.

In addition, Zammit Laferla notes: "There is an opportunity for small to medium-sized deals which can benefit from lower set-up costs and faster licensing turnarounds, where timing is a fundamental factor especially in the ILS world."

"While Malta has the necessary regulatory framework, it is still waiting for that breakthrough which will put Malta on the ILS map," he adds. ■

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TRUIST

New US administration proposals on captives

RH CPAs' Teresa Jones, Diana Hardy and Daniel Milan provide commentary on the new US President Joe Biden's major tax proposals and how they will affect the captive industry

It is well known that in many instances captives can be efficient tools for businesses to finance their risk as well as add profit to their bottom line. The consideration of captives has grown as businesses are evaluating their avenues for retaining risk versus offloading it to a commercial carrier, and in many instances, commercial coverage is just not available.

A major component of risk financing is the tax effect. Given the results of the recent election, it is important to consider the possible effects of proposed tax plans likely introduced by the new Joe Biden administration. There are of course many unknowns, but here are a few components of the plan and their impact.

It is more likely than not, that the Biden plan will have a positive impact on the tax effects of proper risk financing utilising a captive strategy, but a larger exit tax if not properly planned.

US President Joe Biden's major tax proposals include:

Higher maximum rate: The Biden tax plan, subject to change, may raise the top individual federal income rate on ordinary income and net short-term capital gains back to 39.6 per cent, which was the highest rate prior to 2018.

This one is pretty simple if there was a deduction generated at the 39.6 per cent rate, which in theory generates a larger benefit than if the top rate was lower, assuming the insured is a pass-through entity. Therefore, a deduction by paying a premium to a captive is much more valuable.

Itemised deductions: Biden's plan would limit itemised deductions to 28 per cent for high income individuals. Referencing a higher maximum rate above, an itemised deduction would save 39.6 cents for each dollar of deductions, under this plan it would be limited to 28 cents.

For upper-income individuals, Biden would reinstate the pre-Tax Cuts and Jobs Act (TCJA) rule that reduces total allowable itemised deductions above the applicable income threshold. Allowable deductions are reduced by 3 cents for every dollar of income above the threshold.

The impact of this change is not as large as some of the other potential changes we will discuss, but basically high-income individuals, some who may own captives will have their itemised deductions limited resulting in a much higher tax bill.

Higher maximum rate on long-term capital gains: Biden will likely be increasing the long-term capital gains and qualified dividend rate substantially. Currently, the maximum capital gain/qualified dividend rate is 20 per cent plus a net investment income tax of 3.8 per cent for a total of 23.8 per cent. On individuals with incomes of over $1 million there would be no advantageous tax rate for long term capital gains (typically long term capital gains and qualified dividends are treated the same, but in the proposed plan this is an unknown). Under the Biden plan, net long-term gains (and presumably dividends) collected by those with incomes above $1 million would be taxed at the same 39.6 per cent maximum rate that is proposed for ordinary income and net short-term capital gains, plus the net investment income tax of 3.8 per cent for a total of 43.4 per cent.

Since the wind down of a captive or a dividend paid out of a captive is typically either a long term capital gain or a qualified dividend (foreign captives which have not made the 953(d) election do not get the qualified dividend rate, and there are myriad other issues for another day) the planning for declaring and paying dividends to owners in years which the owner has an income lower than the threshold amount can yield substantial savings. This planning component will need to be evaluated every year. The major impact is in the wind-down phase. There are many options for winding down a captive in a tax efficient manner, such as re-purposing. An interesting component will be the impact on the personal holding company tax for c-corporations or excess investment earnings tax for a s-corporation, both of which are unknown. As important as exit planning is in the captive formation stage, it will be important to engage the captive's tax advisors in the feasibility phase.

Higher Social Security taxes for upper-income individuals: Employees pay 6.2 per cent via withholding from paychecks, and employers pay the remaining 6.2 per cent. Self-employed individuals pay the entire 12.4 per cent out of their own pockets via the self-employment (SE) tax, which may apply to passthrough LLCs. In 2021 the ceiling for being subject to this tax is $142,800, therefore wages and earnings in excess of that amount are not subject to the tax. Earnings from s-corporations are not subject to this tax.

The Biden tax plan would restart the 12.4 per cent social security tax on wages and income above $400,000 and likely include earnings from s-corporations if you receive a wage and are an owner.

The effect essentially increases the maximum tax rate on high income owners of pass-through entities from 37 per cent to 39.6 per cent plus another 12.4 per cent for a maximum rate of 52 per cent which makes any deduction for paying a premium much more advantageous and will make captives as a tax-efficient method for financing risks much more attractive.

The arbitrage spread of the maximum individual tax rate of 52 per cent (which is also how passthrough entity owners pay tax) compared to the maximum long term capital gains rate of 43.4 per cent for a difference of 8.6 per cent is not terribly different from the arbitrage spread pre-Biden plan of a maximum rate of 37 per cent compared to the maximum long term capital gains rate/qualified dividend rate of 23.8 per cent for a spread of 13.2 per cent. There is likely to be additional considerations for high income earning individuals who will be subject to this tax to elect to be a c-corporation, if eligible.

The corporate tax rate: In 2018 the corporate tax rate changed from a graduated rate with a maximum of 35 per cent to a flat rate of 21 per cent as a result of the 2017 TCJA. The Biden plan would increase the corporate tax rate to 28 per cent.

The impact on captives would be an increase in taxes paid on the same amount of income. This seems pretty straightforward and simple, however, it also impacts the deferred tax calculations. It will have a positive impact on the surplus/net worth of captives which have a deferred tax asset at the time of tax rate adjustment or a negative impact on the surplus/net worth of captives which have a deferred tax liability at the time of adjustment.

For captives the impact is quite large. Insurance companies have advantageous tax rules such as the ability to deduct reserves prior to the actual loss being paid, which is not allowed in typical non-financial institution business enterprises. For example, assuming a construction company had a workers compensation claim which is likely to be paid over five years, an insurance company/captive can deduct the full amount of the reserve (subject to loss discounting) in the year of the loss. However, if the construction company did not have a captive, they would only be able to deduct the loss as it was paid. There is a major acceleration of a tax deduction by having a captive which is more advantageous at a higher corporate income tax rate.

For captives who make an 831(b) election, the Biden tax plan will be even more advantageous. The 831(b) election is for captives with premiums of $2.3 million or less, indexed for inflation. An insurance company electing 831(b) is taxed on its net investment income at the corporate rate but not on underwriting gains.

Given the increase in tax rates both corporate taxes and passthrough entities the tax effect of this election becomes much greater. For passthrough owners we discussed the maximum rate being 52.4 per cent compared to the previous maximum rate of 37 per cent, therefore the deduction of $1 million dollars of premium results in tax savings of $524,000 compared to $370,000 under the prior rates.

For c-corporations the maximum rate will be 28 per cent compared to the previous rate of 21 per cent, therefore a $1 million of premium results in tax savings of $280,000 compared to $210,000 under the prior rates.

Summary

The tax effect of the proposals will likely result in larger upfront savings by utilising a captive as part of the risk financing strategy of a business who qualifies: this combined with the time value of money effect (a dollar today is worth more than a dollar tomorrow) compounds the tax benefits much more so than the increase in the exit tax, which can be planned around in many situations.

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Diana Hardy
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RH CPAs

Daniel Milan
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RH CPAs

Better when working together

As firms moved to a work-from-home environment in response to COVID-19, cybersecurity has been highlighted as an increasing challenge. Industry experts suggest while captive coverage is tailored to the needs of the business, a commercial policy is just as important

Since March 2020, there has been a huge increase in the number of people working from home due to the ongoing COVID-19 pandemic. However, due to how quickly government decisions were made, most businesses were left unprepared.

One of the biggest challenges for companies was cybersecurity and data breaches. A recent FBI's Cyber Division report found that the number of cyberattacks is up to 4,000 a day, representing a 400 per cent increase of pre-COVID-19 numbers.

Elsewhere, a report from IBM and the Ponemon Institute showed that the average cost of a data breach has risen to $3.92 million.

It is not just an issue for large corporations, small businesses are also not immune to cybercrime. According to data from Accenture, 43 per cent of cyberattacks are aimed at small businesses and cost an average of $200,000.

When describing trends he has seen in cybercrimes since the shift to a working-from-home model, Oliver Delvos, global cyber underwriting manager, commercial insurance at Zurich Insurance Group, explains there has been a rise in more sophisticated phishing campaigns, "especially during a time when companies are rolling out new processes and procedures which are communicated via email".

Remote working requires seamless implementation of security protocols and processes, including multi-factor authentication, advanced password controls as well as properly configured and patched systems. Delvos highlights that if those measures are not implemented properly, this might lead to an increased vulnerability to cybercrime.

Although many firms use commercial cyber policies for coverage, there can be gaps, leaving firms exposed. Randy Sadler, principal with CIC Services, explains that some commercial policies will not cover losses that occur due to employee error.

Sadler explains this can be problematic as he quotes a study by IBM which stated that human error accounts for 95 per cent of data breaches.

Another gap that is becoming common is social engineering fraud. Dustin Partlow, senior vice-president at Caitlin Morgan Captive Management, states: "I hear of more and more companies getting wire transfer or payment instructions from vendors and end up paying significant amounts to the wrong person."

Social engineering is one of those coverages that generally is part of the crime policy and not the cyber, but it seems there is an increase in the number of incidents occurring.

Partlow explains: "Companies think they are covered only to find out that the cyber policy they purchase does not cover it."

The world has advanced so much over the last decade, especially in technology, but has the rise of new technologies has made it harder for firms to gain specific coverage against cyber-attacks?

Delvos notes that the rise of new technologies and processes is an integral part of the development of a company and the economy as a whole.

He says: "As insurers, we need to respond to that and develop in parallel and find solutions. It is important to bear in mind that technology for protection also develops and improves."

Also weighing in, Sadler says the nature of cyber crimes, which is complex and rapidly changing, makes it difficult to insure against in the commercial market.

This is where captives come into play. Sadler explains that captives have the unique ability to write broader coverages with fewer exclusions that can be interpreted based on the 'spirit of the coverage' versus the specific 'letter of the coverage' resulting in better protection in the ever-shifting sands of the cybersecurity marketplace.

Loading…. captive coverage

In response to the hardening cyber risk insurance market, existing captive owners are looking to increase the use of their captives to include additional risks while others are exploring setting up new captives, according to Grant Maxwell, global head of alternative risk transfer at Allianz Global Corporate & Speciality (AGCS).

Maxwell reveals that cyber is one of the top risks that regulators see captives writing more frequently.

The use of a captive for cyber risk coverage can provide various benefits that generally come with self-insurance but also additional ones.

While a captive is a very valuable tool that can be utilised in coordination with a company's commercial cyber insurance policy to enhance coverage, fill in gaps in commercial coverage, and enhance limits afforded, Partlow suggests that a captive is not a better option than commercial insurance for cyber risk.

He explains: "The reason I believe a captive is not a better option than commercial insurance is that when a cyber incident does occur, the vast tools offered by the commercial insurance carrier are invaluable."

A significant portion of the claims costs for a cyber claim relate to the identification of files impacted, and notification of third parties whose data may have been compromised.

Access to the tools offered by the commercial carrier in regards to the identification of files impacted, notification of those parties affected, Partlow suggests will go "a very long way in terms of controlling the ultimate costs of the claim".

"A captive can definitely pay out a claim no problem, but when funding cyber risk through a captive, if a claim occurs and there is the need to notify third parties of a data breach my concern is that generally the parent company and captive do not have these tools in place that the commercial carrier does," Partlow adds.

Agreeing, Sadler says that CIC Services does recommend "an either-or approach when a both-and approach might suffice".

He adds: "We usually recommend our clients blend a commercial cyber policy with a captive policy. Captives can address losses associated with complex threats and insure any gaps or exclusions in commercial policies, so they're an ideal vehicle to protect businesses."

Although it's recommended to have both a captive and commercial policy in place, some firms still continue business without either.

Sadler suggests one of the reasons for this is that many businesses and business owners struggle to pay insurance premiums for things they don't fully understand.

He notes: "Everyone knows what a car wreck looks like. We all know what a destroyed property looks like. Most know what an injured worker looks like. Many business owners don't fully appreciate what a cyber loss 'looks like' unless it has happened to them."

With the procurement of cyber insurance increasing over the last several years, Delvos suggests that many companies realised last year how their entire value-chain depends on smoothly running IT.

However, despite this, he explains that many companies are still in the process of understanding/quantifying their cyber exposure and reviewing scenarios that could impact them severely.

"Risk transfer is only one part of the solution, and only comes at the end of the entire self-evaluation process," Delvos believes.

Writing cyber coverage

With businesses still reviewing how cyberattacks could affect their business, Sadler says it's "critical" for companies to recognise that the stakes are high and cyber risk is ever-evolving, so companies need a robust risk management strategy.

"This is not a place to cut corners. Businesses need to combine both active and passive measures and comprehensive insurance coverage that addresses all facets of risk. This creates an opportunity for captive insurance which can not only be written to fill exclusions and gaps, but the accumulated loss reserves provide financial aid to weather a future crisis," he adds.

It's not just about the business understanding the insurance coverage. Paul Wöhrmann, head of captive services for Europe, the Middle East and Africa, Asia Pacific and Latin America, commercial insurance at Zurich Insurance Group, suggests it is important for a risk manager and captive owner to select a professional fronting partner who is experienced with the complex captive reinsurance world and can provide access to a large international insurance network.

Wöhrmann adds: "In particular for cyber captive involvements, we have experienced that the pricing of appropriate captive premiums requires a lot of expertise on the part of the fronting insurer. Finally, professional insurance claims management expertise is key for captive involvements." ■

Bauknight Pietras & Stormer (BPS) has appointed Beth Bauknight to lead its tax department and David Ward to lead its audit/assurance department.

Bauknight is a BPS shareholder and has been with the firm for 26 years.

As a tax director, she will be responsible for implementing the firm's strategy, overseeing operations, client relations and quality assurance; and directing team members.

Bauknight focuses her practice on proactive tax, estate, and succession planning for individuals and businesses. She works closely with both beneficiaries and fiduciaries of trusts and estates as well as high net worth clients.

Ward, who is a partner and has been working at BPS for 15 years, previously served as the assistant director of the audit department.

He will also share the same duties as Bauknight for the audit and assurance department.

Ward's practice is focused primarily on property and casualty insurance, including regional and national commercial carriers, mutual insurers, captive insurance, reciprocals, and risk retention groups domiciled throughout the US.

He consults on a national basis with clients considering establishing captive insurance companies on the issues of feasibility, formation, operations, and governance.

Russell Bauknight, managing shareholder at BPS, explains: "Both Beth Bauknight and David Ward were chosen based on their leadership skills and commitment to implementing programmes designed to optimise both client and team member experience and satisfaction with BPS." ■

Michael Rindenau has joined RMC Group as director of marketing, property and casualty division and he will also contribute to RMC's captive and health operations.

Rindenau will be responsible for the overall management of RMC's property and casualty (P&C) division, including developing underwriting relationships with carriers.He will bring over 30 years of experience in P&C with him to RMC Group.

Previously, Rindenau worked for the Insurance Office of America in New Jersey where he

led a P&C team in preparing submissions for new and existing large commercial businesses. He also served as a liaison between multiple offices and national insurance carriers, establishing contracts and long-term commitments.

Mark Elwell, executive vice-president of risk at RMC Group, notes: "Michael Rindenau recognises the need for creative solutions during this period of rising costs and limited coverage availability. His experience, knowledge of the market, and relationships with carriers will be invaluable in helping our clients find the right coverage." ■

Holmes Murphy has added two new members to its board of managers and one new member to its executive committee.

Serving a two-year term, the new members of the board of managers include Roger Cornett, senior vice-president at Cobb Strecker Dunphy & Zimmermann and Jeff Spencer, senior vice president, employee benefits at Holmes Murphy. Both Cornett and Spencer will serve a two-year term on the board.

Elsewhere, Jay Reavis, senior vice-president, property casualty brokerage sales at Holmes Murphy, will join as a member of the executive committee.

Dan Keough, chairman and CEO at Holmes Murphy, says: "The three new members of our leadership team have each made tremendous contributions toour organisation."

"We are excited to see them continue to make an impact and help carry on our tradition of being fiercely independent and employee-owned," Keough adds. ■

Ellen Dunkin leads the Risk Management Society (RIMS) as president for the 2021 term.

Dunkin is the senior vice-president, general counsel and chief risk officer for Amalgamated Life Insurance Company in New York.

She has more than 25 years of experience driving strategic and enterprise risk management programmes, as well as overseeing legal initiatives for companies including: Crump Group, Marsh & McLennan Companies, Willkie Farr and Gallagher.

Dunkin was employed by RIMS from 1998 until 2007, serving as the RIMS' general counsel and director of government affairs.

She has been a member of RIMS for nearly 15 years and was actively involved with RIMS New York chapter, serving as its president from 2015 to 2016.

She joined RIMS' global board of directors in 2017 and has been the liaison to the RIMS finance, annual conference programming, membership, student involvement and Canada committees and councils.

In addition, there are three new members to the RIMS board including Kevin Bates, group head of risk and insurance at Lendlease; Christy Kaufman, head of governance, risk and compliance at American Family Ventures; and Penni Nelson, assistant vice-president, risk management at Hillwood, a Perot Company.

Commenting on her new role, Dunkin says: "Risk professionals from around the world met 2020's challenges with fervor, delivering critical insight that allowed their organisations to adapt and emerge stronger."

"However, it's up to us, risk professionals, to go one step further. We must continue to promote the value that we add, our impact on business development and position ourselves as indispensable strategic advisors who are pivotal to future success. As RIMS president, I want to continue what my predecessors started. With the support of an exceptional group of board directors, passionate volunteers and dedicated staff, this society will remain focused on developing resources to address evolving risks and that empower this professional community to demonstrate just how indispensable they really are," Dunkin concludes. ■

Pinnacle Actuarial Resources has named Aaron Hillebrandt a principal and consulting actuary.

Hillebrandt, one of the firm's leaders in the captive industry and alternative markets, serves as an appointed actuary for several insurance companies, captive insurance companies and self-insured entities.

His experience includes loss reserving and statements of actuarial opinion, funding studies, loss cost projections, captive feasibility studies and personal and commercial lines ratemaking.

Currently, Hillebrandt serves as director and consulting actuary and as a member of Pinnacle's executive team leading the firm's marketing function. He joined Pinnacle in 2013 and has been in the property/casualty insurance industry since 2007.

Managing principal Joe Herbers says that since joining Pinnacle, Hillebrandt has continually provided "outstanding customer service, delivered exceptional work products and demonstrated the highest level of professionalism".

"Pinnacle's goal of Commitment Beyond Numbers requires teamwork, professionalism and superior communication, among other skills. Hillebrandt brings all of these important traits to his work at Pinnacle and the work he does on behalf of his clients. He will be a great addition to our leadership team," Herbers adds.

In addition to his role at Pinnacle, Hillebrandt is a chair on the Casualty Actuarial Society's (CAS's) syllabus and examination committee, a vice chair on the CAS annual and spring meeting planning committee and a faculty member on the American Academy of Actuaries (AAA) seminar on effective property and casualty loss reserve opinions.

He also serves on Illinois State University's Katie School of Insurance advisory board and other CAS and captive insurance association committees. ■

AXA XL has promoted Jason Mandik, Sandra Clarke and Jessica Carpita within its US risk management team.

Mandik has been promoted to vice president, head of the Chicago-based US risk management team in the US Central Zone, overseeing a team of regional underwriters. He joined AXA XL in May 2019 as a senior commercial casualty underwriter for US risk management, specialising in workers' compensation, commercial auto and general liability.

Clarke has been named vice president, national practice leader for temporary staffing. She has held several diverse roles in her decade of insurance experience, including underwriting, claims and as a casualty broker.

In her new role, she will continue to work with temporary staffing clients across the AXA XL primary casualty portfolio.

Carpita has been appointed senior casualty underwriter, US risk management.

Joining AXA XL in 2013 as a property underwriting assistant, she developed her career within AXA XL to her new role as senior casualty underwriter, US risk management.

Based in Chicago, both Clarke and Carpita will report to Mandik.

Chris Kopser, president, primary casualty, Americas at AXA XL, says: "Each of these individuals has contributed to the success of our US risk management portfolio in the US Central Zone during a very challenging year." ■