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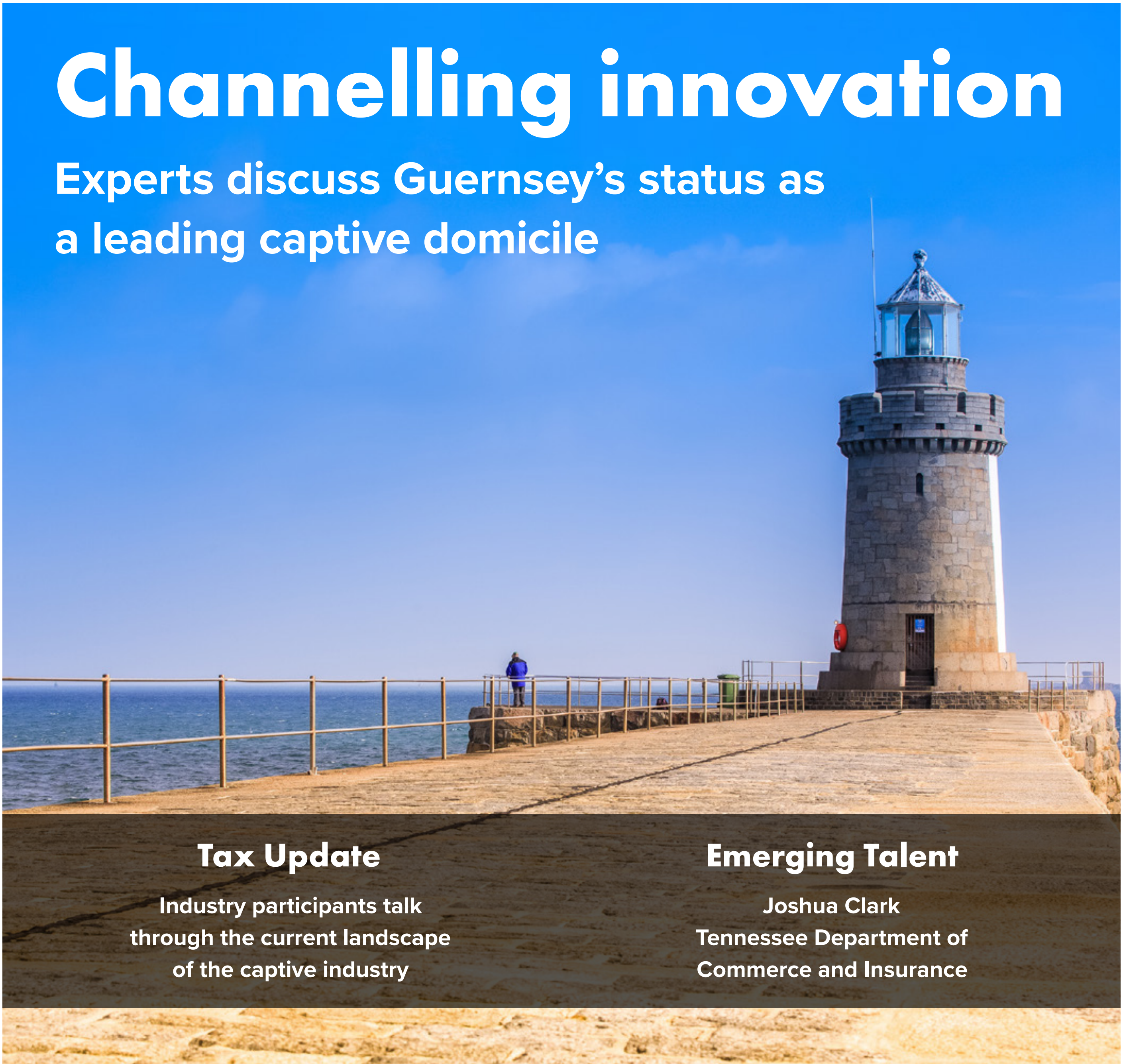

Channelling innovation

Experts discuss Guernsey's status as a leading captive domicile

Tax Update

Industry participants talk through the current landscape of the captive industry

Emerging Talent

Joshua Clark
Tennessee Department of Commerce and Insurance

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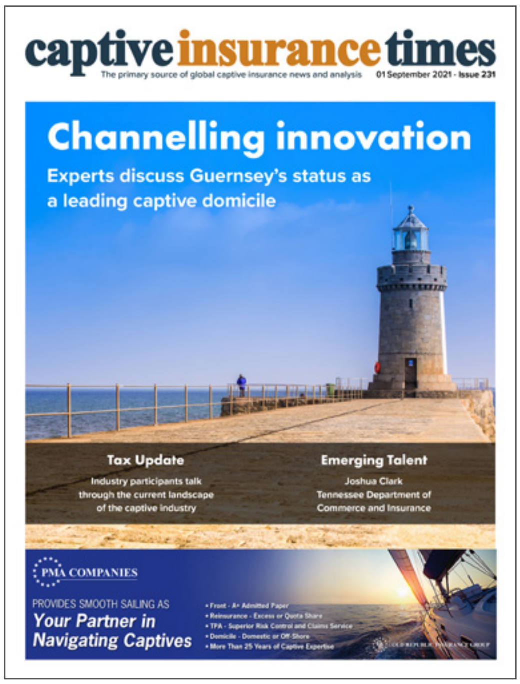

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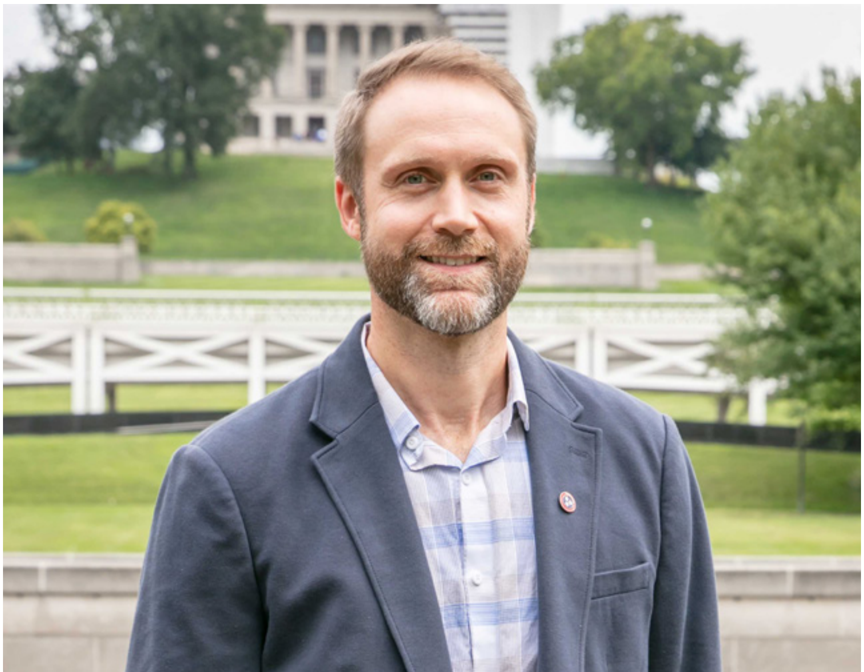

NAIC renews accreditation of DC insurance department

The District of Columbia Department of Insurance, Securities and Banking (DISB) has received a five-year accreditation renewal from the National Association of Insurance Commissioners (NAIC).

The association, which is led by chief insurance regulators from the 50 states, the District of Columbia and five US territories, renewed the accreditation of the department's insurance and risk finance bureaus.

This demonstrates that DISB meets national standards concerning the regulation of the financial conditions of insurance companies, with the insurance and risk finance bureaus regulating approximately 1,300 insurance companies.

The regulation of DC-domiciled insurers is conducted through financial analysis to ensure solvency and regulate rates, forms and market conduct.

The bureaus are also responsible for the regulation of 167 captive insurance companies and risk retention groups.

Karima Woods, commissioner of DISB, comments: "Accreditation from the NAIC ensures that District of Columbia policyholders are receiving the highest level of service from domestic insurance companies that are being held to rigorous standards."

"District of Columbia insurance buyers can be confident in their purchase knowing their insurance industry is well-regulated in conformance with national standards and best practices."

Gallagher to acquire WTW treaty reinsurance brokerage

Arthur J. Gallagher is set to acquire Willis Towers Watson's treaty reinsurance brokerage operations in a transaction expected to be completed in Q4 2021. Under the acquisition agreement, advised by Morgan Stanley, Gallagher will pay an initial gross consideration of US$3.25 billion, with a potential additional consideration of $750 million depending on third-year revenue targets, as integration is expected to take around three years. The acquisition includes all of Willis Re's treaty reinsurance brokerage operations, which generated $745 million in estimated pro forma revenue for year end 31 December 2020 and operated in 24 countries representing over 750 insurance and reinsurance company clients.

Global insurance brokerage and risk management firm Gallagher will benefit from the acquisition in terms of an expanded global value proposition within reinsurance brokerage, as well as a wide range of analytics capabilities, such as actuarial services, catastrophe modelling and rating agency analysis.

Gallagher will also gain from the addition of a management team, consolidated relationships with leading insurance carriers, and leveraging of its alternative risk and insurance-linked securities business.

J. Patrick Gallagher, chairman, president and CEO, comments: "Broadening our reinsurance brokerage offerings has been a strategic objective at Gallagher and this acquisition will significantly enhance our global value proposition."

"We were very impressed with the Willis Towers Watson reinsurance professionals we met during our initial due diligence and strongly believe a combination will significantly enhance our offerings to clients and prospects," he explains.

The acquisition follows the termination of Willis Towers Watson's proposed business combination with Aon, under which the European Commission stated divestment conditions of the former's commercial risk business to Gallagher. ■

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DISB is subjected to an independent review and recommendation every five years under the NAIC's accreditation programme to ensure it meets financial solvency oversight standards.

Washington State drafts captive law implementation

Washington's Office of the Insurance Commissioner has proposed draft regulations for the implementation of its new captive insurance law.

Passed in May, the legislation allowed for the creation of a framework to register eligible captive insurers in the State of Washington in order to impose a two per cent premium tax on the risks covered by premiums allocable to the state during the previous calendar year.

The stakeholder draft determines an eligible captive insurer as one that provides property and casualty insurance only to a captive owner or its affiliates. Medical stop loss insurance and workers' compensation directly covering the worker are excluded.

However, the draft notes that an eligible captive insurer may act as a reinsurer to assume risks from other insurers in these areas of coverage.

The registration fee will be set at $2,500, while registration must be renewed annually by 30 June.

The renewal process requires insurers to continue to satisfy eligibility requirements, as well as to disclose their methodology and analysis used to calculate their risks premium allocation for the previous year.

The stakeholder draft also states that tax must be paid annually by 1 March.

It notes that captive insurers that fail to report premiums and pay taxes for Washington risk between 1 January 2011 and 31 December 2020 by 1 March 2022 will be subjected to fines and penalties as unauthorised insurers.

CVC Partners acquires RiverStone Europe Group

Private equity and investment advisory firm CVC Capital Partners has acquired run-off reinsurance and acquisition group RiverStone Europe from Fairfax Financial Holdings.

The RiverStone Europe Group will be rebranded as RiverStone International, and will continue to act as a global consolidator of non-life legacy and run-off insurance books, including insurance and reinsurance portfolio transfers and company purchases.

RiverStone holds a leading position in the UK and Lloyd's markets, with services that include helping insurers release capital, reduce volatility, and ensure operational efficiency.

In March of this year, RiverStone completed a reinsurance-to-close transaction of the legacy liabilities of Syndicate 4000, managed by a subsidiary of Hamilton Insurance Group.

Following the acquisition, Preben Prebensen has been appointed as independent non-executive chair of RiverStone's board.

He has served as CEO of Close Brothers Group for 11 years, and previously held the position of chief investment officer and member of the group executive committee at Catlin Group, another international non-life insurer.

Nick Packer has also been appointed as independent non-executive director of the group board. He is a co-founder and chief operating officer of non-life run-off specialist firm Enstar.

Luke Tanzer, CEO of RiverStone International, comments: "We are delighted to partner with CVC in this next chapter of our development, and look forward to pursuing our growth and development plans with the benefit of their extensive industry experience, global reach and long-term capital."

Peter Rutland, managing partner and head of financial services at CVC, adds: "RiverStone's leading position in its markets, embedded cash flows and predictable financial profile means it is ideally suited to our strategic opportunities platform."

Risk Strategies expands medical malpractice offering with acquisition

Speciality insurance brokerage and risk management company Risk Strategies has acquired Danna-Gracey, a medical malpractice insurance specialist.

Danna-Gracey is the largest Florida-based independent agency specialising in insurance coverage placement for doctors and other healthcare providers. It also offers alternative risk financing, for example, through risk purchasing groups.

Risk Strategies' healthcare practice offers all lines of insurance and reinsurance for a range of healthcare organisations. More broadly, the firm also provides insurance and reinsurance placement for property and casualty risks, as well as employee benefits risks. It offers stop-loss solutions for self-funded workers'

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compensation plans and captive structures from its captive insurance practice.

Bob Dubraski, chief growth officer and national healthcare practice leader at Risk Strategies, explains: "Medical professional liability insurance and risk management are crucial for physicians and require deep expertise and strong relationships with the best carriers in the business. Danna-Gracey has a great team and a well-deserved reputation in this complex specialty. We are excited they have joined Risk Strategies and our national team of dedicated healthcare industry professionals."

Risk Strategies has previously acquired Specialty Insurance Solutions to expand its student health practice, and partnered with CyberCube on a cyber risk analytics platform.

BILTIR supports UN sustainable principles

Bermuda International Long Term Insurers and Reinsurers (BILTIR) has become a supporter of the Principles for Sustainable Insurance (PSI).

The principles were introduced in 2012 as part of the United Nations' Environment Programme (UNEP) to provide the insurance industry with a global framework to address environmental, social and governance (ESG) considerations and opportunities.

More than 180 organisations have adopted the four PSI pillars, with the UN noting that this includes insurers representing over 25 per cent of world premium volume.

The first two pillars state that supporters will embed ESG issues in decision-making processes, and collaborate with clients and business partners to raise awareness of ESG issues, manage risk and develop solutions.

The remaining pillars encourage supporters to work with governments and regulators to promote action on ESG issues, and to hold accountability and transparency in disclosing their progress in implementing the principles.

As a representative of 63 long-term insurance, reinsurance and servicing companies in the jurisdiction of Bermuda, BILTIR aims to support ESG initiatives through innovative product design, relocation of assets towards renewable energy products, and mitigating the risk of underfunded defined pension schemes.

Sylvia Oliveira, chair of BILTIR, comments: “Our association is also an ardent advocate and supporter of the power of education to close opportunity gaps. BILTIR looks forward to working with UNEP and PSI to play a proactive part in the pursuit of a more sustainable society.”

BMA: US remains Bermuda’s leading reinsurance partner

The US has retained its position as Bermuda’s largest reinsurance partner, with Bermuda reinsurers paying out over US$400 billion to US policyholders and cedants since 1997.

This follows research of commercial market claims data of 230 reinsurance companies conducted by the Bermuda Monetary Authority (BMA), which found that between 2016 and 2020 Bermuda reinsurers paid out $209.6 billion to US policyholders.

Of this, $120 billion (57 per cent) was attributable to property and casualty losses, while $89.6 billion (43 per cent) was related to life insurance claims.

Similar BMA research in 2017 identified that $208.7 billion had been paid out between 1997 and 2016 in total across the two lines.

The authority cites that these results reflect the burgeoning significance of the Bermuda reinsurance market and its contribution to the US, as well as an increasing trend of annual loss payments.

In addition, the BMA argues the results demonstrate the strength of its regulatory framework, which promotes sustainable business models with the resiliency and capability to address evolving risks, especially those relating to climate change and natural catastrophes.

Gerald Gakundi, director, insurance supervision, BMA, explains: “The losses paid by Bermuda reinsurers reflects the tremendous growth in the Bermuda reinsurance market.”

“This growth is spurred, in part, by the ability of Bermuda to attract a deep pool of global talent that drives product innovation and supply of risk capital capacity.”

Kraft Heinz selected Aon to provide investment service to Irish captive

Aon has been selected by Kraft Heinz to administer an investment service for captive insurers to Noble Insurance Company DAC, its captive subsidiary.

Based in Ireland, Noble provides insurance coverage to the food and beverage company domiciled within the European Union.

Read the full article online

NFP makes senior actuarial hire

NFP has appointed Jonathan Abbott as senior vice president for property and casualty actuarial services.

In his new role, he will report to Sean Hickey, senior vice president of risk management services.

Read the full article online

Roundstone distributes nearly $10 million to captive participants

Roundstone has reported a cash distribution of almost $10 million to business owners currently participating in its group medical captive.

The distribution represents 17 per cent of unspent captive premiums in the pool.

Read the full article online

New insurance agency launches in Connecticut

The Magnolia Agency has launched as an independent insurance agency providing commercial and personal lines of coverage through member-owned group captives.

The agency specialises in construction, transportation, healthcare and environmental risk, as well as offering life, disability and surety products.

Read the full article online

TigerRisk appoints cat analytics head for EMEA

TigerRisk Partners has appointed Tim Edwards as catastrophe analytics lead for Europe, Middle East and Africa, effective October 2021.

Edwards will be part of the risk, capital and strategic advisory firm's international reinsurance property and casualty team, based in London.

Read the full article online

Synechron expands insurance services following certification achievement

Synechron has expanded its insurance services following the certification of more than 100 individuals, based in the US and India and over a six month period, in the Retirement Plan Fundamentals educational programme.

The programme is provided by the American Society of Pension Professionals and Actuaries.

Read the full article online

Finding it taxing

Insurance tax professionals discuss the current tax and regulatory landscape of the captive industry, including the OECD's BEPS plan and IRS scrutiny of micro captives

By Rebecca Delaney

Captive insurance is regarded as a beneficial approach to alternative risk financing owing to its provision of bespoke coverage, flexibility for emerging risks and reduced premiums — more controversially, the structures also offer opportunities for tax deduction and wealth accumulation.

General tax avoidance vehicles have been an increasing area of focus for organisations such as the Internal Revenue Service (IRS) and the Organisation for Economic Co-operation and Development (OECD).

The Inclusive Framework of the OECD aims to prohibit the specific tax avoidance strategy of base erosion and profit shifting (BEPS). This refers to a practice commonly implemented by large multinational enterprises (MNEs) to shift their profits to jurisdictions with low or zero tax rates. This process is harmful because it distorts competition and investment decisions, as well as creating an issue of fairness, particularly for developing countries that have a heavier reliance on corporate income tax and therefore suffer disproportionately.

Greg Buteyn, international tax partner at Crowe, explains: "The BEPS plan was aimed primarily at intercompany transactions related to transfer pricing, treaty abuses, intercompany debt and the use of harmful tax regimes."

The OECD estimates that BEPS practices costs countries between US$100-240 billion in lost revenue annually, which is equivalent to between 4 and 10 per cent of the global corporate income tax revenue.

Following the initial release of its 15 action plans in October 2015, the OECD has since developed the second framework, with Buteyn noting that "action one of the BEPS 1.0 report addressed the digitalisation of the economy, but also stressed the need for continuing work in this area. This has resulted in an expanded BEPS initiative, now referred to as BEPS 2.0".

"Significant political momentum is now driving the BEPS 2.0 taxation project forward — in individual countries, and in the G20 and G7 countries too. There is broad participation in the BEPS 2.0 project as 139 jurisdictions are actively participating through the Inclusive Framework."

The two-pillar plan will devise a framework for international tax reform that accommodates the evolving globalised and digitalised economy, allowing governments to generate the revenue required to repair their budgets and balance sheets, as well as make needed investments in public services, infrastructure and COVID-related recovery.

The first pillar re-allocates certain taxing rights over MNEs from their home countries to the market jurisdictions in which they operate and earn profit (even if they do not have a physical presence there) to ensure fairer distribution of profits.

The second pillar of the plan intends to control competition over corporate income tax and protect national tax bases by establishing a global minimum corporate tax rate of at least 15 per cent, which the OECD predicts will produce an additional $150 billion in annual global tax revenue. Daniel Kusaila, tax partner at Crowe, adds that the Biden administration is also proposing to tie-in a minimum tax increase on non-US subsidiary proposals to the BEPS 2.0 rate.

This twofold plan is intended to address the complaints raised against MNEs, to ensure that organisations separate their taxable profits from the jurisdictions in which they generate them. Some of the legal entities identified in the BEPS papers as tax avoidance vehicles include captives as subsidiaries of MNEs.

Despite this, the OECD's plan was adopted by several leading captive domiciles, including the Bahamas, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Guernsey, Hong Kong, Jersey, Luxembourg and the US.

Captives and BEPS

A US-based redomesticated captive can be a potential solution to tax concerns over BEPS, as Teresa Jones, senior tax manager at RH CPAs, comments: “In regards to the US, a redomesticated captive structure essentially removes the concern over BEPS, since a captive that has been redomesticated to an onshore jurisdiction or filed a 953(d) election to be classified as a US corporation has no possibility of profit shifting.”

Incentives for redomesticating a captive are not limited to tax rates, and can include jurisdictional neutrality, merger and acquisition activity, regulatory changes, and commercial privacy.

Buteyn adds that “redomesticated captives into the US which are owned by US or foreign parent companies should not see any effect from BEPS 2.0 as long as their effective income tax rate is above the proposed 15 per cent rate in pillar two”. According to Buteyn, this should be the case for redomesticated US-based captives owing to the current tax rate of 21 per cent.

Kusaila notes that in the case of US parent companies with non-US based captives, the current US tax rules will continue to apply to controlled non-US corporation subsidiaries.

Therefore, the captive structures most affected by the second pillar of the OECD’s plan will be non-US based captives owned by non-US parent companies with a group revenue over the minimum threshold of around $850 million.

“To the extent that their effective tax rate is below the OECD’s pillar rate, and its income was not otherwise currently taxed to its parent, the parent company of the captive would be required to ‘top up’ its tax in its home jurisdiction to reach the 15 per cent rate on the captive income,” Kusaila explains.

Following the announcement of the BEPS papers, many captive owners recognised that the business plans and structures of captives as a risk management tool had not been fully understood in terms of complexity or detail.

However, the majority of the structures were able to explain their business model and purpose to aid the pre-financing of potential future losses and claims rather than to collect untaxed profit income.

Some of the other BEPS rules that would apply to captives in many jurisdictions include: alignment of transfer pricing policy with value creation in the captive; economic substance requirements; compliance with limitation on benefits provisions to prevent treaty abuses; and disclosure of “aggressive” tax planning strategies, says Buteyn.

US legislation

While US-based captives may not be directly or significantly affected by the BEPS plan, Jones notes several other significant compliance concerns for US captives, commenting: “The new controlled foreign corporation rules and the global intangible low-taxed income rules proposed in Biden’s tax plan (assuming they are passed into law) will remove some of the benefits of having offshore insurance companies that do not make a 953(d) election.”

“However, there still may be regulatory reasons for having an offshore captive, such as the ability to write more third-party business,” she adds.

“In regards to the US, a redomesticated captive structure essentially removes the concern over BEPS”

The Biden administration is also currently proposing to replace the 2018 Base Erosion and Anti-Abuse Tax (BEAT) rules — designed to increase the US tax liabilities on certain related party insurance payments from US subsidiaries to non-US related parties in MNEs — with the Stopping Harmful Inversions and Ending Low-Tax Developments (SHIELD) provision to increase these tax payments further.

Recent tax legislation and regulations are also “putting pressure on US-owned, non-US captives by threatening to eliminate the passive foreign investment company insurance tax exception to defer US tax on captive income that has been available,” Kusaila adds. “This proposal will require more employee management substance in non-US captives, a role which has historically been provided by a third-party captive manager.”

Jones highlights the specific domicile of the State of Washington as presenting some compliance concerns, with MNEs such as Microsoft and Costco paying substantial premiums and back taxes relating to premiums sourced out of the state to captives domiciled in other jurisdictions.

> *"For all of the captive managers we deal with, they desire to play by the rules"*

The State of Washington has since passed legislation requiring captives operating and writing premium in the state to pay a registration fee of $2,500 and a 2 per cent premium tax.

"The concern for the industry is that this type of legislation could be a slippery slope, leading to companies redomiciling where they are doing business, which could potentially cause more premium tax to be paid," Jones explains.

Internal Revenue Scrutiny

The other significant regulatory and compliance issue facing captives in terms of tax is the IRS' pursuit of micro captives. The Service's annual 'Dirty Dozen' list of tax scams for 2021 marked micro captives as abusive arrangements, having previously escaped the 2020 list for the first time in five years.

The IRS' list accused offshore micro captive structures of "lack[ing] the attributes of insurance" by insuring implausible risks or duplicating commercial coverage in order to avoid paying tax on underwriting income under section 831(b) of the US Tax Code.

Commenting on how the IRS' scrutiny of micro captives has affected perceptions of captive insurance, Jones says that Notice 2016-66 and litigation against micro captives "has had a substantial effect on the market as a whole. For all of the captive managers we deal with, they desire to play by the rules. The concern is that no one knows what the rules are, as every situation has different risk management characteristics," she explains.

"We have seen a remarkable uptick in larger captive formations, as well as formations of smaller captives who are scared to make the 831(b) election, even when they believe they fully comply with the IRS code. Congress created the section, yet the IRS essentially used a blanket approach to indicate that anyone making the election is doing it solely for tax reasons," Jones adds.

For insureds seeking a robust risk management programme in which they are able to meet the commonly accepted definition of insurance, as well as risk distribution and risk transfer, the attack on captives making an election contained in the US Tax Code may be perceived as a significant deterrent.

Kusaila expects that micro captives will continue to see increased scrutiny by the IRS over the next several years. However, Jones is optimistic that the Supreme Court ruling in IRS v CIC Services, which indicated that the IRS had violated the Anti-Injunction Act in its issuance of Notice 2016-66, will "bode well" for the future of the captive industry.

Looking to the future, Jones is also confident that, from a state standpoint, the regulatory landscape for captives is "very good" as major domiciles are beginning to engage in competition to attract well-run captives.

However, she recognises that from a tax perspective, the position of Washington State and the IRS requires some case law so that the industry is able to play by the rules set forth.

"Hopefully, we will see the Reserve Mechanical case appeal results soon, which should provide further guidance to the industry," Jones adds.

Meanwhile, Kusaila predicts that "if the current administration's tax plan is enacted, it is likely audit activity will be increased, not only for captives but in general as well. The Biden administration has proposed additional funding of approximately $80 billion for the IRS over 10 years."

"Thus, we believe there will be a significant increase to the number of audits performed. Due to the impact COVID-19 has had on everyone's budget, we expect an increased scrutiny in non-US tax authorities as well," Kusaila explains.

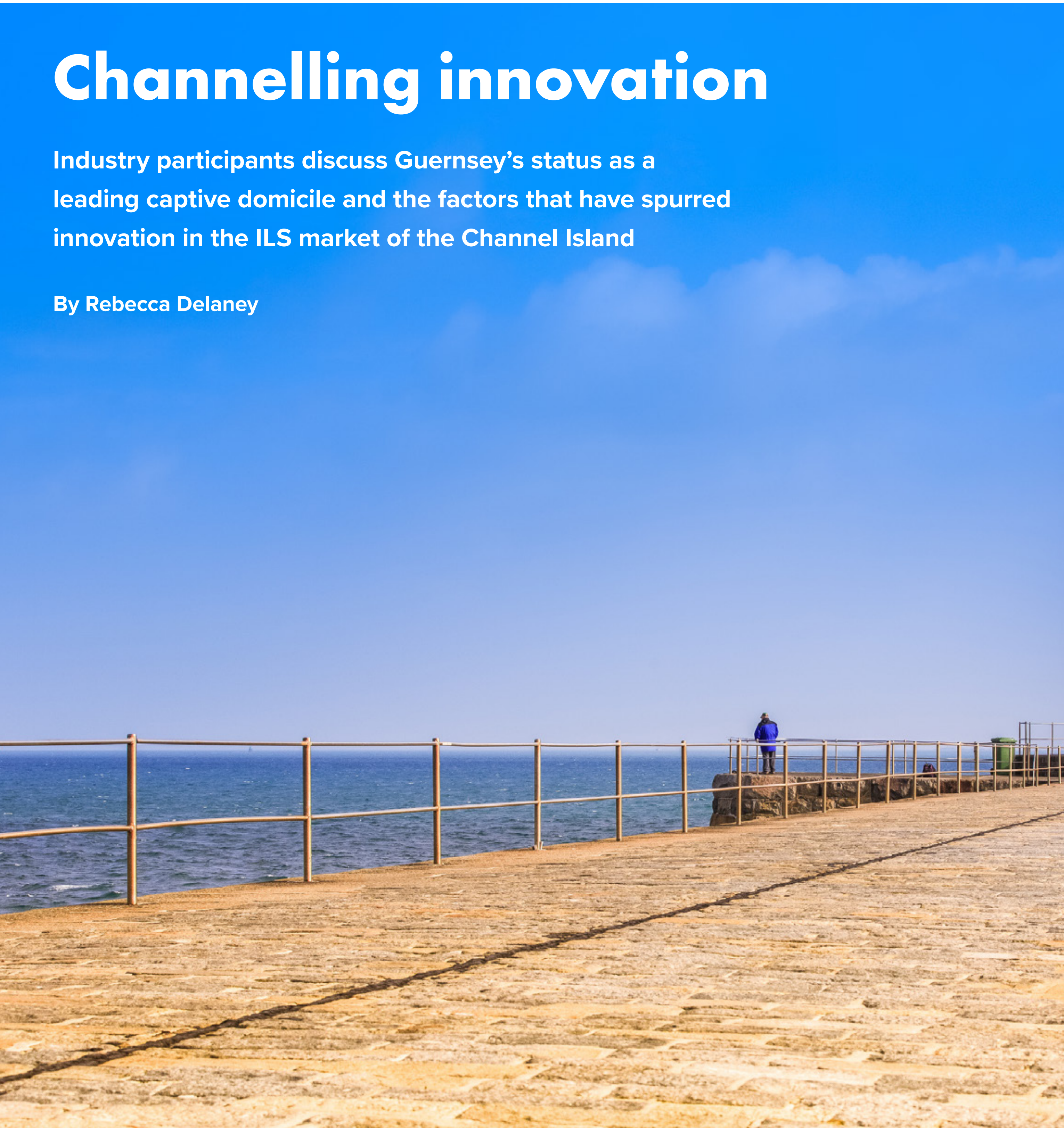
Elsewhere, Buteyn expects an increase in the number of states scrutinising captives' long standing tax positions; whether self-procurement or income taxes, he expects states to regard captives as an area in which they can generate revenue.

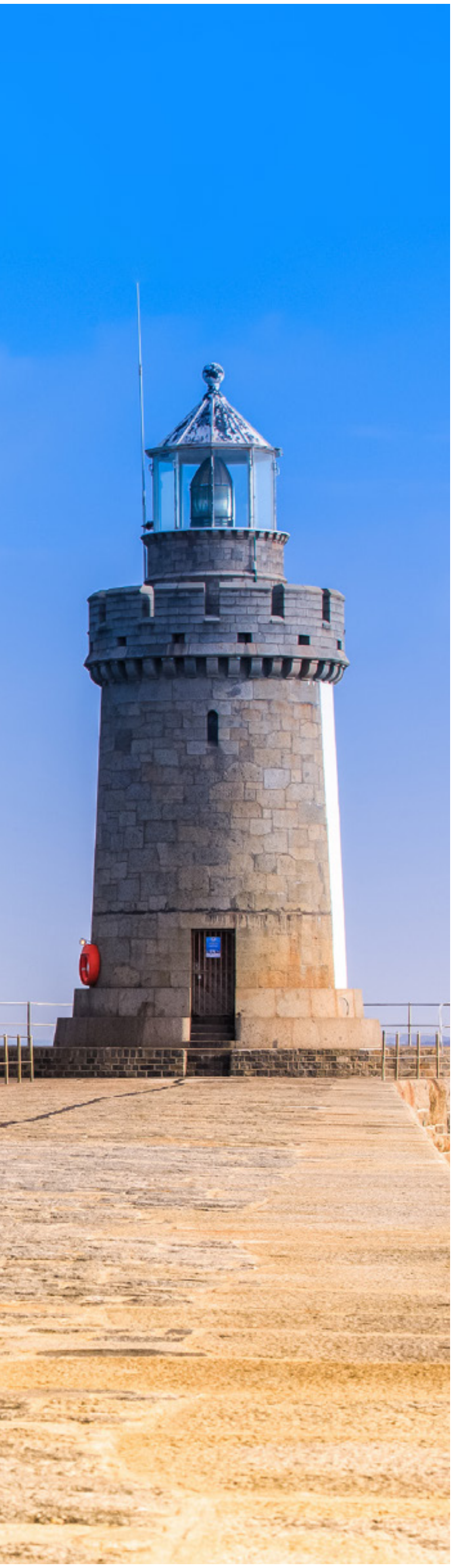
"While the tax landscape might be rocky over the next several years, it is important to note that the insurance benefits far exceed those of tax. Organisations must look at the insurance benefits provided to determine if a captive is right for them," Buteyn concludes. ■

Channelling innovation

Industry participants discuss Guernsey's status as a leading captive domicile and the factors that have spurred innovation in the ILS market of the Channel Island

By Rebecca Delaney





As a strongly established captive domicile, Guernsey holds access to both UK and European markets owing to its geography and status as a financial hub as a result of a closely linked funds industry and insurance sector. This sector has facilitated several notable, innovative world-firsts in the island's insurance-linked securities (ILS) market. Other developments in the jurisdiction include burgeoning commitment to environmental, social and governance (ESG) principles, and regulatory structures promoting the tax transparency, anti-money laundering (AML) and anti-base erosion and profit shifting (BEPS) efforts of the Organisation for Economic Co-operation and Development (OECD).

These developments were discussed by industry professionals last month at We are Guernsey's webinar, 'ILS Insight: The Origin of Innovation', which examined the landscape of Guernsey's current ILS market following a recent trend of diversification from catastrophe risks (such as hurricanes and earthquakes) to more regionalised and medium risks, including operational, pandemic and terrorism risks.

Rupert Pleasant, CEO of Guernsey Finance, began the session by identifying the advantages of Guernsey as a domicile, explaining: "Guernsey has the authority and autonomy to create its own laws, allowing for quick innovation. The government and financial services industry can work together to introduce appropriate laws to ensure they retain their excellent reputation of stability, substance and innovation."

Best of both worlds

Guernsey is a unique domicile in that it has a close working relationship with the UK (for example, UK free trade deals extend to the island) as a territory of the Crown, rather than based on political considerations. Therefore, the jurisdiction does not tend to be severely affected by political, legal or fiscal volatility on either side of the English Channel.

Following Brexit, Guernsey has unchanged access to the UK's financial services, while maintaining its third-country status with the EU as a specialist leader of the European private equities market.

Research into fund workflows commissioned by the States of Guernsey last year revealed that in mid-2019, Guernsey-domiciled funds enabled a capital flow of £41.6 billion (US$57.2 approx) into the UK, as well as a further £77.1 billion into Europe and £43 billion into the US.

Adele Gale, director and group head of ILS at Robus Group, added during the ILS webinar that "Guernsey is uniquely placed to bring together capital and risk because of our funds industry sitting alongside our insurance industry here. It is imperative for a domicile to have an infrastructure beyond the insurance sector, for example, lawyers, auditors and fund administrators. This ecosystem makes Guernsey an attractive and sound proposition when looking at an innovative structure."

Pleasant says: "The world is increasingly looking for economic and physical substance in a jurisdiction, which is specifically the case for all regulators and supervisors. As a result, the substance of some jurisdictions is now coming into question. Guernsey on the other hand scores highly on all measures and has benefitted highly from these increased requirements."

From this, Guernsey has earned a favourable reputation as Europe's leading captive domicile, with Pleasant noting: "Guernsey's insurance sector is pioneering and innovative, boasting a position of leadership in the structuring and execution of alternative risk transfer. It goes without saying that we are a leading global finance centre."

The island's captive market is bolstered by its physical proximity to London and European markets, established regulatory infrastructure, and a risk-based approach outside of Solvency II which adheres to international standards.

Going green

In addition to these benefits, Gale notes that Guernsey is also an attractive captive domicile owing to the recent framework by the Guernsey International Insurance Association (GIIA), which ensures that ESG is a significant factor during the underwriting and investment decision-making processes by Guernsey insurers in all areas, including ILS transactions, captives, cells and reinsurers.

"Guernsey is the first jurisdiction in the world to develop an ESG framework specifically for insurers," adds Kate Storey, finance, corporate and funds partner at Walkers (Guernsey). "The framework provides Guernsey insurers with a road map for implementing and demonstrating ESG values in their business operations, and those insurers that adhere to the framework (as assessed by a third-party accreditor) will be able to obtain an ESG kitemark evidencing their commitment."

This was affirmed in the webinar, with Pleasant adding: "The most important development in the financial services industry in the last few years is the subject of green, sustainable, ESG-centred finance. Something often forgotten is that capital in Guernsey is channelled into philanthropic, charitable and ESG-centred sources. This is a key area of focus in Guernsey, where we are very proud of our commitments."

This is demonstrated in Guernsey's international engagement as a member of several United Nations (UN) initiatives, including Financial Centres for Sustainability, the Sustainable Insurance Forum, the Sustainable Stock Exchanges, and the Network for Greening the Financial System.

Guernsey also operates the first regulated and accredited green fund solution, and is home to The International Stock Exchange (TISE), which operates Europe's most comprehensive sustainable market segment.

Regulation

As a domicile, Guernsey is commended for its commitment to economic substance and tax transparency, having been whitelisted by the OECD and the EU in 2009 and 2019, respectively. The island was also named a co-operative jurisdiction by the OECD in 2015.

Guernsey's close working relationship with the OECD is affirmed by Storey. She says: "Guernsey is well respected for its robust yet proportionate and flexible regulatory framework, having been one of the first international finance centres to have been whitelisted by the EU and the OECD for its standards of tax transparency and anti-BEPS compliance, including its economic substance regulation."

Guernsey signed the organisation's Multilateral Instrument, adopted the common reporting standards for the automatic exchange of information, and formed a programme of alignment with future BEPS initiatives to prevent tax avoidance vehicles.

Furthermore, the island is largely compliant with 48 out of 49 of the Financial Action Task Force's recommendations on AML and combating financing of terrorism. Guernsey has also made several amendments to its economic substance legislation to bolster the standards of tax transparency, fair taxation and BEPS measures. Although Guernsey is outside the parameters of Solvency II, it has a risk-based approach to solvency requirements which is in fact quicker and more proportionate for captives than the requirements of the directive owing to its pre-authorisation licensing regime. Storey explains: "Under this regime, a captive cell can be established and start writing business within as little as 48 hours, provided the relevant documentation is submitted to the Guernsey regulator within 14 days of commencement of business."

In the webinar, Gale emphasised the importance of the regulator when selecting a domicile, as it must operate consistently within set parameters. "I am pleased to say that our regulatory framework is compliant with the core principles of the International Association of Insurance Supervisors. All of us insurance managers on the island are well equipped to advise clients on how the regulator is likely to view their proposed structure."

ILS innovation

The combination of a strong captive market, funds industry, ESG commitment and a regulatory infrastructure is beneficial to ILS structures. Pleasant describes this as a "hugely attractive weapon in the arsenal of institutional investors and private clients alike", as an alternative asset class that can provide investors with diversification benefits owing to their low correlation, support of humanitarian efforts and possibility of earning a return.

Notable world-first ILS achievements in the jurisdiction include the launch of a private catastrophe bond, fully Sharia-compliant takaful securitisation, listed blockchain ILS transaction, protected cell company legislation, and approval of a dual-authorised structure to run an ILS fund and an insurer alongside each other.

Storey notes that some of these efforts were in response to the UN Secretary General expressing the need for more catastrophe-triggered financing and better instruments in order to support the delivery of climate risk financing, as well as to improve disaster resilience and fund adaptation measures.

"The ILS market is central to this initiative and Guernsey is expert in facilitating solutions in the ILS space," she says.

"Guernsey can lay claim to several world-firsts across global financial services, particularly in the insurance sector. The island is home to the world's first parametric fuel freight insurance programme and, earlier this year, the world's first catastrophe bond was launched, covering pure volcanic eruption using a Guernsey-based ILS structure," Pleasant adds.

The catastrophe bond, billed as the first volcano-only and humanitarian cat bond, was facilitated by Guernsey-based platform Replexus, in which the parametric is triggered by volcanic ash plume height and wind direction. The bonds were settled using Replexus' blockchain-based ILS platform.

Cedric Edmonds, founder of Replexus, stated in the ILS webinar that Replexus was founded to address some of the issues facing the ILS market, such as late reported losses in collateralised reinsurance books, the shift from illiquid to liquid ILS, and some rated carriers going into run-off.

Edmonds affirms that Replexus selected Guernsey as a domicile because of the "can-do attitude" of the service providers, namely incorporated cell companies, as well as the support of the Guernsey Financial Services Commission.

Storey notes that the fast track pre-authorisation regime for setting up ILS cells, combined with flexibilities in capital management unavailable in other ILS jurisdictions, makes Guernsey a vastly attractive ILS domicile. Additionally, the island's fully collateralised ILS structure enables EU cedants to qualify for capital relief under Solvency II.

This sentiment was shared by Gus Majed, group CEO and founder of Paratus Group, responsible for the implementation of the parametric fuel freight insurance programme, who selected Guernsey for its potential for innovation and key geography. Majed affirms: "When choosing a jurisdiction, it has to tick all the boxes. Innovation is essentially taking the very best components of technology from several disparate industries and combining them to create a new idea or product. You need a coalition of the very best minds to ultimately look through substance over form in a dogmatic approach, otherwise it is too regimented. Ultimately, this rests on the regulator, and whether you can have a good rapport and discussion with them. Innovation is very important, and so is the ability to build a trusting relationship with the regulator. It is a demand-pull, rather than supply-push, product, where the clients are asking for a better way to manage their risk so they can concentrate on their primary industry."

The parametric insurance programme integrates into Paratus's overarching objective to be at the forefront of the transition to clean energy, while addressing significant market volatility as a result of the hardening market and COVID-19 pandemic.

Looking ahead

The hardening market has generated greater interest in alternative risk management as a whole, including captives and ILS structures. Captives can be utilised to access customised parametric insurance, and there is a burgeoning relationship between ILS and captives as those in the captive insurance industry require tailor-made ILS solutions as an alternative form of risk financing for a captive's catastrophic loss exposure.

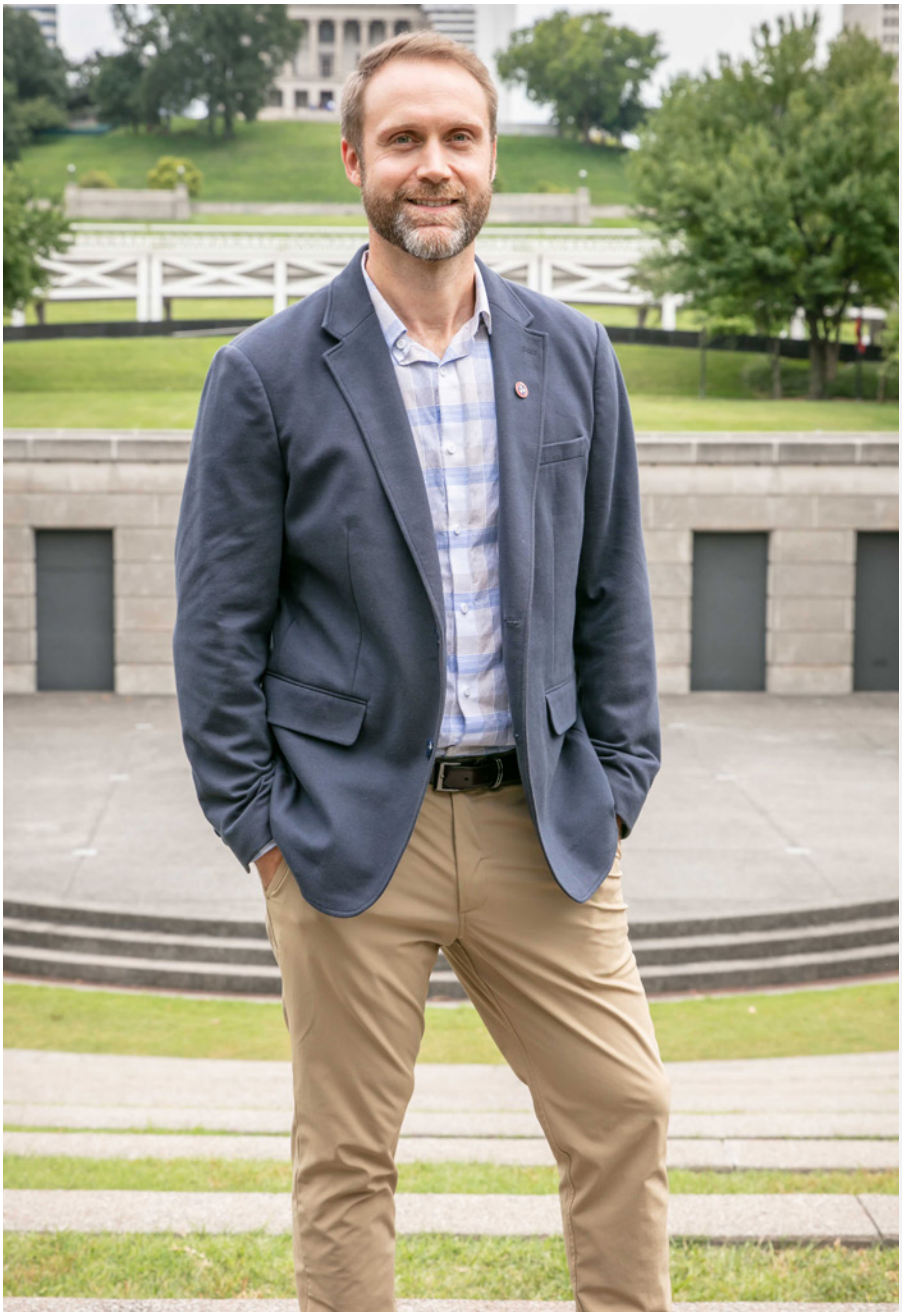
During the Q&A segment of the webinar, Edmonds notes that, despite being more cost-efficient, blockchain is unlikely to make ILS a more accessible asset class for smaller investors because it requires experience and a comprehensive understanding to be able to effectively model and portfolio the risk. "Retail investors are much better served by coming in through a fund and have a portfolio of risks managed by someone who understands what they are doing," he affirms.

The webinar concluded with Pleasant stating he is hopeful that the first humanitarian catastrophe bond will be a catalyst for change, while Edmonds says Replexus will be working on more humanitarian and ESG transactions in the pipeline.

As for Guernsey, the increased interest generated by the hardening market and an existing reputation as a leading captive domicile ensures the jurisdiction is well positioned to see more gains in the future, with Storey adding she expects to see the island at the forefront of developments in the ILS and sustainable finance space in the next 18 months. ■

Joshua Clark

Director of business development
Tennessee Department of Commerce and Insurance



Personal bio

I grew up in Mississippi and finished school in Michigan, which is where I met my wife. I always wanted to be a professional soccer player but fell short after college!

The joy of my life is my family and I am blessed to have a beautiful three-year-old daughter.

Professional profile

I graduated with a business management degree from Michigan State University's Eli Broad College of Business. Currently, I serve as the director of business development for the insurance division of the Tennessee Department of Commerce and Insurance. My diverse background has been instrumental in obtaining this current opportunity. My 15-year career reflects a focus on making an impact in a variety of seats.

I am fortunate to have experience as a property and casualty underwriter, loss control manager, risk management software consultant and two director of risk management roles.

> *"I see my current role as a unique opportunity rarely seen in other domiciles"*

How did you end up in the captive industry?

As a risk manager for a company in Nashville, Tennessee, I managed our membership in a group captive for our workers' compensation line of coverage. It was while in this role that I became very intrigued by the broader capabilities of a captive. A few years later, an opportunity was presented to me by the commissioner for the Tennessee Department of Commerce and Insurance to help promote the state as a top-tier captive domicile.

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

Without question, the highlight has been having the opportunity to represent Tennessee as a domicile and to be able to travel the country, while being immersed in the captive industry.

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

There are two names that stand out as incredibly important in my start in the captive industry. First is Bud Curtis, now retired, who has an unmatched passion and understanding for the industry. Second, and equally as influential, is Bud's predecessor, Scott Stone, who continues to be an expert and invaluable resource in the industry.

What is your impression of the industry?

The captive industry is small but mighty! The captive industry is growing at an incredible pace but is still very much an untapped resource in the larger insurance arena. The recent hardening of the market is making the captive conversation become more commonplace, but there is still great opportunity for industry stakeholders to continue to promote this creative risk financing solution.

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

First and foremost, I want to make an impact for the service providers and captive owners operating in Tennessee. I see my current role as a unique opportunity rarely seen in other domiciles to help promote not only captive insurance but the indirect benefits it provides those who make this industry possible.

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

Do it. The captive industry is rapidly changing and growing at a pace never before seen and we need the next generation of creative and forward thinkers to join the fun!

"I have known Josh for several years going back to his role as a risk manager. It was clear he understood and appreciated the impact a captive insurance company can have on a business. I was excited to hear Josh was hired for the role of business development director for the Tennessee Department of Commerce and Insurance."

"Josh's experience in the private sector makes him well suited to understand the concerns of a business owner and explain how a captive can help manage their overall cost of risk. Despite the challenge of the COVID-19 pandemic, Josh has been active in reaching out to people, building his network within the captive space and learning more of the technical aspects of captives."

"He is forward thinking and, as the industry changes, having a background that includes technological innovation will serve him well. Josh will be an important part of growing not only the Tennessee domicile, but I expect him to contribute to the captive industry as a whole."

Scott Stone, alternative risk manager, HUB International Mid-South

The Vermont Captive Insurance Association (VCIA) has added two new members to its board of directors, Joe Carter and Gail Newman, effective October 2021.

These incoming appointments follow the departure of Jan Klodowski and Wilda Seymour from VCIA's board.

Carter currently holds the role of vice president of business development at United Educators (UE), a reciprocal risk retention group, where he is responsible for UE's growth strategy in sales, marketing, branding and distribution.

He also serves as a board member for the National Business Officers Association, and is an active member of multiple other educational associations.

Newman holds the position of vice president of risk management at Bright Horizons Family Solutions, where her responsibilities include improving the innovation and efficiency of risk management strategies and business practices in the firm's global enterprise risk management approach.

Rich Smith, president of VCIA, comments: "Joe Carter and Gail Newman represent the best of what makes our industry and our association successful: leadership and knowledge combined with enthusiasm and commitment to the captive insurance industry."

"I look forward to working with them to advance the industry and the association over the next few years."

Smith adds: "My deepest thanks to Jan Klodowski and Wilda Seymour for the leadership, energy and friendship provided to me, the staff and the association during their terms on the VCIA board."

Marsh McLennan Agency (MMA) has appointed Derek Martisus and Adam Forstot to its Captive Center of Excellence, where they will work closely with the Marsh Captive Solutions group.

Martisus (pictured) joins the centre from the group, where he previously served as US small captives sales leader, in the newly-created role of single-parent captive consulting leader.

Based in Burlington, Vermont, he will report to Steve Norton, chairman of MMA's Captive Center of Excellence, and will be responsible for advising US clients on development strategies and use of single-parent captive structures.

Forstot has been appointed as senior vice president with responsibility for helping clients navigate the group captive selection process, as well as develop group captive structures for industries facing difficult market conditions.

He joins MMA from Artex, where he previously held the role of vice president of business development.

Aon has hired Joe Sergio Jackson as senior managing director of the US team at Aon Reinsurance Solutions.

Based in the New York office of the risk, retirement and health solutions firm, Jackson will be responsible for regional and global property accounts, as well as segments of casualty and retrocession insurance businesses.

Jackson will report to Greggory Clark and Randy Stanco, executive managing director and senior managing director of Aon Reinsurance Solutions, respectively.

He previously served as reinsurance broker at TigerRisk Partners, a risk, capital and strategic advisory firm for the global insurance and reinsurance industries.

Before this, Jackson also served as a reinsurance broker at Benfield, which became Aon Benfield and later Aon Reinsurance Solutions.

Clark comments: "Joe Sergio Jackson is a fantastic addition to our team. We believe that his extensive experience with major property clients will help us to further enhance our service to clients in this important and dynamic sector."

Pinnacle Actuarial Resources has appointed Daniel Linton as senior consulting actuary and Roberto Perez as consulting actuary.

Linton joins the independent property and casualty consulting firm from Select Actuarial Services, where he held the position of partner and consulting actuary, responsible for reserving and forecasting in alternative risk markets.

In his new role based in Nashville, Tennessee, he will work closely with captives, self-insured clients and government entities, ranging in size, on property and casualty exposures.

Based in Manchester, Connecticut, Perez joins Pinnacle from The Hartford, where he served as assistant director and actuarial associate specialising in the sectors of commercial automobile, general liability and workers' compensation.

Both Linton and Perez are fellows of the Casualty Actuarial Society and members of the American Academy of Actuaries. ■