captive insurance times
The primary source of global captive insurance news and analysis
13 October 2021 - Issue 234

A sunny outlook

Experts predict the future of the captive industry in The Bahamas

Blockchain Focus

Industry professionals discuss the implementation of blockchain in the captive industry

Industy Appointments

Richard Smith has resigned from his role as president of the Vermont Captive Insurance Association

captive insurance times

Issue 234

www.captiveinsurancetimes.com

Published by

Black Knight Media Ltd

16 Bromley Road, New Beckenham
Beckenham, BR3 5JE

Editorial

Group Editor: Bob Currie
bobcurrie@blackknightmedialtd.com
+44 (0) 208 075 0928

Reporter: Rebecca Delaney
rebeccadelaney@blackknightmedialtd.com

Senior Reporter: Maddie Saghir
maddiesaghir@blackknightmedialtd.com
+44 (0)208 075 0925

Senior Reporter: Jenna Lomax
jennalomax@blackknightmedialtd.com
+44 (0)208 075 0926

Designer: James Hickman
jameshickman@blackknightmedialtd.com

Marketing and sales

Publisher: Justin Lawson
justinlawson@captiveinsurancetimes.com

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

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

Follow us on Twitter: @CITimes

In this issue

Marsh: "Historic growth" in the captive industry

2020 marked "a year of historic growth for captives," according to Marsh Captive Solutions' annual Captive Landscape Report. Surveying more than 1,300 captives across Marsh's client base, the annual benchmarking report identifies increases across the board in terms of the total number of captives, overall net premium volume, third-party premium volume and parent company regions, among other indicators of growth.

Marsh cites that these increases are attributable to challenges in the commercial insurance market, ongoing disruptions from the COVID-19 pandemic, higher natural catastrophe frequency and severity, increased risk transfer costs and liability claims inflation.

Ellen Charnley, president of Marsh Captive Solutions, explains: "The COVID-19 pandemic disrupted supply chains and put enormous financial pressure on nearly all industries and companies worldwide. Captives thrived as the events of 2020 showed that these vehicles continue to respond to challenging insurance market conditions. For these reasons, captives experienced record growth in virtually every area."

In addition, captive formations have been spurred by the proven success of the structures in tackling business challenges, reinforcing strategic objectives, and addressing emerging and future risks, according to Marsh.

The captive manager notes that the majority of parent companies implement a captive to supplement, rather than replace, their insurance purchasing as a component of a wider risk financing programme that considers specific risks and exposures, as well as risk tolerance and risk management strategies. Nevertheless, Marsh observes that it helped clients complete more than 100 formations of all types of captives in 2020, which is expected to be repeated in 2021 with 65 new formations already completed. Of these new formations, Marsh clients with large captives (totalling more than US$20 million in annual premium volume) placed more risks in the lines of excess liability, directors and officers (D&O) liability and products liability, while property insurance was the most popular coverage written in the first half of 2021.

Notable non-traditional risks include medical stop-loss (which saw a massive 81 per cent increase), followed by cyber, D&O and excess liability.

Marsh notes that adding new lines of coverage to diversify the risks within a captive is beneficial because it provides stability to pre-loss funding and allows the captive to garner profits by writing third-party business.

Specifically, premiums written for third-party unrelated risk grew by 13 per cent in 2020 compared to 2019 — in particular, captives with owners based in North America wrote more third-party risk in extended warranty and voluntary benefits.

Regarding the types of newly-formed captives, cell captives saw a 53 per cent increase in new formations, which Marsh attributes to simplicity, cost and ease of set-up. However, cells still only make up less than 10 per cent of total captives managed, while single-parent captives remain the most popular structure at almost three-quarters of all captives managed (despite seeing a slower 6 per cent increase).

In addition, the automotive industry led with a 28 per cent year-on-year increase in captive count in 2020, followed by a 20 per cent growth in sports, entertainment and events, and 15 per cent in financial institutions.

Charnley says: "The benchmarking data showed organisations in every industry turning to captive vehicles to help them meet their challenges. Captives have proven to be effective tools in responding to risks and changing market conditions, which is why they keep growing."

"Growth came in existing captives as well as new formations, as organisations sought ways to relieve pressure on their balance sheets. With advantages including cost efficiencies, financial flexibility, the ability to design customised coverages, access alternative capital, and generate profits through third-party business, captives will continue to be an important option in managing and financing risk."

The report concludes by considering the role of captives in enhancing a company's ESG initiatives, as the structures can reduce risks, protect a brand, and provide commercial and competitive advantages.

In terms of environmental factors, the severity and frequency of climate issues are increasingly viewed in the context of sustainability, portfolio impact and resilience — captives offer a solution to coverage gaps, as well as exclusions and the mitigation of catastrophe perils.

For social (the "S" in ESG), captives have historically been utilised to reduce the cost of providing employee benefits and engagement programmes. Marsh identifies that there is now a trend to implement captives to fund

board diversity and vendor diversity initiatives, while in terms of governance, the existence of a captive in itself demonstrates good governance as a formal loss-funding vehicle.

Fitch: European ESG investments will benefit from EC proposals

The European Commission's (EC) proposal to lower Solvency II capital charges for longer-term business will benefit the European insurance sector's burgeoning interest in ESG investments, according to Fitch Ratings. The rating agency notes that life insurers are especially well-positioned to invest in longer-term assets, including sustainable infrastructure and renewable energy projects, although they are somewhat hindered by supposedly high capital requirements.

The reforms, published by the EC, outline the opportunity in the Solvency II review to ensure the regulatory framework is conducive to long-term investment in the insurance sector.

They are designed to both reduce the risk margin provision that insurers are required to hold against some long-term business, and to lower the capital charges for those that are not determined 'long-term'.

The EC predicts that the reduced risk margin could release up to €90 billion of capital, while the lower charges for long-term equities may release around €10 billion.

Insurers and policyholders will, therefore, benefit from higher returns on longer-term, often illiquid, assets.

Fitch expects that Germany, Italy and the Netherlands will experience the largest capital impact, as the countries have a high proportion of life insurance business with long-term investment guarantees.

However, the agency also notes that, in practice, net capital release may be affected by an increase in provisions owing to the proposed phase-in of lower long-term discount rates.

CIC Services sees another win in district court

A federal judge has issued a ruling temporarily forbidding the Internal Revenue Service (IRS) from enforcing Notice 2016-66 against CIC Services, pending final resolution of the case.

CIC Services says the ruling by District Judge Travis McDonough is in part supported by the "irreparable harm by virtue" faced as a result of the notice, as material advisors no longer refer clients to the captive manager for fear of being subjected to the requirements of the notice.

Sean King, general counsel for CIC Services, notes: "This is one of the few times in history that the IRS has been preemptively enjoined from enforcing an illegal regulation."

He adds: "At this moment we believe CIC Services to be the only entity in the country that is exempted from the requirements of IRS Notice 2016-66, which we contend was issued illegally, arbitrarily and capriciously. But we are not satisfied with that, and we will not rest until the court instructs the IRS that it cannot enforce the Notice against any taxpayer or material advisor."

This follows a significant unanimous ruling by the Supreme Court in May in favour of CIC Services, which determined that the Anti-Injunction Act does not prevent federal courts enjoining the IRS' enforcement of illegal regulations when the regulations establish affirmative reporting requirements.

CIC Services notes that the COVID-19 pandemic has demonstrated the advantages of captive structures for small- and mid-market business owners in accessing the capital and credit markets of multinational enterprises.

It is estimated that captives managed by CIC Services have paid up to US$15 million of COVID-related claims alone.

While waiting for ultimate resolution of the case, CIC Services says it expected other material advisors — and potentially even taxpayers — to petition other courts for similar reprieve from the notice.

James River completes loss portfolio transfer with Uber captive

James River Group Holdings has entered two principal operating subsidiaries into a loss portfolio transfer reinsurance transaction with Aleka Insurance, a wholly-owned captive insurer of Uber Technologies.

Under the terms of the transaction, Aleka will substantially reinsure all of James River's legacy portfolio of commercial auto policies relating to Uber's business, totalling around US$345.1 million in liabilities.

In addition, Bermuda-based insurance holding firm James River will recognise an after-tax loss associated with the loss portfolio transfer of around $23.5 million.

Truist Corporate Trust & Escrow Services

Collateral Trust Services

Our Advantage

Truist has a long history of trust, escrow and risk management excellence with both domestic and international coverage. If you're choosing a cost effective and convenient collateral trust as part of your captive and reinsurance solution, we have a broad range of specialties that can help mitigate risk in your insurance business:

- Collateralized Reinsurance
- Regulation 114 Trusts
- Captives
- Surety Bonds
- Insurance-Linked Securities
- Deductible Trusts

Our expertise is only one aspect of what differentiates our reinsurance trust business from other firms. Additionally, we excel because of:

- Single Point of Contact
- Comprehensive Servicing
- Rapid Response Times
- Team of Reinsurance Specialists
- Extensive Carrier Relationships

To learn more about how Truist can support and enhance your collateral posting requirements, please contact:

Donny Tong
Senior Vice President
212-590-0976
donny.tong@suntrust.com

Barbara Aubry
Senior Vice President
212-303-4164
barbara.aubry@suntrust.com

Joseph Monaco
Vice President
212-303-1746
joseph.monaco@suntrust.com

TRUIST

Both of the James River subsidiaries and Aleka are part of an administrative services agreement with Helmsman Management Services for selected claims management services, in which Helmsman will be responsible for the claims handling of reinsured commercial auto policies.

Frank D'Orazio, CEO of James River, comments: "While we are confident in our carried reserves for this portfolio, the transaction brings economic finality to substantially all of our commercial auto run-off portfolio, effectively insulating the portfolio from further potential reserve development."

"This decisive step enables James River to focus firmly on the future and continue to build on the progress we have made in advancing our core businesses and risk management practices. We are pleased to be working with a long-term insured partner in Uber to pursue our stated goals."

RxPharmacy Assurance launches stop-loss supplement to manage pharmacy risk

RxPharmacy Assurance, a sister company of RxBenefits, has introduced a stop-loss supplement to manage high-cost specialty drug risk, which is now fully available to brokers and their self-funded employer clients across the nation.

A Vermont-domiciled sponsored captive managed by Marsh Captive Management, RxPharmacy Assurance enables self-funded employers access to a supplemental stop-loss product at affordable rates that provides safeguards from unexpected and potentially catastrophic specialty drug claims.

According to RxPharmacy Assurance, the solution can protect plans against future lasers and help brokers and plan sponsors negotiate improved stop-loss premiums.

Additionally, it affords self-insured employers that meet membership eligibility requirements the ability to access supplemental stop-loss insurance by forming a cell within RxPharmacy Assurance.

Paul Fortunato, senior director, clinical initiatives, RxBenefits, comments: “Self-funded employers are increasingly feeling the impact of the rising costs of specialty drugs and are in need of a complete solution.”

“Using stop-loss insurance on its own is like providing short-term and long-term disability coverage to employees, but only buying short-term disability insurance.”

“RxPharmacy Assurance is designed to fill the gap where traditional stop-loss insurance falls short. The RxPharmacy Assurance solution enables brokers to help self-insured employers of all sizes manage their risk and protect themselves from high-cost specialty claims,” Fortunato adds.

BMS Re launches Brazil operation

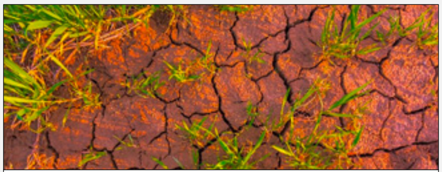
BMS Re has launched operations in Brazil under BMS Brasil Corretora de Resseguros (BMS Re Brazil). Headquartered in São Paulo, BMS Re Brazil will specialise in the provision of facultative and treaty reinsurance services.

José Leão and Judi Newsam have been appointed CEO and president of BMS Re Brazil, respectively. Both will report to Aidan Pope, CEO and executive chairman of BMS Latin America and the Caribbean.

Leão most recently served as vice president at Guy Carpenter Brazil, before which he was an underwriter at IRB Re.

Newsam also joins BMS Re from Guy Carpenter Brazil, where she held the role of country head and managing director.

Nick Cook, CEO of BMS, comments: “Establishing BMS Re in Brazil is a great step forward for BMS and for BMS Re. It is a key element of our growth strategy for Latin America and the Caribbean, aligning perfectly with BMS’ hub and spoke model for international growth. I have every confidence that our new team in Brazil, supported by colleagues in Miami and London, will continue going from strength to strength. We have a hiring plan that will be progressively rolled out this year and into 2022.” ■



S&P: reinsurers underestimate natural catastrophe exposure

Reinsurers may be underestimating their exposure to natural catastrophe risk by as much as 50 per cent, according to S&P Global Ratings in its new research, ‘Global reinsurers grapple with climate change risks’.

Read the full article online

Hong Kong issues first ILS catastrophe bond

Greater Bay Re, the first authorised special purpose insurer in Hong Kong, has inaugurally issued insurance-linked securities in the form of a catastrophe bond.

The bond was made available by China Re and the China Property and Casualty Reinsurance Company.

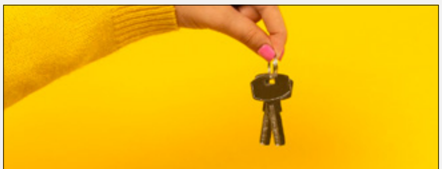
Read the full article online

Airmic: annual survey examines risk trends and challenges

Risk management association Airmic has released its annual survey in collaboration with Control Risks, KPMG, Marsh, QBE and Sedgwick during the association’s annual conference.

The 2021 annual survey explores the current risk landscape, specifically focusing on the concerns, priorities and challenges of Airmic’s members.

Read the full article online



Airmic: captives as a mechanism for resilience is key

Organisations looking to expand their lines of captive business in response to the hard market must consider the longevity and impact of this decision, warns industry professionals. The session at the Airmic annual conference began with outlining the motivations behind why companies are looking to either expand existing captives or make new formations.

Read the full article online

OECD finalises anti-BEPS tax reform

The Organisation for Economic Cooperation and Development has finalised its reform of the international tax system to ensure that multinational enterprises will be subject to a minimum tax rate of 15 per cent from 2023.

The two-pillar plan was agreed by 136 countries and jurisdictions (making up more than 90 per cent of the global gross domestic product).

Read the full article online

FERMA: hardening market conditions and captives

The hardening insurance market has caused some companies to write more risk into their captives to compensate for rate increases, as discussed at the FERMA Talks session, ‘Risk managers’ views on the insurance market’.

Read the full article online

The building blocks of technology

Industry professionals discuss the implementation of blockchain in the captive industry, as well as the benefits and challenges of such technologies

Rebecca Delaney reports

As the world becomes increasingly interconnected and the demand for the verification and analysis of data grows, it is of heightened importance for companies to embrace these changes and leverage technology to its fullest advantage.

Insurance firms can do so through the implementation of insurtech, which refers to the use of applications, big data and other transformative technologies to automate and streamline processes throughout the insurance industry, for example in policy forming, underwriting, services and claims.

Q1 2021 witnessed an "astronomically high" level of insurtech investment. According to Willis Towers Watson's quarterly insurtech report, this allowed risk-originating firms to begin going public in Q2 to take advantage of the bullish investment landscape.

In Q2 2021 alone, Willis Towers Watson cites that global insurtech funding reached more than US$4.8 million, which marks a 89 per cent increase from Q1 2021, as well as a year-on-year increase of 210 per cent.

Furthermore, in Q1 2021, global insurtech funding reached a total of $7.4 billion, which already exceeds the full year amount of funding for 2020 ($7.1 billion).

The report recognises that financial services-focused tech firms are moving into a position of increasing significance amid the current volatile market conditions, which include the hardening insurance and reinsurance markets, more frequent and severe catastrophe events, evolving climate change-related risks, and the economic impact of the COVID-19 pandemic.

Willis Towers Watson notes that although the changing market conditions and subsequent competition is generally advantageous to insurtechs, most are in fact "just not up to standard to survive a possible decade of stringent and volatile market conditions," the report says. The report highlights that this is because technology functions as a mechanism to mark success according to commercial metrics; having a mechanism that is 'blockchain-based' or 'powered by artificial intelligence (AI)' is redundant if it does not facilitate a net positive impact on a company's risk, capital or operational efficiency.

Blockchain technology is situated on a decentralised open source network that is supported by all network participants and can be accessed anytime, anywhere. Information must be securely managed and verified, which means that transactions have a greater efficiency.

Data and data science are already employed in the insurance sector — risk management is centred around data, while technology cultivates sophisticated tools to collect, combine, model and analyse large amounts of data. Emerging technologies such as machine learning allow for an even more profound insight into risk, pricing risk and new sources of data.

Jody Yee, managing director at Allianz Global Corporate and Specialty, notes that as early as 2016, the insurance industry began to investigate how blockchain could be incorporated into business processes.

Yee notes: "We have not yet experienced the huge take-off originally anticipated, but as the insurance industry moves toward implementing new technology, this may change in the future. Organisations are always looking for ways to make processes more transparent and efficient, and blockchain technology is one of the ways we can achieve that."

"Captive service providers, insurers and regulators are using blockchain to share information more rapidly and securely"

The potential for blockchain in the insurance industry, particularly in the space of captive insurance, is affirmed by Alex Gedge, senior captive consultant at Hylant, who says: "Blockchain is still fairly new to the captive world, so while there has been interest with some captives, or their owners, in using blockchain in some capacity, it is still an area of potential."

"Blockchain is a catalyst for change in the captive industry. Through the exploration of blockchain, the captive industry is rethinking and reevaluating critical underlying processes such as data sharing between captive service providers and regulators, certificates of insurance, loss payments, policy manuscript creation and policy issuance," adds Rocco Mancini, vice president, Marsh Captive Solutions.

Mancini identifies efforts within the captive industry to promote rapid adoption of digital technologies, which has encouraged further exploration into blockchain and provided companies with the necessary tools to do so. He explains: "Captive service providers, insurers and regulators are using blockchain to share information more rapidly and securely. They achieve this by using blockchain to establish shared rules and standards for sharing information, which allows for automation that was not otherwise possible."

Mancini notes that although most of this automation is still in the pilot stage, initial findings and indications are promising. Furthermore, captive insurers that continue to work with these service providers, insurers and regulators will already be effectively positioned to realise the benefits of blockchain technology as its implementation widens in the captive industry.

At present, the implementation of blockchain in the captive and insurance industry is generally concentrated in the administrative environment, according to Marcus Schmalbach, CEO of RYSKEX.

He notes: "The real disruptive innovations have not yet taken hold, but if the Digital Risk Exchange (DREx) bill passes successfully in Vermont in January 2022, it could be a milestone for the industry. A blockchain ecosystem specifically tailored to the needs of captives will represent a game change and lead the captive industry into digitisation."

As an industry with an existing penchant for innovation, possible areas of development in the relationship between blockchain and captives include robotic process automation, whereby bots will become the norm in both the front- and back-office to automate policy servicing and claims management. Technology and data-driven operations require strategic cybersecurity in order to protect brand data, reduce reputational risk and achieve more efficient regulatory compliance.

The benefits of blockchain

The constant evolution of blockchain provides "almost inexhaustible possibilities" within the captive industry, Schmalbach says. While the technology originated with the Bitcoin protocol in 2009, developments such as Ethereum and non-fungible tokens have expanded capabilities to cover smart contracts and payments.

"Today, the blockchain can already completely map all process steps, from coverage of the risk to payments (which is particularly useful for syndicated contracts) and claims processing, while generating a high level of security and cost efficiency," Schmalbach explains.

Looking specifically at how captives can gain advantages from blockchain, Gedge adds: "As with adoption of any new technology, understanding fully how it would work, the benefits — and pitfalls — should be stage one. It may drive more benefits for the larger, global captives as there are added complexities to the running of these captives."

"As such, the key benefits of live, shared data and information transfer could be more immediate. There are multiple parties and partners who are involved in driving the success of a captive, so ensuring live data and one unchallengeable version of it would be valuable for captive owners."

"Blockchain can also be useful for solving complex and large claims to support quick payments, and again, data transfer."

In addition, since captives are generally smaller and newer than traditional

Allianz's Yee outlines the following ways in which blockchain technology can be beneficial to the captive industry:

Administrative support — the use of a shared ledger to link information with administrative processes and policy contracts simplifies existing time-consuming operations, while less human intervention means reduced scope for error and lower administrative and compliance costs

Fraud detection — with information being stored on an immutable ledger, the technology has the potential to remove common sources of fraud

Efficiency — blockchain can simplify the flow of information, enable faster claims processing and provide automated payments without human interaction. It also supports the ability to efficiently cultivate and maintain client data, which is then connected with assets, transactions and payments to accelerate effective capture and processing of claims data-related activities

Transparency — real-time visibility into the location, condition and safety of high-value assets moving around the world provides more accurate and dynamic underwriting and pricing. Transactions therefore benefit from increased trust, transparency and security

insurance companies, they are better positioned to adapt to future technological trends and developments.

A captive insurer can position itself to best integrate blockchain into its operations by first and foremost recognising that it is a long-term process. As discussed in Willis Towers Watson's report, Schmalbach reiterates that using blockchain purely to be perceived as a smart thought-leader is counterproductive.

"Even worse than not looking at blockchain technology and the variety of solution options is simply setting up a blockchain solution by force that does not actually make sense. Such pseudo-use cases are the worst thing that can happen to the industry, as word gets out that blockchain does not actually have any added value, and the technology and innovation falls years behind," he explains.

Instead, Schmalbach advises the following process: "First, captive managers should ask themselves what their problems are — these could be costs, capacity bottlenecks, changing risk landscape, lack of employees, and so on."

"In the next step, a captive manager should then consider how they can solve these problems and in what form the blockchain can help. However, blockchain is best when it serves as a platform for an ecosystem, like DREx in Vermont. It is then up to the captive domicile to understand the problems of its captive managers and support them with the necessary technology and regulatory adjustments."

The idea that blockchain should not be implemented for novelty purposes is echoed by Yee, who elaborates: "Captive insurers need to understand that this is not something you are going to be able to change overnight. An insurer will need to assess its pain points and weigh how blockchain can be implemented."

Yee notes that some organisations have already begun their approach by completing proof of concepts in order to better understand the practicalities of the new potential process. Elsewhere, the Distributed Ledger Governance Association (DLGA) was formed as a working group in Vermont to deliver blockchain solutions to companies and service providers in the state's financial, insurance and captive industries.

DLGA is organised to allow members to demonstrate and accelerate commercialisation of their distributed ledger technology (DLT), as well as collaborate with the government, industry and other stakeholders in Vermont to help propel DLT innovation and economic growth.

In addition, members of the DLGA working group benefit from the development of a blockchain-based ecosystem. This connects captive managers, insurers, owners, blockchain developers and other service providers, and a peer-to-peer risk trading platform for traditional and emerging risks. Meanwhile, innovative solutions include parametric solutions for hard-to-place risks such as cyber, climate change, reputation and terrorism.

A claims process based on similar parametric triggers was also provided by the working group, alongside a standardised risk exchange based on blockchain and driven by the AI that links demand (captives) and supply (third-party captives, insurers, reinsurers and insurance-linked securities funds).

Challenges

As with the implementation of any technology, there are potential challenges in executing blockchain within the captive industry. Radical changes to established industry processes will cause disruption to some extent, and may require the most up-to-date technology and IT support platforms, which may be a difficulty for smaller captive structures, even with the support of service providers.

These smaller captives may also struggle with the high administrative and regulatory costs associated with the implementation of blockchain, therefore only making the technology accessible to larger multinational enterprises with captives rather than creating a broad industry precedent.

In terms of these challenges to the wider captive industry, blockchain does not currently have sufficient solution concepts for existence-threatening risks. In addition, there is a significant lack of capacity for insurable and emerging risks.

Schmalbach identifies vested interests as a significant challenge. He says: "Many people in the captive environment are doing very well and see no reason to innovate — why should they? My personal advice is that if you are happy with how everything is going and see no reason to change the status, then do not alter anything."

The latest cutting-edge technology is generally associated with the younger generation; however, the captive industry has a historical talent crisis. Yee notes that "the captive insurance industry is not known for being an early adopter of new technologies. At the same time, the legal and regulatory environments are not always keeping pace with the rapid advancement around blockchain technology".

Without a pool of the next generation to spearhead more advanced implementation of blockchain, how will the captive industry keep up with the ever-evolving process of digitalisation?

Mancini suggests that for the solution to fully realise the potential of blockchain, "active collaboration" among multiple parties is required. He elaborates: "Achieving this level of collaboration can be challenging during times of uncertainty, as we are experiencing today with COVID-19 and the transitioning insurance market. However, these events also led to the rapid adoption of digital technologies, which may be a boon for blockchain in the near future."

An evolving landscape

Looking at this near future, the development of new technology will depend on what issue it aims to address in the captive industry, such as talent acquisition, information sharing, value chain inefficiencies or a wider changing risk landscape.

Discussing development priorities over the next 12 months, Hylant's Gedge says: "Ensuring the captive is the right structure for companies should be the top priority for owners; technology is evolving quickly and risk profiles are too."

"Captives globally have had to deal with a number of legislative changes, including Brexit and IFRS 17, while board meetings and submissions in some domiciles have moved online after the past 18 months. These changes have taken up a lot of time and board discussions, so as the technology continues to evolve and captives respond to global shifts, it will likely become more accessible for insurers," Gedge predicts.

Mancini affirms the impact the pandemic has had on the captive industry: "Over the past two years, the captive industry experienced a rapid adoption of multiple digital technologies to address COVID-19 and transitioning market conditions. Over the next 12 months, understanding how these technologies may facilitate the adoption of additional digital technologies, such as blockchain, will be a high priority for the captive industry."

He continues: "Those that are already exploring blockchain will leverage the rapid adoption of digital technologies to enhance existing concepts and pilots. Others in the captive industry that have yet to explore blockchain may now have the necessary digital tools to begin exploring the technology — I anticipate that the captive industry will see a growing interest in distributed ledger technology and blockchain."

Schmalbach underlines the importance of having an organisation or jurisdiction in the industry make the first move — in this case, the DREx ecosystem in Vermont. As a collaborator on the network, Schmalbach expects to be able to present the first real-use cases and pilot projects by mid 2022.

"These will definitely kick-start the market as other domiciles will follow suit with other collaboration partners. This will have an immense impact."

"I anticipate that 2022 will be the year when the symbiosis of parametric and blockchain reaches its interim peak," he concludes. ■

Escrow Service Customized for You

When you choose the Escrow and Specialized Services team at Texas Capital Bank, you will work with an efficient and highly conscientious team of Trust professionals. Our veteran team has an average of 20 years' ILS and reinsurance trust experience. Experience how Texas Capital Bank provides a tailor-made solution when acting as your Collateralized Trustee in an ever-changing marketplace.

OUR SOLUTIONS

- Captives
- Collateral Account
- Escrow Account
- Foreign Exchange
- Multiple Investment Options
- Regulation 114 Trust
- Reinsurance and Collateralized Reinsurance Trust
- Sidecars

CONTACT US

Bryan Gartenberg
SVP, Head of Sales
646.771.8015
bryan.gartenberg@texascapitalbank.com

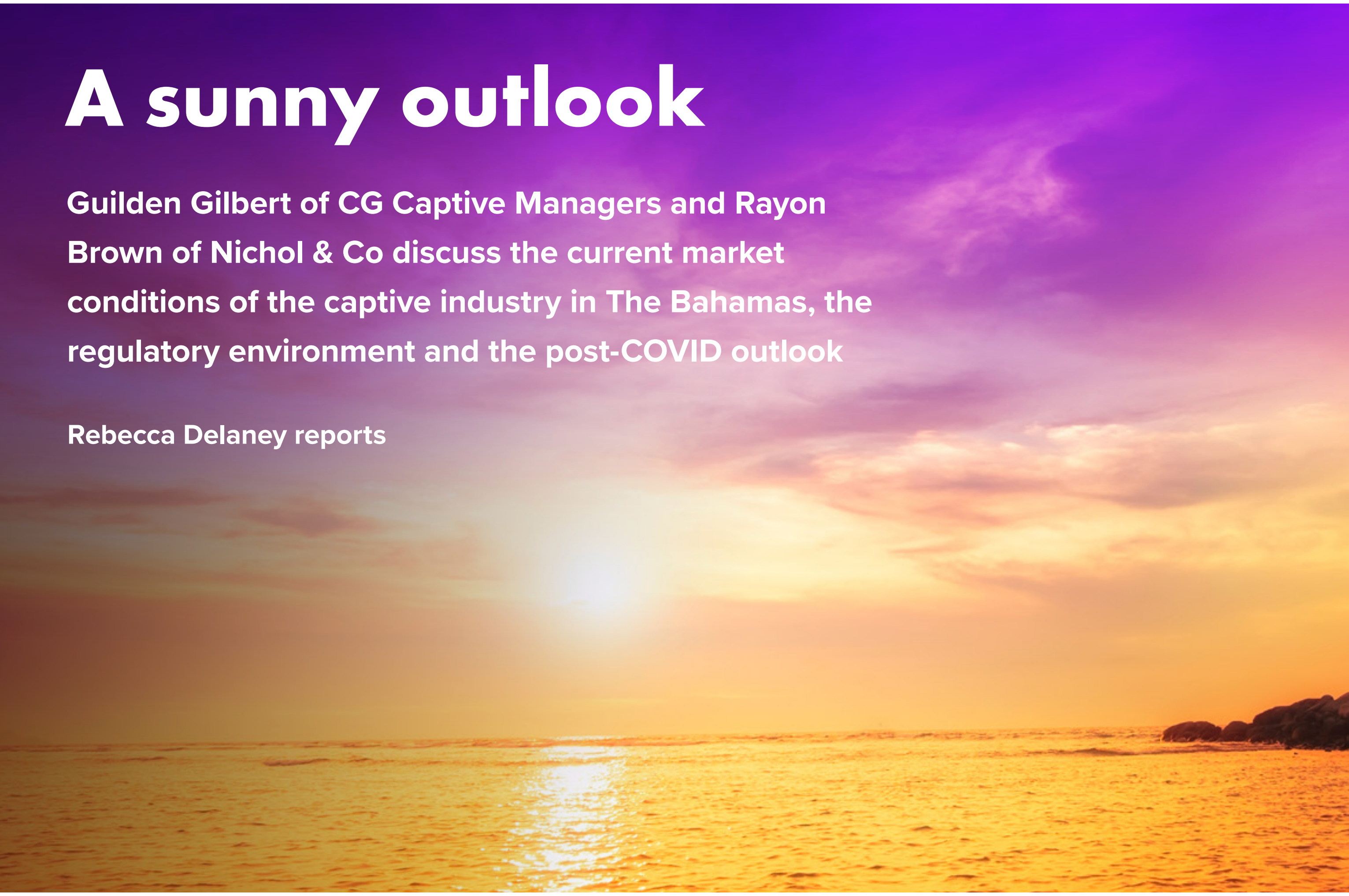
Tina Van Ryzin
SVP, Group Manager
203.449.3292
christina.vanryzin@texascapitalbank.com

Joe Dattoli
SVP, Relationhsip Manager
973.650.0921
joe.dattoli@texascapitalbank.com

A sunny outlook

Guilden Gilbert of CG Captive Managers and Rayon Brown of Nichol & Co discuss the current market conditions of the captive industry in The Bahamas, the regulatory environment and the post-COVID outlook

Rebecca Delaney reports



With stretching white sand beaches, plunging blue holes only accessible by deep sea divers, an uninhabited island filled with nothing but swimming pigs, and a curious history as a pirate republic, you could be excused for mistaking The Bahamas for paradise.

Aside from this, however, the islands are also recognised as a distinct captive domicile that is ready to bounce back after the pandemic.

The western islands of the tropical archipelago are situated just 50 miles off the coast of south Florida. This close geographical proximity allows the islands to enjoy business advantages with the US and Canada, as well as leading economies in Central and South America.

Frequent collaboration between the public and private sectors promotes regulatory flexibility and a business-friendly environment through structures such as The Bahamas Financial Services Board (BFSB).

With more than 80 years of financial services experience as a domicile, The Bahamas is also helped by the competitively high cost of conducting insurance business in onshore and other offshore jurisdictions, as well as stringent tax laws and regulatory requirements.

The Bahamas is particularly recognised as a leading captive domicile, a status which is boosted owing to its mature asset and wealth management industry, financial and legal infrastructure, availability of financial planning products, and an established domestic insurance market.

The success of The Bahamas as a captive domicile is affirmed by Rayon Brown, consulting actuary at Nichol & Co and director of Nassau Captive Management Services.

He describes the current market conditions as "very good; we have been busy".

"The Bahamas has been a leading financial centre for a long time and the market is now realising that we also have a lot of resources in the insurance sector — including actuaries, accountants, lawyers, and so on," Brown continues.

"The same clients that have wealth management and family office facilities here realise that they can also get risk management services in this domicile. The facilities found in The Bahamas are among the very best in the region — including two resort facilities representing multi-billion investments."

Brown notes that the landscape of the captive industry in The Bahamas attracts "a lot of employee benefits business, or any type of business that leverages our experience in asset management — for example, unit-linked or variable annuities".

He adds: "I am an actuary by profession, so the business we attract tends to be a bit more technical in nature, such as reinsurance to transfer longevity risk to the capital markets."

Conversely, Guilden Gilbert, CEO of CG Captive Managers, outlines: "As a captive manager, our target market is the smaller-sized companies that would sit below where Bermuda would be considered an option due to minimum annual management fees."

Regulatory focus

The regulatory environment of The Bahamas is perceived to be beneficial for captive owners; legislation and regulatory practices within the domicile have been updated significantly in the past two decades to incorporate innovative insurance products and solutions that are otherwise excluded by increasingly restrictive regulation in onshore jurisdictions.

Brown says: "The legislation was revamped about 10 years ago. The regime we have in place provides prompt, secure and flexible services to owners and participants. We have been able to blend our experience in asset management and hospitality to provide top class services for clients."

Looking comparatively with other established captive domiciles, application fees in The Bahamas are relatively low or in-line with other jurisdictions, as are annual licensing and annual registration fees, as well as competitive minimum capital requirements with other jurisdictions (B$100,000 for general insurance business and B$200,000 for long-term insurance business).

Compared to other jurisdictions with a similar infrastructure and economy, The Bahamas has significantly lower capital requirements than Bermuda and Vermont, and is broadly in-line with Guernsey, Barbados and the British Virgin Islands.

images by perfectlazybones/stock.adobe.com

“The goal is to grow the captive market, and for that to happen, the regulator must be amenable and flexible, which they are”

Regulatory oversight in the domicile is conducted by the Insurance Commission of The Bahamas (ICB), while the registrar of insurance companies is responsible for approving captive managers.

Under the mandate of the ICB, the independent regulatory agency is authorised to survey the islands’ insurance market, provide advice to the Minister of Finance on insurance matters, and promote fair insurance management and business practices.

The ICB also oversees the administration of the Financial Transactions Reporting Act, the Insurance Act and the External Insurance Act. Enacted in 2009, the latter piece of legislation asserts that captives must be registered as external insurers, with annual reviews to ensure solvency requirements continue to be met. Alternatively, once an international business company has been incorporated it can then be registered as a segregated accounts company.

When doing business in The Bahamas, there are three key corporate structures: domestic business company; international business company (which is the most widely used for offshore operations); and segregated accounts company (a separate legal entity can create cells in which the assets and liabilities of each segregated account are separate from those of others).

In addition, under the law captive insurers must submit annual audited financial statements to the ICB after the fiscal year-end. In terms of due diligence, under the law captive insurers must have at least two directors as well as a resident representative.

Discussing the advantages of the regulatory environment of The Bahamas, Gilbert highlights: “The regulator is exceptionally easy to work with. The goal is to grow the captive market, and for that to happen, the regulator must be amenable and flexible, which they are.”

In terms of tax, The Bahamas signed a tax information exchange agreement (TIEA) with the US in 2002 — as promoted by the Organisation for Economic Cooperation and Development (OECD) — to promote tax transparency and the effective exchange of tax information between the two jurisdictions.

Recognised for its commitment to international tax transparency, anti-money laundering and counter-terrorist financing initiatives, The Bahamas was placed on a whitelist by the OECD of jurisdictions that substantially implement international tax standards (despite being placed on the EU’s ‘greylist’ in March 2019 as a potentially non-cooperative tax jurisdiction).

Although a ‘tax-neutral’ environment for business — meaning there is no direct taxation on capital gains, corporate earnings, personal income, inheritance or dividends — the taxation of captives is according to legislative anti-avoidance provisions in many onshore jurisdictions. For example, if there is US ownership in a captive, it is likely to be subject to US tax rates through the 953(d) election, while an offshore captive will pay federal excise tax.

Moving forward

As the world begins to cautiously navigate post-pandemic conditions, how did COVID-19 affect interest in alternative risk financing in The Bahamas?

Gilbert identifies that there were certainly troubles for captive management firms based in the domicile: “For us, as a captive manager, soliciting new business has been tough with COVID-19 as travel and conferences have been stymied.”

“Travel has been restricted and related conferences have moved to online, which for us reduces the marketing we can do. We prefer face-to-face interaction with potential clients because marketing in the captive space can cause a small entity like us to go unnoticed,” he explains.

Brown affirms that travel restrictions posed a setback to clients, but also notes the efficient reaction of bodies on the islands: “Our regulators reacted quickly to allow virtual meetings; we also have very good banking and communication infrastructure, so there was very little impact.”

Looking at the emerging risks that have been identified in the pipeline for the captive industry, Gilbert names the cannabis, hemp and CBD industry as a noteworthy new segment and target for captives. ■

Necessity is the mother of innovation

Marine Charbonnier, captives and global programmes director, Europe, AXA XL, discusses current European captive market conditions, instances of innovation and predictions for the next 18 months

How do you assess the current landscape for the captive industry in Europe? What are the current market conditions?

We saw a growing interest in captives last year that has continued to accelerate this year. In the last few months, we have seen an increasing number of requests for new cessions, even for new captives that are still in the process of being approved.

Essentially, parent companies that do not currently have a captive are looking to set one up, and existing captive owners are looking to cover different and more types of risks through their captives.

What notable trends have you observed in the European captive market?

The hardening of terms and conditions in the direct insurance market has led to requests for higher retentions to be ceded to captives, as well as new lines of business.

Parent companies are leveraging captives to optimise premium conditions where the market is asking for higher rates — mainly for property, casualty and cargo risks — to compensate for a lack of capacity in some areas (such as cyber), or to develop a strategy that allows them to have access to more players for those risks that are currently difficult to insure. That is the case for liability programmes where more of the product recall risk is retained or, similarly, natural catastrophe exposures within a property programme going more into a captive.

In general, in the current market, when reviewing their captive structures within global programmes, clients ask for several options, which gives us more alternatives to quote than ever, and allows clients to have a clearer picture of the conditions available and decide accordingly.

How has the COVID-19 pandemic affected the use of alternative risk financing methods?

The impact of the COVID-19 pandemic has further increased the hardening market and has had compounding effects on the use and process organisation of captives, which have in turn been upgraded for greater efficiency.

What examples of innovation are you seeing in the use of captives to cover emerging or hard-to-place risks?

We are seeing a rising demand for more sophisticated approaches. For example, for clients exposed to climate-related risks, we are designing programmes that combine the use of captives and parametric solutions in partnership with AXA Climate, AXA Group's entity dedicated to parametric insurance.

What is the most significant challenge facing the European captive market right now?

One of the most significant challenges we are seeing is finding the adequate threshold between retention and risk transfer, while taking into account three key pillars: the needs of the insured subsidiary; the financial strength of the captive; and the current market conditions.

"The impact of the COVID-19 pandemic has further increased the hardening market and has had compounding effects on the use and process organisation of captives, which have in turn been upgraded for greater efficiency"

What are your predictions for the landscape of the European captive market over the next 18 months?

We are going to see further interest from across Europe in both wholly-owned captives for large organisations and cell captives, primarily for middle-market companies. While historic captive domiciles such as Luxembourg and Malta will remain popular, we may see an increased interest for onshore domiciles and some re-domiciliations. ■

Randall and Quilter Investment Holdings (R&Q) has appointed Andrew Pinkes as global CEO of its legacy insurance business.

In his new role at the non-life global speciality insurance firm, Pinkes will have the legacy insurance mergers and acquisitions (M&A) and operations team reporting to him. Meanwhile, Pinkes will report to executive chairman William Spiegel.

Most recently, Pinkes held the position of interim CEO and independent board director at CLARA Analytics.

Pinkes has also previously served as executive vice president for worldwide property and casualty (P&C) claims and run-off at CNA Insurance, as well as global head of claims at XL Group and head of claims and P&C run-off at The Hartford.

The appointment follows R&Q's launch of Gibson Re earlier this month, a collateralised legacy insurance sidecar with around US$300 million in capital.

Spiegel comments: "In addition to proven expertise in managing legacy insurance books, Andrew Pinkes also brings strong experience using data and analytics to improve the management of claims, which is an important pillar of our strategy for R&Q."

Pinkes adds: "I have long admired R&Q and its position as a leader in the legacy insurance space. With the recent launch of Gibson Re, its offering is more relevant than ever. I am excited by R&Q's ambitions to capitalise on significant opportunities in the market and look forward to working with William and the team to help deliver on them for both R&Q and its investors."

Richard Smith has resigned from his role as president of the Vermont Captive Insurance Association (VCIA), effective from the beginning of 2022.

Smith has served as the president of the association since 2009 and is set to complete his tenure with VCIA to create space for new leadership to bolster the organisation's goals and serve its members. Though he has not detailed specific plans for the next chapter of his own career, he indicates he may pursue opportunities closer to his own Vermont community.

VCIA says it has navigated the pressures all organisations have endured over the past two years due to COVID-19, and is in a good position to be part of the unprecedented growth now being experienced in the captive insurance industry.

The board of directors has created a formal search committee to focus on identifying VCIA's next president. The directors say their top priority is a smooth transition process to aid in the continued success of the organisation.

Smith states: "It has been a great privilege to lead this incredible organisation for the past 12 years. I am so grateful for the hard work and commitment of our wonderful staff, our board of directors, and VCIA's members."

"I truly value the friendships I have made here. VCIA would not be what it is today without the significant contributions of everyone in this vibrant industry."

VCIA board chair Stephanie Mapes, of Paul Frank + Collins, extended her thanks to Smith for his leadership. She comments: "Richard Smith has been a pleasure to work with. He has skillfully led the VCIA with a steady hand during some very turbulent times."

"The VCIA board truly thanks Richard for his hard work and deep commitment to the association."

More information on the leadership transition will become available over the next couple of months. It is anticipated that a new president will be in place sometime during January 2022. ■

Strategic Risk Solutions (SRS) has appointed Richard Paris-Smith as European client service leader, effective 1 January 2022.

In his new role at the independent insurance company management firm, Paris-Smith will be responsible for a portfolio of existing clients, while working with the SRS team to support the company's growth strategy in Guernsey and wider Europe.

He previously served as head of office for Willis Towers Watson Management Guernsey, before which he was director responsible for client development, client relationship management, captive insurance and reinsurance underwriting, and captive strategic advisory and consultancy services.

Paris-Smith will report to Peter Child, managing director, Guernsey, who joined SRS in July following the launch of the company's Guernsey office in February.

Commenting on the new appointment, Child says: "I am thrilled that Richard has agreed to joining SRS. His personal values of integrity, dedication and professionalism — values shared by the SRS team — will ensure the delivery of the best possible service to our clients and represent a great fit with the independence and commitment to quality that set SRS apart."

He adds: "Since officially opening our Guernsey office in February, we have attracted impressive talent who are excited about supporting the ongoing expansion of SRS' European and global presence in captive and commercial insurance company management and insurance-linked securities."

Offshore firm Appleby has appointed Tiffany Boys and Matthew Carr as partners, to be based at the firm's Bermuda office.

Boys and Carr both joined Appleby in 2010 as trainees and were called to the Bermuda Bar in 2011. Boys has experience and knowledge in cross-border mergers and acquisitions, restructurings, joint ventures, corporate finance, and secured and unsecured lending transactions, with extensive experience in the area of asset-financed transactions.

Carr's specialties lie in insurance and reinsurance matters involving captives, catastrophe bonds, special purpose insurers, and long-term and general business commercial reinsurers.

His practice includes the provision of structural and regulatory advice for new and existing re/insurers and he is frequently involved in the licensing process for new reinsurance structures. Carr is also a member of the Bermuda Business Development Agency's captive insurance committee.

Andrew Kuzma and Josephine Noddings have been promoted to Appleby's counsel. Kuzma was admitted to the Law Society of Alberta in 2013 and joined Appleby in 2017.

Kuzma practices in the corporate group within the areas of securities and corporate law, capital markets, public offerings, private placements, corporate finance, mergers and acquisitions, banking and finance, corporate governance and reorganisations.

He provides legal advice to industry leaders in asset management, infrastructure development, banking and finance, insurance and private equity funds, among other areas.

Noddings was admitted to practice as a solicitor in England and Wales in 2012 and joined Appleby in 2017.

Noddings practices in all areas of corporate law, including insurance, regulation and mergers and acquisitions. Her practice also includes advising on the structuring and formation of investment funds, including master and feeder structures and insurance linked securities funds.

Noddings is also a member of the firm's global technology group, providing advice in connection with all aspects of initial coin offerings and digital asset business.

All four lawyers are members of the firm's corporate practice group.

Tim Faries, Bermuda managing partner at Appleby's says: "Congratulations to Tiffany, Matthew, Andrew and Josephine on their promotions. They are very skilled legal practitioners who are extremely valued by their colleagues, peers and clients. I wish them continued success." ■