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27 October 2021 - Issue 235

On the mend

Strain on healthcare markets has highlighted the importance of an employee benefits captive

Cayman Islands Profile

Industry professionals discuss the landscape of the captive industry in the domicile

Industry Appointments

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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

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CICA: the captive industry is "booming"

The captive industry has seen "phenomenal growth" in the last 18 months during the pandemic, stated president Dan Towle at the opening of the Captive Insurance Companies Association (CICA) Fall Forum. Towle attributed this growth to the historical use of captives to implement creative solutions to fill coverage gaps of commercial profit.

"In support of this continued growth, it is important to take the time to come together to share best practices, explore the uses of captives, celebrate our success and identify new ways to engage the new talent needed to advance the industry," he commented.

Towle also noted the "booming" captive industry is bolstered by one of the longest hardening markets the industry has ever seen in recent times, which has fostered greater interest in alternative risk financing in general.

However, it was also noted in the forum's opening remarks that the captive industry remains misunderstood, particularly by taxing authorities at both federal and state level, which mitigates the predictability and stability usually offered by captive structures.

Furthermore, Towle observed it is difficult to convince state legislatures or Congress of the benefit of captive insurance without specific, real life examples of companies.

In response to this industry challenge, Towle said that captive insurance companies have "an incredible opportunity right now to showcase their value to their parent companies and educate a broader audience about their value".

"We absolutely need to take advantage of this point in time to showcase how captives are properly used to assist organisations during varying economic conditions and turbulent insurance markets," he continued.

As an optimal time, from an advocacy perspective, to promote captive insurance, CICA also continues to take a leadership role in presenting the industry as dynamic through the professional development initiatives, NEXTGen and Amplify Women.

Towle identified that students and young professionals tend to seek work environments that embrace and foster diversity, equity and inclusion, noting that both CICA committees have been proactive in creating writing, career development and networking programmes. In particular, the CICA college student essay contest was mentioned as an effective initiative for making young professionals aware of captives, with the majority of participants stating they would consider working in the sector in the future — which undoubtedly bodes well for the future of the captive industry. ■

Guy Carpenter launches Wildfire Risk Score in Europe

Guy Carpenter has launched a Wildfire Risk Score to help European clients manage their exposure to the evolving risk of wildfire.

As a business of Marsh McLennan, the global risk and reinsurance specialist's new product allows clients to calculate two scores for properties at risk across Europe and risk to forestry in the Nordic region, respectively.

Risk scores are instantaneously generated for all properties in a client's European portfolio, ranging from 'very low' to 'extreme'.

These scores are then utilised to assess portfolio exposure levels and prospective wildfire accumulation risks, as well as to shape underwriting decisions at an individual risk level.

Clients can also apply several climate change scenarios to modify the risk scores, based on variations ranging from the current climate to an increase of 3.0 degrees centigrade.

Wildfire Risk Score is available through Guy Carpenter's global risk analysis and visualisation platform, GC AdvantagePoint, and can be integrated into a company's existing systems via API.

This follows the model approach successfully deployed by Guy Carpenter in the US, adding another peril geography to the firm's climate advisory offerings.

Jessica Turner, managing director, catastrophe advisory, Guy Carpenter, explains: "The evolving threat posed by wildfire across Europe requires companies to adopt a data-

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driven approach to adequately assess their current and future exposures. This ground-breaking European Wildfire Risk Score will allow our clients to gain a more accurate understanding of both current risk and in a warmer world. The launch forms part of Guy Carpenter's wider goal of supporting better underwriting and enhancing our industry's resilience to a rapidly changing climate."

Sedgwick rebrands Indonesia operations

Sedgwick has rebranded PT Cunningham Lindsey Indonesia to PT Sedgwick Adjusters Indonesia to operate within the Sedgwick brand and align its enhanced global resources.

The provider of technology-enabled risk, benefits and integrated business solutions acquired Cunningham Lindsey and its subsidiaries in 2018 as part of the firm's strategic expansion and consolidation of Southeast Asia markets.

The rebrand, and approval from Otoritas Jasa Keuangan (Financial Services Authority), marks the final stage of integrating Sedgwick's operations in Indonesia.

PT Sedgwick Adjusters Indonesia will operate as part of the global claims management and third-party administrator organisation to deliver the same products and services in a range of lines of business, including general property and liability, catastrophe response, product recall, and accident and health.

James Ong, CEO, Asia, comments: "The benefits of this rebrand continue to bring together the expertise of the Indonesia team to support our clients, who will benefit from an enhanced suite of services."

"The brand change broadens our capabilities by enabling us to benefit from the expertise of a business with a global footprint and so forms part of our planned expansion in Indonesia, and moreover the Asian markets," he continues.

"With the integration of the two companies, a three-year process in which the rebranding marks the final step, PT Sedgwick Adjusters Indonesia will continue to benefit from access to global resources to support local and regional needs," adds Andri Dirgantara, president director for Sedgwick in Indonesia. ■

Citadel Risk announces capital boost and structural changes

Citadel Risk has injected US$25 million into Citadel Reinsurance Company Bermuda to strengthen the group's balance sheet.

The latter provides reinsurance programmes in prospective and niche coverage, fronting, legacy and exit solutions, and captives and risk retention groups.

The capital injection brings the reinsurance company's total balance sheet to $47.1 million as at 30 September.

Citadel Risk has also invested $10 million in the balance sheet of American Millennium Insurance Company (AMIC), bringing the total to $21.9 million as of 30 September.

In addition, a reinsurance stop-loss has been put in place to cap the AMIC losses which led to a rating downgrade by A.M. Best in February 2021.

These three capital investment and structural changes are subject to regulatory approval.

Citadel Risk's consolidated pre-tax profit for the first half of 2021 was $2.5 million, with

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

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consolidated surplus at year-end expected to be $55 million and an additional $20 million projected for early 2022.

Tony Weller, CEO of Citadel Risk Group, comments: “It has been a tough year for Citadel, and I am extremely pleased to announce this major investment and financial strengthening of the group’s balance sheet. The enhanced capital base will allow us to write larger lines and develop AMIC into a wider and more diverse insurance entity. The group will be preparing new submissions for an immediate re-rating with A.M. Best, and the enhanced capital structure will be a positive uplift.”

Descartes and ICEYE partner on parametric flood insurance

Independent parametric-specialised firm Descartes Underwriting has partnered with ICEYE to develop parametric insurance product design in combination with the latter’s observation technology and flood hazard data.

Flood risk is a significant emerging risk driven by climate change that is increasingly difficult to model and insure, requiring detailed and accurate assessment and data coverage in high-risk areas.

The collaboration aims to address the challenges in pricing and claims processing that arise from data loss and inaccuracies in flood events, as physical gauges and sensors are vulnerable to damage.

Under the partnership, ICEYE will incorporate its innovative synthetic-aperture radar (SAR) flood data and monitoring capabilities into Descartes’ parametric insurance solutions.

Using ICEYE’s multi-source insights on flood risk from SAR data and measurements from auxiliary sources, Descartes will have the ability to construct precise parametric triggers for its global

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corporate and public client base, as well as make efficient claims payments based on specific client locations.

Sebastian Piguet, co-founder and head of underwriting at Descartes Underwriting, comments: "We consider access to accurate data, provided by an independent third-party, to be a prerequisite for all parametric insurance contracts. We are thus delighted to partner with ICEYE to advance the frontier of parametric flood insurance and expand our offering to a wider geographic client-base based on ICEYE's data."

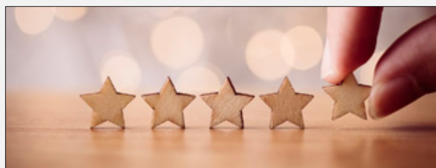
Lisa Wardlaw, global head of insurance solutions at ICEYE, adds: "The climate crisis calls for a revolutionary approach to insurance that fuses science, data and finance. We are proud to partner with Descartes, a company that shares our commitment to innovation."

"Our unique global flood monitoring solutions consistently provide data on whether a given parameter has been met or exceeded at any location worldwide. By reporting on such activity quickly and effectively, ICEYE is enabling flood monitoring that has been impossible until now."

Taussig Capital Re launches to provide non-traditional capital solutions

Taussig Capital has acquired Spencer Re I.I to form a new entity, Taussig Capital Re. Licensed in Puerto Rico, Spencer Re I.I was founded as an international company in 2006 by Joseph Taussig, CEO of Taussig Capital. The rebranded company will provide reinsurance to primary insurers and reinsurers wanting to optimise their reinsurance programmes and access non-traditional sources of insurance capital. Such bespoke non-traditional capital solutions will be administered to companies looking to restructure their legacy insurance programmes, including captives. In addition, Taussig Capital Re will segregate pools of assets and liabilities to explore a company's unique opportunities for risk exposure.

Taussig comments: "We are incredibly excited about the opportunities that a combined Taussig-Spencer deal brings to the marketplace. Insurers and reinsurers will now have a new tool to help them competitively manage risks. This represents the next step in the evolution of the structure of the insurance industry. Taussig Capital Re will provide insurance products that will assist in safeguarding companies' risks while allowing them to redeploy capital back into their primary businesses." ■

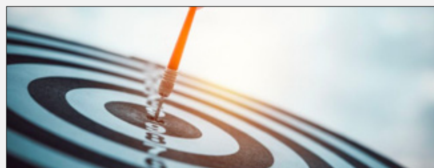


Guy Carpenter unveils insurtech Centre of Excellence

Guy Carpenter has launched an insurtech Centre of Excellence (COE) to administer a comprehensive suite of solutions to reinsurance carriers and managing general agents.

As the risk and reinsurance segment of Marsh McLennan, Guy Carpenter's COE will provide various reinsurance broking, advisory and analytical services.

Read the full article online



Insurance fronting company receives 'A-' rating

Insurance fronting business Concert Group Holdings has completed its targeted capital raise of US$100 million and received a rating of "A-" (Excellent) from A.M. Best.

Explaining the rating, A.M. Best says: "On a projected basis, Concert's level of risk-adjusted capitalisation is categorised as strongest."

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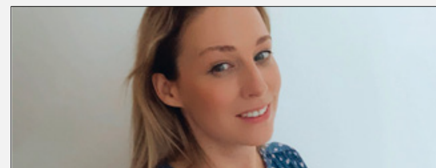

Sedgwick names UK client director

Sedgwick has appointed Heather Moyes as client director to enhance the firm's corporate markets offering in the UK.

As a provider of technology-enabled risk, benefits and integrated business solutions, Sedgwick provides tailored insurance solutions across the lines of property, casualty, marine, benefits and reputational risk.

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Beazley launches specialist ESG syndicate at Lloyd's

Beazley has received 'in-principle' approval from Lloyd's to establish Syndicate 4321 to exclusively provide additional capacity to companies that score well against ESG metrics.

Led by Will Roscoe, head of Beazley's market facilities division, the syndicate will begin underwriting on 1 January 2022.

Read the full article online

Appleby names new Bermuda office managing partner

Appleby has appointed Brad Adderley as office managing partner in Bermuda, effective 1 January 2022.

He succeeds Tim Faries, who completed two terms in the role and will continue at the offshore law firm as CEO of Appleby Global Services.

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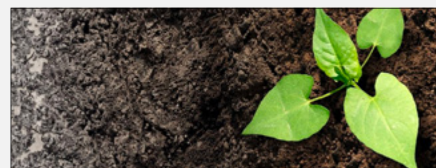

SiriusPoint strengthens ties to parametric climate risk market

International speciality insurer and reinsurer SiriusPoint has partnered with Parameter Climate, a climate underwriting and distribution advisory company.

SiriusPoint underwrites insurance and reinsurance solutions across the lines of property, environment, energy, accident and health, and workers' compensation.

Read the full article online

Diving into the captive space

Members of the Cayman Islands Monetary Authority's insurance division discuss the landscape of the captive industry in the domicile, as well as the impact of COVID-19 and emerging risks

Rebecca Delaney reports

images by 1xpert/stock.adobe.com

The Cayman Islands has seen a steady and continual growth in its insurance industry, with a total of 770 insurance licences under the supervision of the Cayman Islands Monetary Authority (CIMA) as of 30 June 2021. Of these, 678 relate to international insurance markets, 90 per cent of which insure risks in North America specifically.

The jurisdiction boasts 657 Class B, C and D insurance companies (essentially international insurance companies), of which 22 per cent were formed as segregated portfolio companies (SPCs). Pure captives and group captives represent the two main categories with 279 and 125 registered companies respectively.

"This is the fifth year in a row where the captive sector has not slowed down. We have been performing well according to the measure of new licence applications, where we have achieved more than 30 new licences, around 80 per cent of which are captives," notes Ruwan Jayasekera, head of CIMA's insurance division.

He observes that this has been complemented by growth in existing programmes, particularly in Cayman's significant group captive sector, which has seen the membership of those groups expand as well.

"This trend may be owing to underlying economic uncertainties — perhaps corporates prefer to extend their existing programmes as opposed to starting something very new," Jayasekera notes.

George Kamau, deputy head of CIMA's insurance division, adds that another metric used to assess the landscape of captive market conditions is that every six months

"We have been seeing a trend of private equity funds investing in captive insurance and reinsurance companies"

after year-end, captives are required to file annual returns with CIMA, allowing the authority to review the financial condition of a company and identify specific trends.

"As part of our supervision, anytime these captives want to make changes to their business plan (for example, to add new business lines or expand their existing programmes), they are required to come to us for approval, which also allows us to see what is currently going on within those entities," Kamau says.

Market developments

The Cayman Islands is known for its healthcare captives, as this is what the captive industry was founded on when the jurisdiction and service providers realised the distinct need to provide US medical malpractice coverage. Since then, the sector has grown exponentially so that service providers, insurance managers, lawyers and auditors are all very familiar with not-for-profit healthcare programmes.

Jayasekera notes that in terms of new formations, healthcare captives are still growing, although not at the same pace as was seen six or seven years ago.

"Our primary market is the US healthcare sector — following the consolidation of mergers and acquisitions activity, new formations have slowed down. Luckily, in most of these companies the surviving entity has been a Cayman entity, so our numbers have not gone down," he explains.

Healthcare captives represent almost one third of all captives on the island; as of 30 June 2021, medical malpractice liability continues to be the largest primary line of business with approximately 24 per cent of companies reinsuring this coverage.

As well as healthcare, the Cayman Islands has seen a trend of diversification into other lines of business, such as transportation captives, in which the parent company is the transportation company and the captive provides workers' compensation and general product liability lines.

The jurisdiction has also seen continued interest in the formation of SPCs, according to Kara Ebanks, deputy head of CIMA's insurance division.

"Although not strictly a captive structure, these alternative risk transfer structures allow for diversification within the various cells and is another area that continues to grow, as we have insurance managers on the island who predominantly focus on SPCs," she explains.

Kamau describes that "the Cayman market has come of age", referring to the increase in licence applications for commercial enterprises intending to do international business in the Cayman Islands. This has seen the Cayman insurance industry branch out from the traditional captive market to evolve into a more commercially-oriented international insurance centre.

Jayasekera adds that the Cayman Islands also hosts a significant funds sector made up of specialised service providers on the fund side.

"We have been seeing a trend of private equity funds investing in captive insurance and reinsurance companies. The Cayman Islands have, therefore, the speciality of specialised knowledge to offer services as a jurisdiction to fund captives, as well as regulate both the liability side and the asset side of these captives," he explains.

There has also been a significant increase in reinsurance operations considering the creation or redomiciliation of structures in the Cayman Islands, according to Walkers Global's report, 'Reinsurance activity in the Cayman Islands doubling every 18 months?'.

The offshore law firm explains that there are three fundamental factors behind this growth, the first being that Cayman is the capital market jurisdiction of choice. Historically, the islands have been favoured by the asset management industry, particularly private equity firms, as a structured debt issuance jurisdiction, while special purpose vehicles are a significant contributor to the international capital markets.

The diversity and complexity of transactions made through Cayman vehicles require complementary sectors and services such as accounting, legal, actuarial, insurance management and fiduciary services. These correlative sectors are also vastly advantageous to the captive industry.

The second factor, according to Walkers Global, is the expanding value proposition of the Cayman Islands. It is required that Class D reinsurance licensees have a physical presence in the domicile, including an office of executive management with permanent residence.

Not that this is any plight! The Cayman Islands has the highest standard of living in the Caribbean, noted as the gastronomic capital of the region and for its myriad of recreational and cultural activities. This is hugely beneficial amid the increasing interest by organisations in setting up and operating within the jurisdiction, particularly in the financial services and asset management industries.

Walkers Global cites the third reason behind growth in Cayman's captive reinsurance industry is the effective regulatory system. As the domicile elected not to seek Solvency II equivalence, the supervisory and legislative framework is more focused on the closest geographic market of the Americas — in not pursuing Solvency II, the Cayman Islands is attractive to US corporates that do not see a benefit in the framework.

The proof is in the regulation

It is one year since the Cayman Islands were removed from the EU's blacklist as a potentially un-cooperative tax jurisdiction. There is a common misconception that a captive formed in Cayman will not have to deal with US tax issues — realistically, the majority of Cayman captives that have US shareholders will most likely have US filing requirements.

Cayman captive owners must determine if the captive will be classified as a controlled foreign corporation (CFC) for US tax purposes. If so, the US shareholders are required to include their pro rata share of the captive's taxable income in their filings.

The 953(d) election is only available to CFCs that meet the definition of "insurance company" for US tax purposes, and means that the Cayman captive will report and file its taxes on US corporate tax reforms, as well as adhere to the regulations applicable to insurance companies under the US Tax Code.

Providing a captive has received premiums in the tax year below the annual threshold, it can seek the 831(b) election to be taxed solely on investment income. This also eliminates the federal excise tax, which the US imposes on insurance premiums paid from the US to non-US insurance companies. The tax rate is 4 per cent for directly written premiums and 1 per cent for premiums reinsured through a US fronting company.

Despite these available tax elections, the Cayman Islands did not initially escape the EU's blacklist — although Jayasekera notes that this had minimal impact on the insurance sector because around 90 per cent of Cayman captives are US-based (in the sense that they insure US risks).

"Therefore, most of our captives elect the 953(d) election to be treated as US subsidiaries. In the healthcare sector, most of the healthcare systems and hospitals in the US are tax-exempt — by extension, their captives have lighter tax arrangements as not-for-profit entities. So, largely our captive industry was unaffected," Jayasekera explains.

"The landscape in the captive world is changing — not necessarily driven by the EU tax blacklisting restrictions — compared to 10 or 15 years ago where there used to be very simple captives offering straightforward programmes. Now, the introduction of third-party risks is more complex, and organisations are trying to come up with more innovative and sophisticated covers for high dollar value transactions," Jayasekera says.

This has caused CIMA to look at economic substance more closely, based on measures for anti-money laundering (the AML regulations were passed in 2020) and combating the financing of terrorism, as well as sanction concerns.

With this perspective, regulatory bodies have an increased focus on the economic substance of captive programmes, asking questions such as: "why do you need a captive? What business purpose does it have? What value is it adding to the overall risk management framework?"

"Where we have doubts or the applicant has not clearly presented the business reason to us, we have had a couple of instances where applications or business plan changes have been rejected," comments Jayasekera.

Kamau identifies that in the last two years, CIMA has improved and strengthened its enforcement tools under a new law that allows the authority to impose fines and penalties on companies that fail to comply with the regulatory framework.

Other legislative regulations outline a number of obligations to which Cayman captives must adhere, including risk management and governance related requirements, and a specific obligation for Class B(iii) licensees to make audited financial statements available to insureds and third-party beneficiaries.

"As regulators, we are doing everything possible to remain flexible, approachable and accessible. That has been the model over the last 50 years, and that will be the model going forward. We remain very robust in our international standards because we are big enough as a jurisdiction to be concerned more on quality as opposed to quantity," Jayasekera comments.

Cayman and COVID-19

Since the Cayman Islands largely handles healthcare captives that cover the exposure of US hospitals, the COVID-19 pandemic naturally brought significant challenges, with Jayasekera stating: "Hospital systems and the healthcare sector as a whole were tested like never before in recent history."

"Following such pressures, some of the organisations raised that some of their coverages needed to be expanded in a contingent manner, while others incorporated specific pandemic exclusions in their coverage," he explains.

Furthermore, since the international insurance and reinsurance industries (including captives) are largely online-based, most Cayman insurance companies are managed by insurance managers that have a physical presence on the island. This meant that when the Cayman Islands went into lockdown in March 2020, companies almost immediately transitioned their work models from office-based to remote access.

Jayasekera says: "This included the regulators, as within two to three days CIMA had completely shifted from an office environment to a remote model. This ensured minimal disruption to the insurance, reinsurance and captive markets in the jurisdiction."

Looking at the longer-term effects of COVID-19, Ebanks notes that the Cayman Islands has seen more interest in several diversified lines of business and support entities to navigate through the pandemic.

"This is particularly seen in terms of directors and officers coverage and property lines, as organisations try to take into consideration some of the impacts on the property market. The market was hardening prior to the pandemic, where previously some of those coverages may not have been allowed through commercial lines," Ebanks explains.

Moving forward

Looking to the future of the Cayman captive market, Jayasekera identifies the cannabis industry as a significant emerging risk from the US, with several inquiries to form Cayman-based companies to provide direct or reinsurance coverage for cannabis growers and manufacturers.

He explains: "At the moment, our position is that we consider federal laws above state laws, so even though some states have laws recognising and allowing cannabis-related activities, we cannot deal with this line of business because it is not recognised at a federal level."

"I anticipate some US states will start offering coverage, but in the meantime they will still look for offshore coverage — in that case, we may have to amend some of our money laundering regulations here to accommodate legal cannabis-related business."

Kamau names cyber risk as one of the most common emerging risks, particularly as people migrate online in most aspects of life and cyber fraud becomes more commonplace, noting that "we are seeing quite a few captives trying to come up with programmes to provide coverage, or at least recognise cyber-related risks".

Ebanks adds that virtual assets and cryptocurrencies continue to permeate the captive space as companies seek property-type coverage for the loss of such assets either by crime or theft.

"In light of the increased activity projected for hurricanes and other natural catastrophe events, we are also seeing heightened interest in the insurance-linked securities space — there are obviously a lot of opportunities in the pipeline for the jurisdiction," Ebanks says.

She adds that although the Cayman Islands are definitely seeing more sophisticated transactions alongside a greater commercial focus, the domicile is still predominantly healthcare-driven in terms of the captive space as that is where the majority of skills and resources lie.

"For the jurisdiction as a whole, markets are constantly changing and adapting — there are quite a lot of opportunities out there for us, so we are looking forward to these times ahead," Ebanks concludes. ■

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Labuan IBFC Inc. Sdn. Bhd. (817593-D)
Suite 3A-2, Level 2, Block 3A
Plaza Sentral, Jalan Stesen Sentral,
KL Sentral, 50470 Kuala Lumpur, Malaysia
Tel: +603 2773 8977 Fax: +603 2780 2077
Email: info@LIBFC.com

www.LABUANIBFC.com

On the mend

Dan Keough of Holmes Murphy, Phillip Giles of MSL Captive Solutions and Mike Matthews of Artex Risk Solutions discuss current trends and challenges in the captive employee benefits industry

Rebecca Delaney reports

Aon's report, 'Employee benefits and captives: a 2020 perspective', identifies a burgeoning dependency on employee-sponsored health plans as a result of a global ageing population, the increasing prevalence of chronic medical conditions, poor lifestyle choices and overall declining health standards. Employee benefits are programmes offered by an employer to workers, generally across the four categories of medical insurance, life insurance, disability insurance and retirement plans.

The factors contributing to the increased uptake of these programmes, coupled with the impact of the COVID-19 pandemic, have placed an immense strain on healthcare markets, particularly as deferred care and treatment return to pre-pandemic levels. The US healthcare industry in particular is also currently confronted with an inefficient market, non-transparent healthcare prices, and the escalating costs of medical services and pharmaceutical drugs.

The diverse, complex requirements of a multigenerational workforce obliges employers to provide more personalised solutions through innovative and impactful healthcare benefits, according to Willis Towers Watson's 2021 'Emerging trends in healthcare survey'.

50 per cent of respondents in the survey say they plan to collect employee insights to assess their organisation's unique needs, wellbeing strategy and social determinants of health.

Furthermore, 70 per cent of respondents in Willis Towers Watson's separate 2021 'Global Benefit Trends Survey' say they aim to customise and differentiate their employee benefits strategy within the next two years, according to the success measures of improved employee wellbeing, experience and retention.

Employee benefits and captives

There is a distinct trend among employers with self-funded healthcare plans demanding further transparency, stability and cost control that is not facilitated by the commercial insurance market. This has provided significant opportunities for

captives in the healthcare industry in the past decade.

Organisations with the employee count, premium spend and data available to do so can significantly gain from implementing a captive to finance their employee benefits programmes. In its report, Aon notes that captive participation in employee benefit programmes is projected to grow from 13 per cent to 24 per cent within three years.

In addition, more small- and medium-sized employers are adopting self-funded captive insurance plans as they provide more control over a personalised benefits policy, compared to the fixed cost of a fully-insured group health insurance plan.

Dan Keough, chairman and CEO of Holmes Murphy, comments: "We have seen continued tremendous growth and interest across the captive insurance industry regarding employee benefits captives."

"Today, employers are no less frustrated with cost and lack of control associated with health insurance than they have been in the past. If anything, as cost has grown, so has the pain and frustration with traditional markets. This also means there are more employee benefit captive options available than in the past, as new captives are forming to accommodate marketplace interest. There is more competition, more homogeneous and niche captives, and more interest from association and group purchasing alliances," Keough adds.

Mike Matthews, commercial director, international, Artex Risk Solutions, notes that captive participation can be considered for a variety of different types of benefit plans that are made available by an employer group. He points out that the details of how a captive is deployed depends on several factors — "including, among others, employer and captive risk appetite and tolerance, number of plan participants, local regulatory requirements, commercial market conditions, and in respect of pricing, capacity and coverage plans".

Matthews states the starting point for most multinational companies is to consider their non-US risks owing to the greater ease of incorporating a captive reinsurer into either a new or existing international pooling arrangement.

"A contributing factor, especially for non-US programmes, is the increasingly capable administration and support that captive network providers are able to offer. By far, the most common captive approach is to place a large volume of the local employee benefit insurance policies around the world with a small number of captive network providers," he explains.

US-based risks included in benefit plans under the Employee Retirement Income Security Act (ERISA) comprise pensions, short- and long-term disability, dental and vision, and medical stop-loss (MSL).

Phillip Giles, managing director of MSL Captive Solutions, observes that "overall growth in ERISA-qualified employee benefit captives has stalled over the past several years". He attributes this in part to the US Department of Labor suspending its fast-track approval

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process for prohibited transaction exemptions for captives.

Outside of ERISA, US employee benefits programmes can also provide voluntary benefits to offer financial stability and protect employees from significant medical deductibles, co-insurance or legal expenses.

Coverage typically includes critical illness, hospital indemnity, legal expenses and forms of warranty.

In addition, employers are considering the inclusion of voluntary benefits in a captive owing to the positive impact on employee health and financial wellbeing, as well as employee retention and additional underwriting revenue for the captive's portfolio, according to Aon.

Matthews says: "For US-based portfolios, the focus is split between the more regulated, ERISA-based risks (i.e. health and medical) versus the non-regulated benefits, such as MSL or voluntary benefits, with the latter being relatively easy to underwrite in a captive."

Giles affirms: "There is significant expansion in non-ERISA voluntary benefits (such as long-term disability, hospital indemnity, and critical illness) being offered to employees through employer- and association-sponsored captive arrangements. Interest in voluntary benefits has expanded, along with the increased prevalence of high deductible health plans and growth has accelerated during the past year due to COVID-19."

In order for a company to successfully manage its benefit financing strategy, Keough emphasises the importance of recognising the captive as a long-term programme.

"Because self-funding claim costs are variable from month to month, establishing appropriate budgeting, setting aside dollars for higher claims months and watching cash flow are essential to managing a self-funded plan — especially in the first year," he advises.

Holmes Murphy's Keough identifies three main advantages of using a captive for employee benefits:

Stability: this is one of the largest benefits the captive provides in a market where volatility and unpredictability reign. By leveraging a larger group of employers, the captive provides stability and protection from 'bad' years, prevents costs from increasing at a rate the group would experience in the traditional market, and does not create a new baseline of spend.

With limited information shared with employers by the traditional market and renewal 'surprises' being the norm, the captive's transparency and stability are a welcome change for employers.

Control: the lack of control that surrounds health insurance options is intolerable for business owners whose health insurance costs are typically one of their top three business expenses. The captive not only gives employers control over the benefit offerings (allowing for customisation in plan designs, pharmacy solutions and network flexibility), it also gives them more control over their overall spend.

While we cannot control or predict all claims, a captive provides the ability to control what we can (plan design, communication, incentives, programmes offered) while still benefiting from the larger group's stability and protection.

Opportunity: this may be the most enticing part of being in a captive because it allows employers to capture their own positive claims performance and retain savings.

By operating as a self-insured employer in a captive, a group can recognise savings in their own positive claims years which is where the majority of the spend, therefore the majority of the opportunity, lies.

In addition to the opportunity for savings through self-insured claims performance, a captive provides an additional layer of opportunity by allowing employers to benefit from regaining a portion of stop-loss premiums when the captive is profitable.

Medical stop-loss insurance

Examining a specific line of coverage an employee benefits programme can offer, MSL provides a layer of coverage (generally including short-tail medical benefits and prescription drug costs) above employer group self-funded healthcare insurance

to protect against catastrophic specific or aggregated events. A captive can provide MSL benefits to employer organisations as it allows greater control of the risk and its cost over time, as well as offering premium and underwriting profits and access to reinsurance markets to obtain specific and aggregate protection.

"The hardening stop-loss market is resulting in a larger portion of self-funded employer groups looking at a captive for more stability and protection than they have on their own," notes Keough.

"In the past, employee benefits captives were more geared towards smaller fully-insured employer groups. Over time, employee benefits captives have attracted larger self-funded groups (with up to 1,000 enrolled employees) who are looking for greater stability, spread of risk and the peer group and sharing they are unable to achieve on their own," he explains.

Giles affirms the expansion of the MSL industry as a whole: "10 years ago, MSL was a US$7 billion industry and, as of this year, we have eclipsed $25 billion. This number is even more astounding when you consider that MSL is an excess rather than primary form of coverage."

However, it is difficult to accurately determine the growth in MSL captives themselves as carriers generally do not distinguish captive business from traditional stop-loss in annual reporting to the National Association of Insurance Commissioners (NAIC) — although empirical research suggests that MSL captives have grown to account for about $2.5 billion (25 per cent) of the total MSL market, according to Giles.

Specific stop-loss insurance provides risk coverage against high-value claims by an individual to protect employers against unusually high claims from a single person, while aggregate stop-loss insurance covers the total claims of all covered members within the plan and limits losses to a certain aggregate amount over a specified period.

The role of the stop-loss coverage is to cover all claims above specified deductible levels, so that when such coverage is included in a group captive plan it spreads the risk of catastrophic claims over all members of the captive, therefore decreasing both volatility and cost for all participants.

Giles explains how an MSL captive operates: "There are frequent misconceptions surrounding group MSL captives. The captive itself is really just a financial or structural mechanism for sharing stop-loss risk among members. A captive only changes the way that specific segments of MSL risk are allocated."

He highlights that the optimal benefit of an MSL captive is realised in how the risks within each employer's self-funded benefit plan are reduced and controlled, noting that the industry is currently in the third or fourth evolutionary generation of group MSL captives, which presents significant qualitative variance among programmes.

"Adding stop-loss to a captive can further augment an organisation's HR objectives by enhancing the efficiency of how employee benefits are financed and delivered to employees. For both group and single-parent MSL captives, the most significant advantage is distancing self-funded employers from an overdependency on traditional insurance structures and the related market volatility."

Giles notes that most of the structures that MSL Captive Solutions works with administer a comprehensive platform that supports reference-based pricing structures, direct provider contracting, speciality prescription management, and centres of excellence networks.

He adds that the more sophisticated MSL captives also implement biometric screening and predictive analytics to continually identify potential risk factors and modify risk mitigation responses.

"Establishing a solid risk control foundation as a priority objective will accentuate the traditional advantages associated with an MSL captive: risk distribution, diversification, surplus accumulation and long-term rate stabilisation," Giles says.

Participation in a group medical captive is perceived as more beneficial than traditional fixed cost health insurance as increasing costs are causing employers to also face increasing premiums and deductibles.

Giles adds that, in order to optimise the financial benefits of a stop-loss captive, there are more efficient methods to use the surplus generated than simply returning profits as dividends to members; instead, surplus can be retained within the captive to be used to further stabilise or reduce benefit costs, offset rate increases and assume additional risk.

COVID-19 and benefit captives

The COVID-19 pandemic undoubtedly impacted virtually every industry and sector in the global economy. Willis Towers Watson's global benefits trends survey finds

that the stress, burnout and mental health issues exacerbated by the pandemic present key workforce challenges that are urgently being addressed.

However, Keough says that in terms of benefit captives, the pandemic in fact provided opportunities for companies to make savings in claims within their own self-insured layers owing to the nature of how captives are structured. For example, the suspension of non-essential surgeries allowed many benefit captives time to establish reserves.

He adds: “Stop-loss carriers on captive programmes have also seen less of an impact on COVID-related claims than traditional self-funding, because even the high-cost intensive care unit stay for COVID-19 patients does not impact them, but is rather picked up by the captive layer (if it is even breaching the employer’s responsibility).”

Giles says: “There have been some earlier predictions of a 2021 claim wave resulting from the rescheduling of delayed elective procedures, but we really have not seen that yet. Some actuaries are also predicting a frequency increase in the severity level of potentially catastrophic conditions that could occur if COVID-related medical appointment cancellations prevented early detection — I believe that latter point has some merit.”

Artex’s Matthews adds that the delay and cancellation of non-COVID treatment saw a reduction in the typical usage of medical plans, which, as previously stated by Keough, led to better than expected loss ratios in captive programmes. However, Matthews notes that this trend is expected to reverse itself over the next 12 months as the world tentatively enters the post-pandemic stage.

Beyond the pandemic

Although the pandemic did not affect benefit captives as adversely as it did other industries, that does not mean the sector is safe from challenges. Continued growth and interest in captives means that insurance companies are increasingly seeking alternative ways to compete with one another.

Keough notes that tactics used in recent years to prevent companies from accessing the information required to join a captive include rate holds, guarantees, aggressive renewals to retain groups, and withholdings claims and renewals information.

Furthermore, some third-party administrators enforce requirements on group size which, coupled with the continued increase of medical and pharmacy costs, may hinder the ability of smaller companies to join a captive.

Matthews elaborates that with healthcare costs expected to increase in the coming 12 months, “the use of a captive to mitigate such increases is gaining traction with many organisations — especially for those struggling financially to come out of COVID-19 where cost reduction is the order of the day”.

Another challenge currently facing the captive benefits industry is the inconsistent support and lack of understanding on the part of the global reinsurance market, says Matthews.

“Expansion of a traditional employee benefits programme to support an organisation’s changing employee value proposition requires support and buy-in of the network providers and the global reinsurance markets. For the more innovative programme initiatives, we have found the market’s support to be inconsistent and lacking in understanding — leading to a limited roll-out based on an organisation’s financial ability to self-fund such risks,” he explains.

Giles continues: “Attaining profitability in this line of business has been a challenge for many carriers. Rates will need to increase, which will lead more employers to increase risk retention and fuel the continued growth and expansion of MSL captives — I believe that the current market conditions optimise the appeal of MSL captive participation.”

With this in mind, Keough turns to the emerging risks identified in the pipeline for the captive benefits industry. He explains: “There is a steady increase in both cost and volume of larger health claims, which continue to act as a risk to employers looking to be self-insured through a captive. Employers will not avoid paying for their larger claims, regardless of what funding arrangement they use. That likelihood of having more higher-dollar claims within a captive reinforces the need for captives to continue to evolve and seek solutions that help mitigate large claims to best protect the captive.”

In addition, Keough highlights that state regulations pose a potential threat to the captive benefits industry, as well as the difficulty within some markets for smaller groups to become self-insured — which, he points out, “ultimately limits their ability to join a captive”.

Keough concludes: “There is always risk at the federal level, as well in terms of the future state of employer funded medical plans. While that horizon is long, it will always be a consideration in the longevity and future of group captives and health insurance in general.” ■

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Risk Partners has appointed Hartley Hartman as business development manager for captive insurance, based in the firm's Charleston office.

In his new role at the speciality workers' compensation underwriter and alternative risk provider, Hartman will be responsible for managing all new business development activities, supporting captive strategy, and consolidating the firm's presence in this segment of the insurance industry.

Under Risk Partners' captive management programme, the company performs a captive viability analysis, assists with formation and licensing, and provides maintenance and management services, typically in the lines of workers' compensation, auto liability, general liability and medical professional liability.

Hartman most recently served as senior audit manager, among other roles, at Johnson Lambert, before which he was staff accountant at AIG Captive Management Services.

As a serving board member for the International Center for Captive Insurance Education, Hartman is both an associate in captive insurance and a certified public accountant.

Commenting on the appointment, Gary Osborne, vice president of alternative risk at Risk Partners, says: "We are extremely excited to welcome Hartley to our organisation and believe his profound understanding of the insurance industry and impressive business acumen will further Risk Partners' standing as a leading provider of custom risk management solutions."

"Hartley's meticulous attention to detail and extensive knowledge of captive insurance strategies will help to ensure we continue to align our innovative services with the needs of our customers, allowing them to manage their corporate risk more effectively."

Canopius Group has appointed Kate Roy as chief operating officer (COO), effective from early 2022.

In her new role at the global speciality reinsurer, Roy will report to deputy CEO Neil Robertson who joined the firm last February.

Canopius has underwriting operations in several jurisdictions through Lloyd's Syndicate 4444 (managed by Canopius Managing Agents), Canopius US Insurance and the Bermuda-based class 4 reinsurer Canopius Reinsurance.

The firm offers insurance solutions across accident and health, casualty, cyber and specialist consumer products, among others, as well as reinsurance solutions for US and international property and casualty, agriculture, marine, protection and indemnity, and terrorism and political violence.

Roy most recently served as COO, UK at Willis Tower Watson, before which she held the positions of executive director, UK operations at AIG Property Casualty and director of insurance services at Capita.

With a career spanning more than 30 years, Roy is experienced in leading and administrating complex, transformational operational solutions across business units and geographies.

Commenting on the appointment, Robertson says: "Kate is hugely experienced across the gamut of global reinsurance, with a firm understanding of our business and the markets we operate in."

"Kate will help shape our future operating model and her energy and enthusiasm will be an asset to our positive distinctive culture and will undoubtedly help us realise Canopius's future ambition."

Captive Resources has appointed Drew Kendrick as assistant vice president, business development executive for medical stop-loss.

The captive consultancy firm provides advisory services to group captives, ranging from safety and claims advocacy to operational oversight and risk management, to help increase buying power, stabilise insurance costs and generate profitability to bottom lines.

Captive Resources has helped create more than 40 group captives across the US, and currently advises several of the largest member-owned group captives in the world, with total premiums of around US$3 billion and assets of $8 billion.

Kendrick previously held sales representatives roles at National General Insurance, where he partnered with consultants, brokers and insurance agencies to create self-funded, traditional medical stop-loss programmes.

Commenting on his new role via LinkedIn, Kendrick says: "I look forward to beginning this new chapter of my career with an outstanding organisation!" ■

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