CIT
CAPTIVE**INSURANCE**TIMES

ISSUE024
12.06.2013 WEDNESDAY
captiveinsurancetimes.com

Another US state passes captive laws

AUSTIN 05.06.2013

Texas governor Rick Perry signed SB 734 into law on 3 June allowing the formation of pure captive insurance companies in the state.

The new bill authorises licensed captive companies to insure the operational risks of their affiliates and risks of controlled unaffiliated businesses.

The bill also prohibits captives from issuing a number of insurance types, including title, personal automobile and workers' compensation.

The rate of the annual tax imposed on captive insurance companies is 0.5 percent of the company's taxable premium. The annual minimum tax to be paid by a captive under the bill is $7500, with maximum tax payment capped at $200,000.

It is hoped that the implementation of the bill will enable large Texan companies to redomesticate their captives that are currently domiciled in other states.

"There is a concern that this situation creates additional and administrative burdens for Texas companies because other states typically impose a number of obligations on out-of-state companies."

"[SB 734] seeks to address this situation by authorising the formation of pure captive insurance companies in Texas and setting out provisions relating to the operation and tax liability of such companies," said a bill analysis by Carona Insurance.

Kimberly Yelkin, executive partner of the Austin office of Gardere Wynne Sewell LLP, whose firm helped

read**more p2**

CITINBRIEF

Insurers rethinking captive reinsurance, says Fitch

Increased regulatory scrutiny and the need for collateral to support statutory reserve credit is driving US life insurers to make changes in their captive reinsurance arrangements, according to Fitch Ratings.

read**more p2**

Marsh Captive Solutions expands in Nova Scotia

Marsh has expanded its captive solutions operations in Halifax, Nova Scotia, as it looks to roll-out its new global initiatives development and training to its offices around the world.

read**more p2**

Another US state passes captive laws

Continued from page 1

to draft and negotiate the captive bill with the Texas Department of Insurance, said: "It took a lot of work to come to the final version of the legislation but we are very pleased with the bill as passed."

"The passage of SB 734 will promote economic development in Texas. So I think that a lot of large corporations will establish captives in the state or redomesticate to the state because of the favourable tax advantages and the money that can be saved."

There are now more than 30 US states with captive legislation, with North Carolina, Florida and New Jersey most recently entering the business.

Insurers rethinking captive reinsurance, says Fitch

Continued from page 1

Heightened transparency and regulatory oversight associated with new regulatory requirements is viewed positively by Fitch rating firm also expects other US life insurers to make changes to their affiliated capital reinsurance arrangements.

Recently, MetLife announced that it was merging its offshore captive, used to reinsure the company's variable annuity (VA) guarantee risk, into a domestic insurance company.

"The recapturing of VA ceded to a captive reinsurer reverses an industry trend as US life insurers rethink their use of captive reinsurance in response to regulatory changes."

"US insurance regulators have increased their scrutiny of affiliated captive reinsurance arrangements," said Fitch in a release.

To try and abate the issue, the National Association of Insurance Commissioners has formed a subgroup to study the industry's use of captives and make recommendations to modify existing regulatory requirements and/or introduce new requirements.

Marsh Captive Solutions expands in Nova Scotia

Continued from page 1

Novia Scotia offers a number of advantages including competitive operating costs, an educated and loyal labour pool, and a strategic near-shore location to the US and Europe, according to Marsh.

"Our Halifax office is recognised for its productivity, efficiency, and they are consistently early adopters of new technology we've introduced," said Julie Boucher, practice leader for Marsh's captive solutions group.

"The office will be instrumental in rolling out our new global initiatives to our Marsh captive solutions offices around the world."

Marsh's Halifax office, which opened in 2006, has been steadily growing its captive insurance servicing operation locally. The office currently services more than 300 captive accounts worldwide.

Stephen Lund, president and CEO of Nova Scotia Business, the province's economic development agency, said: "It is a unique type of work for the financial services industry in Nova Scotia."

"While most captives usually locate in offshore jurisdictions with laws favourable to their arrangement, Marsh chose Nova Scotia as a near-shore solution for its shared services, middle and back office operations because of the cost competitive environment of doing business and access to our talented labour force."

Vanliner launches its third captive programme

Vanliner Insurance Company has formed MoveCAP, a new captive insurance programme for best-in-class moving and storage companies.

Vanliner Insurance is a full-service property and casualty insurer for the moving and storage industry.

Move-CAP is Vanliner's third group captive programme designed exclusively for premier moving and storage operations.

Over the past two and a half years, Vanliner has grown its alternative risk transfer business to include three group captives representing more than 50 members.

The programme brings moving and storage agents together to form their own insurance programme to achieve more predictable insurance premiums throughout various market cycles and economic conditions.

Wes Stewart, president of Stewart Moving Company and a member of Move-CAP, explained that his firm joined the group captive programme to have more control over its insurance premiums and coverage.

Ray Wise, president of Vanliner, said: "It is exciting to add Move-CAP, the first group captive programme open to all moving and storage companies, to our growing alternative risk transfer portfolio."

"The programme was designed to provide a more cost-effective risk management solution for safety conscious moving companies, regardless of their van line affiliation."

Chevron captives are fighting fit

A.M. Best has awarded the financial strength rating of "A (Excellent)" and issuer credit rating of "a+" to Heddington Insurance Limited and Iron Horse Insurance Company.

Heddington's ratings reflect its superior capitalisation, consistently positive operating results and the role that it plays as a captive insurance company of Chevron Corporation.

Iron Horse's ratings reflect its adequate risk-adjusted capitalisation, explicit parental support, experienced management team and the role it plays as a direct captive subsidiary of Chevron.

Both companies' positive ratings are slightly offset by their high net loss exposures, as the coverage provided tend to result in claims that are characterised as low frequency but high severity.

"In its role as a captive insurer, Heddington, along with Iron Horse Insurance Company, currently provides broad and competitive global insurance products for Chevron and its subsidiaries. The insurance needs of Chevron are supplied through these captive operations (where appropriate) and the commercial market," said A.M. Best in a release.

Influx of capital strengthens reinsurance sector

Guy Carpenter & Company's June renewal briefing reported that the reinsurance sector has seen "dynamic capital growth" in 2012 and 2013, spurred by an influx of capital from alternative sources.

Guy Carpenter found that the surge in alternative or convergence capital has changed the nature of the sector's capital structure, as investors grow increasingly confortable with supplying capacity through a convergence of both traditional and alternative vehicles.

According to Guy Carpenter, capital growth has also begun to significantly affect reinsurance pricing for peak property catastrophe risks in the US.

David Flandro, global head of business intelligence at Guy Carpenter, said: "The reinsurance sector has exited the fairly consistent post-Katrina Florida property catastrophe pricing range."

"This has been driven by a very real change to the sector's capital structure and this change is continuing unabated. New sources of capacity are emerging with implications for pricing, availability and structure. Guy Carpenter is well placed to enable clients to capitalise."

Negative outlook for Nuclear Electric Insurance

A.M. Best has revised the outlook to negative from stable and affirmed the issuer credit rating (ICR) of "a+" and financial strength rating (FSR) of "A (Excellent)" of Nuclear Electric Insurance.

The ratings reflect Nuclear Electric Insurance's strong capital position, conservative operating strategy, strong enterprise risk management culture and exclusive leadership position in the US nuclear power generating industry.

"Nuclear Electric Insurance provides essentially 100 percent of the nuclear utility property insurance coverage in the US," said A.M. Best in a statement.

Nuclear Electric Insurance's ratings are partially offset by the company's primary focus on catastrophic property risks and related business interruption claims.

"The negative outlook on the ICR considers the magnitude of recent claims activity and the concerns this activity brings to the enterprise risk management exposures."

"The company has implemented changes to its risk management, coverage for high risk perils and pricing models; however, in A.M. Best's view it will take time for these measures to be fully tested."

UK facultative reinsurance spending down, says Faber Global

A number of large UK cedants are reducing their spending on facultative reinsurance, according to Vanessa Macdonald-Smith, team leader at Faber Global.

In a blog post, Macdonald-Smith explained that there are a variety of reasons that cedants are taking this approach. "Some could have found that the outlay on facultative premium outweighed the return they earned on claims."

"Others might have found that their facultative spend was in conflict with or duplicated their treaty spend. One cedant also went through a major restructuring which altered the sign-off procedure for facultative reinsurance purchases."

She went on to explain that the focus for many cedants has changed too. According to Macdonald-Smith, most are more concerned with retained premium income and much less on using facultative reinsurance as an underwriting tool.

"The important issue for Faber Global has been to provide analytical and transactional support to cedants during this time of transition, enabling our clients to find innovative ways to spend less money, while still protecting their accounts."

Southport Re is first to utilise new Cayman law

Southport Re, the reinsurance subsidiary of New York-based private equity firm Southport Lane, has become the first insurer in the Cayman Islands to take advantage of the jurisdiction's recently amended insurance law.

Southport Re recently migrated from Cayman's Class B captive licence to its new Class D open-market reinsurer licence.

Class D insurers are regulated by the Cayman Islands Monetary Authority (CIMA) and are required to maintain a place of business in Cayman.

CIMA director Cindy Scotland feels that the amended insurance law will enhance Cayman's capability to effectively regulate the risks that different licensees face in the insurance market. "This is a key reason for differentiating between captives and reinsurers," she added.

Glen Weber, CEO of Southport Re, said that the firm is "delighted to be the first Cayman insurer to receive this new classification".

"Southport Re continues to view Cayman as an attractive location for our reinsurance business."

"The common sense approach to regulation, and the knowledge and experience of CIMA staff combined with a great service sector, makes the Cayman Islands an ideal location for us."

ALPS overcomes rocky times

A.M. Best has affirmed the financial strength rating of "A- (Excellent)" and issuer credit rating of "a-" and revised the outlook to stable from negative for ALPS Property & Casualty Insurance Company (dba Attorneys Liability Protection Society).

ALPS's ratings reflect its good risk-adjusted capital position, high policyholder retention, established relationships with various state bar associations and its geographic spread of risk.

"Partially offsetting these positive ratings factors are ALPS' concentration risk being a one-line writer, its fluctuating underwriting results, which include sizeable losses in 2009 and 2011, variability in surplus levels, high common stock leverage and volatility in operating performance," said A.M. Best.

Marsh helps firms fight natural catastrophe risk

Marsh and CS STARS, the company's risk and claims management business unit, has added the NAT CAT Risk Map to the NAT CAT Pack to help clients manage their natural catastrophe risks and gain more control in their insurance renewal negotiations.

In a statement, Marsh explained: "Businesses are under mounting pressure from insurers to manage their global supply chain and property risk exposures more aggressively, amid greater underwriting scrutiny following heavy losses

sustained as a result of increasingly frequent and severe natural catastrophe events."

Using CS STARS's enterprise technology, the NAT CAT Risk Map expands upon traditional risk management information systems and enables clients to record their global risk exposures on a single interactive map.

Caroline Woolley, leader of Marsh's property practice in Europe, the Middle East and Africa, said: "Accurate natural catastrophe information is of paramount importance in determining risk mitigation, risk transfer and financing strategies."

"However, many modelling exercises are likely to be flawed from the outset if firms fail to provide all the appropriate data and fully determine the precise nature and location of the natural catastrophe risks they face across their value chains globally."

ING research shows asset allocation changes

New research from ING Investment Management has revealed that over the next five years, insurers will dramatically increase their exposure to a range of asset classes.

The research is based on interviews with a number of UK-based active fund managers and investment intermediaries.

Research has shown that 71 percent of insurers expect the sector's investment in infrastructure to increase.

Furthermore, in an indication that they believe insurers will be willing to take on more risk, 68 percent of those interviewed anticipate that their allocation of funds to equities will rise, and 67 percent anticipate their exposure to emerging market securities will also increase.

Jelle van der Giessen, deputy chief investment officer of ING Investment Management, said: "The insurance sector has been hit hard by falling investment returns, which has played a key role in declining dividends from some companies in the sector."

"Our research shows that only one in five UK based fund managers and financial intermediaries expect the situation here to improve, so insurers will increasingly look to diversify their investment portfolio to help increase returns."

America Road Insurance earns straight As

A.M. Best has affirmed the financial strength rating of "A (Excellent)" and issuer credit rating of "a" of The America Road Insurance Company (TARIC).

"TARIC's capitalisation and operating performance has been and continues to be robust. The ratings of TARIC have been hampered by the operating challenges of its immediate parent, Ford Motor Credit Company LLC, and its ultimate parent, Ford Motor Company, following the 2008 financial crisis," said the rating firm in a statement.

The ratings also recognise TARIC's excellent capitalisation level, history of positive operating performance, conservative reserve practices and effective management of exposures.

Partially offsetting the positive ratings are the operation and profitability of Ford Credit and Ford and their potential impact on TARIC.

The British Virgin Islands

The British Virgin Islands' (BVI) legislation provides for the formation and regulation of captive insurers. The application process is seamless; once the established criteria for the issue of a licence has been met a licence to carry on insurance business from within the BVI is issued. Local Insurance Managers provide the necessary expertise.

one of the world's premier domiciles for... *captive insurance* since 1990s

BVI Advantages

- Captive insurers and segregated portfolio company formations
- Reinsurance company formations
- Modern robust legislative framework
- Cost effective
- No premium taxes and no corporate income taxes
- Offers a seamless approach to forming captive insurers and reinsurance structures
- Internationally compliant regulatory regime

"...the grande dame of captive centres"

BRITISH VIRGIN ISLANDS
International Finance Centre

Government of the British Virgin Islands
Tortola, BVI VG1110
T:+1 (284) 468-4335 | F:+1 (284) 468-1002
www.bviifc.gov.vg | *info@bviifc.gov.vg*

The private isle

Consultant David Herratt tells CIT about the attraction associated with the little known Malaysian federal territory of Labuan

JENNA JONES REPORTS

When did Labuan become an active captive domicile?

Labuan set up as an offshore centre in 1990. In 1996, the territory passed its own laws for regulating insurance activity and set up the Labuan Financial Services Authority (FSA).

In the 1990s, there wasn't much of an emphasis on captives, but in the last five or six years there has been a strong focus on developing the location as a captive domicile.

Thirty-five companies are now currently residing in Labuan as registered captive insurance companies. There are also more than 100 other insurance and reinsurance entities registered there.

Labuan has become an offshore bridge between China and India, but in actual fact most of the island's development has been around Southern Asia and focusing very much on larger corporates, conglomerates and international organisations in the ASEAN (Association of Southeast Asian Nations) countries.

Half of the 35 captives that currently reside in Labuan are essentially Malaysian organisations.

The island now offers potential companies a robust and internationally recognised regulatory regime and a facilitative business friendly legislation.

Labuan wants to be seen as business friendly and works with regulators to facilitate applications as easily as possible.

What sorts of captives currently domicile in Labuan and what makes it an attractive location to them?

The types of companies that are currently domiciled in Labuan are: Malaysian international firms; hospitality organisations; property organisations; energy-related organisations; and plantation conglomerates.

One of the mains reasons that captive insurers decide to set up in Labuan over other jurisdictions is privacy. I believe that Labaun offers a little bit more discretion—than many other offshore centres—for companies that don't wish to broadcast their business to the world.

Labuan is also in the same time zone as Asia so it's convenient for neighbouring destinations to do business. Labuan also has direct access to the Malaysian captive market because if you set up a captive in Labuan, although it is offshore, it is still a Malaysian company. And by being a Malaysian company, it can write third-party business.

Labuan also offers a competitive shariah-compliant legislation, a unique offering that makes it standalone in Asia in comparison to other captive centres.

What types of vehicles and risks do companies in Labuan look at?

All of the 35 captive insurance companies in Labuan are standalone captives. There is also legislation for protected cell companies (PCCs), but the process hasn't progressed that much as of yet.

The types of risk that Labuan can cover are basically the insurance, reinsurance and captive risks. So it's all classes including property, casualty, life and general business. The regulators in Labuan offer licences that are contingent upon the application being accepted, and the whole project being feasible.

What is the regulator like in Labuan?

The FSA in Labuan wants the territory's offshore centre to work and in that respect it's clearly tried to simplify applications, formalities and costs as much as it can.

Will Labuan will be able to rival more established Asian domiciles in the future?

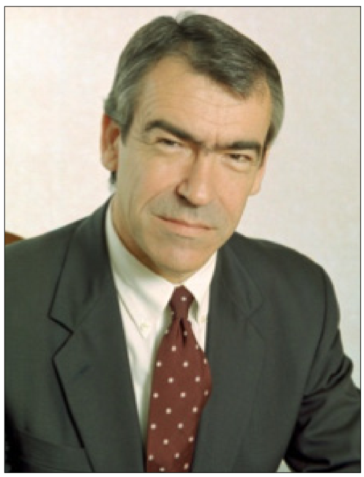
Yes, I think that Labuan can. Singapore is obviously a captive centre as well and Hong Kong and Singapore certainly rival Labuan as captive centres, but I feel that Labuan empathises a lot more with the Asian way of doing business.

Interestingly, there are more than 7000 companies registered already in Labuan—they are essentially holding companies and some may just hold a property—but many of them will be major organisations that want to have their head office in Labuan for tax reasons.

What are the drawbacks of domiciling in Labuan?

I believe that the drawbacks to domiciling in Labuan are no different to those of any other offshore centres.

In Asia, many times, relationships come before the business. Firms are dealing with a similar culture of people and I think that these expectations are met by Labuan because it offers the culture, behaviour, style and tone of service that Asian companies like to receive. CIT



David Herratt
Consultant

Staying in vogue

With more and more US states adopting captive legislation, CIT takes a look at how South Carolina plans to retain its established status

JENNA JONES REPORTS

With 148 active captive companies currently domiciled in the state and legislation that dates back to 2000, South Carolina is well positioned as an experienced destination for potential insurers.

Jeff Kehler, programme manager of the South Carolina Department of Insurance, believes that the state entered the captive space at exactly the right time.

"In 2000, there were only 12 states that had captive enabling legislation, and only four of those were actively pursuing a growth strategy. At the time, we were the only Southern state actively reaching out to promote and grow our captive industry."

Derek Martisus, head of US insurance solutions at Performa, agrees that South Carolina's proactive reaction to the "captive formation explosion in the early 2000s" has been a driving factor in the state's success.

"The service providers within South Carolina reacted quickly and adeptly to create an environment where captives can find all of their service providers, from attorneys to captive managers, within a few blocks of each other. This infrastructure is second only to Vermont's. Those early pioneers in the captive space in South Carolina should be thanked for their work."

First-hand experience

Coverage provided in South Carolina includes workers' compensation, general liability, medical malpractice and professional liability, property, and terrorism. The state also covers a number of industries comprising commercial automobile, construction, and banking and financial services—while approximately 40 percent of the state's captives are healthcare-related.

Kehler says that South Carolina's experience and expertise in the healthcare arena led to an influx of companies doing business in the state.

"Early in South Carolina's existence as a captive domicile, the risk retention industry was very active, as the mainstream insurance industry was skittish on this class of business."

"We were keen to attract this business as we quickly developed expertise in understanding the business and the solutions to the problems. It enabled us to assist the captive owners in addressing their risk financing needs."

Total Captive Solutions, a captive manager and third-party administrator based in Georgia, has personal experience of South Carolina's healthcare hospitality, with a risk retention group (RRG) domiciled there.

According to Michele Matthews, COO of Total Captive Solutions, Red Clay RRG began to write medical malpractice business through the firm in January 2008.

Matthews says: "[We] chose South Carolina because it was a very flexible location; also at the time it was a newer domicile. South Carolina was very appealing to us especially because, we're located in Georgia, and the physicians within the Red Clay RRG that we are writing for are located in Alabama. So logistically it made a lot more sense than choosing somewhere like Vermont."

Cory Brown, CFO of Total Captive Solutions, says that the South Carolina Department of Insurance was an integral part of the process, and a great help too.

He says: "The South Carolina Department of Insurance really worked with us. We had to ensure that we got everything licensed and registered before the Red Clay RRG physicians' policies expired at the end of 2007, so that we could start to write business at the start of 2008."

"Having a quick turnaround is very important when it comes to renewing or rewriting policies. And we have to remember that it isn't just us (the captive manager) that has something at stake. Through Red Clay we now have 80 individual insured physicians to think about so there are a great number of people who rely on the department of insurance."

Clash of the Carolinas

In May, the story broke that North Carolina was set to become the next US state to allow the formation of captive insurance companies. Having another active captive domicile in such close proximity could spell trouble for South Carolina as the states vie for potential business.

But Martisus feels that it isn't something that South Carolina needs to worry about. "I wouldn't

expect North Carolina to have a significant impact on South Carolina's business. There are currently more states with captive legislation than not, so there will always be competition with respect to captive domiciles."

"The creation of another captive domicile isn't earth-shattering news. Given South Carolina's tremendous existing service provider infrastructure, future captive owners will continue to look to South Carolina to be home to their alternative risk vehicle."

Brown explains that, as there is so much competition for captive domiciles nowadays, captive managers are starting to pay more attention to other factors including, the efficiency of a state's department of insurance and premium tax.

He says: "I feel that it really comes down to the staff of a particular state's department of insurance. A domicile also needs to be on the forefront of legislation and ensure that the governor and the legislator are receptive to any changes."

"South Carolina now has 12 to 13 years of experience in this field, so they are well aware of the pros and cons of certain structures. So if companies meet the criteria of the department of insurance and have quality programmes, South Carolina will be very flexible and work with them."

Kehler feels that the additional competition will have an effect on the whole industry, not just neighbouring states, as it will limit other domiciles' opportunity for growth.

"On the other hand, the newer domiciles don't have the sophisticated infrastructure, the regulatory expertise and staffing to enable captive owners to maximise the business opportunities of their captives. So, if you do your job right, the impact will be minimised."

South Carolina does have a card up its sleeve, with new legislation that has the potential to attract business to the state.

H3797, which is currently in the hands of the South Carolina Senate Banking and Insurance Committee, "aims to make the state both friendlier to captive owners and also more desirable to cell captives," says Martisus.

"In an effort to make South Carolina a more captive-friendly domicile, the new legislation will allow captives to become dormant for a period of time and lower costs for captive owners during that period. Clearly, this aims to retain captives that may otherwise dissolve, in hopes that a use will be discovered for the captive in the future."

"What some feel to be the most important aspect of the legislation pertains to cell captives. The legislation would permit cells to be either incorporated or unincorporated. While perhaps a little uninteresting to those not involved in cell captives, it will immediately put South Carolina in the mix for protected cell captive formations."

Plan of action

Now that more than 30 US states have adopted captive legislation, it isn't any wonder that South Carolina is focusing on the future, as it bids to maintain a steady flow of business.

Kehler feels that the key to attracting new business to the state lies in consistency and reliability. "[It] is about having a consistent, predictable, and reliable regulatory environment that your clients can depend on."

"The second dimension is one of orderly, consistent, quality improvement. This is not accepting the status quo of doing the same thing over and over again because we've always done it that way. It is about thinking through the processes and procedures to ensure we are focused on building value in a sensible, cost-effective manner."

Martisus adds: "I like to say that the secret to a successful captive domicile is that there is no secret. The moves that need to be made fall within the realm of common sense. Specifically, South Carolina needs to move the regulatory process thoughtfully, consistently and quickly."

"Finally, [South Carolina] must ensure that [its] service provider network is strong. As the infrastructure grows, so does knowledge of the alternative risk space and service providers make [a] domicile a knowledge centre as well as a business centre." **CIT**

Not afraid to converge

The threat of litigation may worry some, but surely their insurance provider has their back? CIT takes a look

MARK DUGDALE REPORTS

The convergence of technology that led to the development of smartphones and tablet computers is forcing companies that have never crossed-paths before to face off against each other in court.

Apple and Samsung are two such companies. They originated in different parts of the world and began in different industries, with the former making computers and the latter selling food. But in 2012, a US court told Samsung to pay Apple $1.05 billion in damages in 2012 after finding the South Korean company's technology business guilty of infringing six design and utility patents.

This particular case is all too common—Apple and Samsung are engaged in other patent battles around the world, and the market is bigger than the two of them—requiring companies to think about their risk management strategies as they enforce and protect their own IP, all the while trying to not infringe the rights of others.

Despite the attention that patent holders are paying each other, the associated risk and solutions to address it are "still an emerging area", according to Thomas Jones, partner at law firm McDermott Will & Emery LLP. "It's not something that is currently done by everyone."

Marsh's 2013 captive benchmarking report showed that of the 886 captives that were benchmarked, 17.2 percent have parent companies in the healthcare industry, 3.7 percent in technology and telecommunications, and 2.1 percent in life sciences. These are the types of industries in which innovation and patents to protect those innovations are essential.

In particular, the types of risks that technology companies write vary, but Marsh's report showed that technology companies are writing IP risk.

The report said: "IP is one of the toughest risks for technology clients to address, as there are no off-the-shelf risk-transfer solutions, and many industry-wide initiatives are still trying to get off the ground."

A source, who works in captive insurance and also does some IP work, says: "Captives do look at it and we have captives that write the risk. You have to keep in mind that the captive is there as a tool for the risk manager. The risk manager has to decide what makes sense to go in the captive and what makes sense to stay in the commercial market—if in fact it's available in [that] market."

Tracie Grella, global head of professional liability, financial lines, at AIG, says that the company has a patent policy that it has been offering since 1996. "But at any given time, we have a handful of insureds," she says.

"What we find is that it is about the pricing and the risk appetite of insurance companies. We would be cautious to offer that type of coverage to some of the high profile technology and pharmaceutical firms. Those would be very difficult areas in which to offer patent infringement coverage."

"Then, just in general, if we do offer quotes to other types of companies, we manage the limit closely and we have high retention and high premiums. We do quote—we get a lot of requests about patent coverage, a lot compared to the amount of accounts we actually write. We do put out though a number of quotes each year, but most of the time, when the companies see the type of pricing we're looking for, they just aren't interested. It seems that if you want to have some kind of mechanism in place, the captive market is really the only market to go to afterwards."

Simon Beynon, who works in global risk solutions at AIG, agrees.

He says: "Generally speaking, captives can participate in risk retention for most lines of business. It's really dependant on the desire of the captive's parent to retain the risk, or perhaps because the insurance industry doesn't adequately address those exposures in an efficient manner. Insurance carriers either don't understand the risks, they don't have enough information about the risk, or the premiums they feel they need to cover that exposure aren't something that's acceptable to the parent company."

The insurance industry's issue with patent risk is "the potential for significant costs", says Grella.

"The other issue is that many times you could have systemic risk if you write a book of this because a patent on a certain technology could have far reaching implications. You've got this issue that you could have litigation on this one kind of commonly used technology, hitting across multiple industries and multiple insureds."

Beynon adds: "I think in the absence of risk transfer to the established insurance industry, companies really only have an option of self insurance, which doesn't allow for any financing of risk over a period of time, it just means that if a loss happens you have to bear that loss yourself. When you introduce a captive, it provides the ability for financing that exposure over a period of time and allocating premiums to the operations that present the exposure."

Companies looking to write this type of risk into their captives should remember that "they would still need to manage their aggregate exposure and price it appropriately, and manage the coverage on the policy wording they're using", says Beynon.

Captives can and do write IP risk, and with patent litigation featuring so heavily in the headlines, their parents would be wise to look at how they protect themselves in the event of a legal challenge. For now, this is an 'emerging risk', but for how long remains to be seen. CIT

Industry appointments

Texas governor Rick Perry has appointed **Julia Rathgeber** as the state's new commissioner of insurance. She will replace current commissioner Eleanor Kitzman.

Rathgeber will oversee the Texas Department of Insurance, which regulates the insurance industry and provides information and assistance to insurance consumers, as well as a mooted influx of captives into the state.

Texas is the newest US state to introduce captive legislation, with governor Perry signing it into law on 3 June.

Rathgeber's term as insurance commissioner will expire on 1 February 2015. She is currently chief of staff in the office of Texas's lieutenant governor, David Dewhurst.

P.R.P Performa has named **Sandi Prescott** as its new global head of client service.

Performa is one of the largest non-bank financial services institutions in Bermuda and is focused on fund management for captive insurance and reinsurance companies.

Prescott joins Performa from Dwight Asset Management, where she was responsible for more than $7 billion in institutional client assets, including both client servicing as well as portfolio management oversight.

David Kilborn, chief investment officer of Performa, said: "Today more than ever, captive insurance clients and their managers recognise the value of experienced client relationship professionals to provide quality guidance in an ever-changing environment."

"We are excited that Prescott has come on board. Her history of delivering outstanding service and tailored investment solutions for her prior clients is easily transferable to Performa. Her leadership will be invaluable as we grow our global footprint as a leading independent asset manager for the captive insurance industry."

Kane LPI Solutions has named **David Cafferty** as head of compliance advisory services.

Cafferty will be based in Dubai and will be primarily responsible for growing Kane LPI Solutions's compliance practice in the Middle East and North Africa.

Prior to joining Kane, Cafferty was senior compliance advisory specialist at Clyde & Co in the United Arab Emirates.

John Uprichard, managing director of Kane LPI Solutions, said: "The appointment of Cafferty is an excellent addition to our team."

"We are keen to expand our compliance services and I am therefore delighted to be able to announce that someone with Cafferty's extensive expertise has come on board to head-up the practice."

Commenting on his new role, Cafferty said: "I am pleased to be joining the Kane team at a time when increasing regulatory complexity plus ever more stringent scrutiny is pushing compliance to the top of the corporate agenda."

"Compliance is a core aspect of Kane's service proposition and I look forward to playing my part in helping them enhance and expand their capabilities and solutions."

The National Association of Insurance Commissioners (NAIC) has appointed **Dr Cassandra Cole** and **Dr Kathleen McCullough** as the new co-editors of the Journal of Insurance Regulation.

The journal is a forum for opinion and discussion of major regulatory and public policy issues in insurance. It aims to make state insurance departments more aware of the research occurring in the regulation arena.

Cole is the Robert Atkins professor in risk management and insurance at the Dr. William Hold/The National Alliance Programme in Risk Management and Insurance in the College of Business at Florida State University.

She is also a past president of the Southern Risk and Insurance Association.

McCullough is the assistant department chair and the state farm professor in risk management and insurance, also at Florida State University.

She is actively involved in the American Risk and Insurance Association and serves on the editorial board of several journals.

Cole said: "We are excited about the opportunity to serve as co-editors of the Journal of Insurance."

"The journal provides an important service to those tasked with setting public policy related to insurance as well as to those who study insurance regulation."

McCullough added: "We hope to continue the tradition of strong, timely research in the Journal of Insurance Regulation and work to provide regulators with the information they need to create sound public policy." **CIT**

CIT CAPTIVEINSURANCETIMES

Editor: Mark Dugdale
markdugdale@captiveinsurancetimes.com
Tel: +44 (0)20 8663 9620

Deputy editor: Georgina Lavers
georginalavers@captiveinsurancetimes.com
Tel: +44 (0)20 8663 9629

Reporter: Jenna Jones
jennajones@captiveinsurancetimes.com
Tel: +44 (0)208 663 9622

Account manager: Joe Farrell
joefarrell@captiveinsurancetimes.com
Tel: +44 (0)20 8663 9627

Publisher: Justin Lawson
justinlawson@captiveinsurancetimes.com
Tel: +44 (0)208 663 968

Designer: John Savage
design@captiveinsurancetimes.com
Tel: +44 (0)20 8663 9622

Published by Black Knight Media Ltd
Provident House, 6-20 Burrell Row
Beckenham, BR3 1AT, UK

Company reg: 0719464