

Soul in the South

Members of the SCDOI outline South Carolina's captive market, regulatory oversight and development agenda



Medical Stop-Loss

How can a group medical stop-loss captive help healthcare systems to stabilise costs?

Western Region Conference

Event chair Renea Louie talks this year's hot topics and packed schedule

Enterprise Risk Management

Implementing an effective approach and the value of independent enterprise risk consultants

Guernsey Centenary

WTW's Mike Johns provides an overview of the evolution of Guernsey's captive industry

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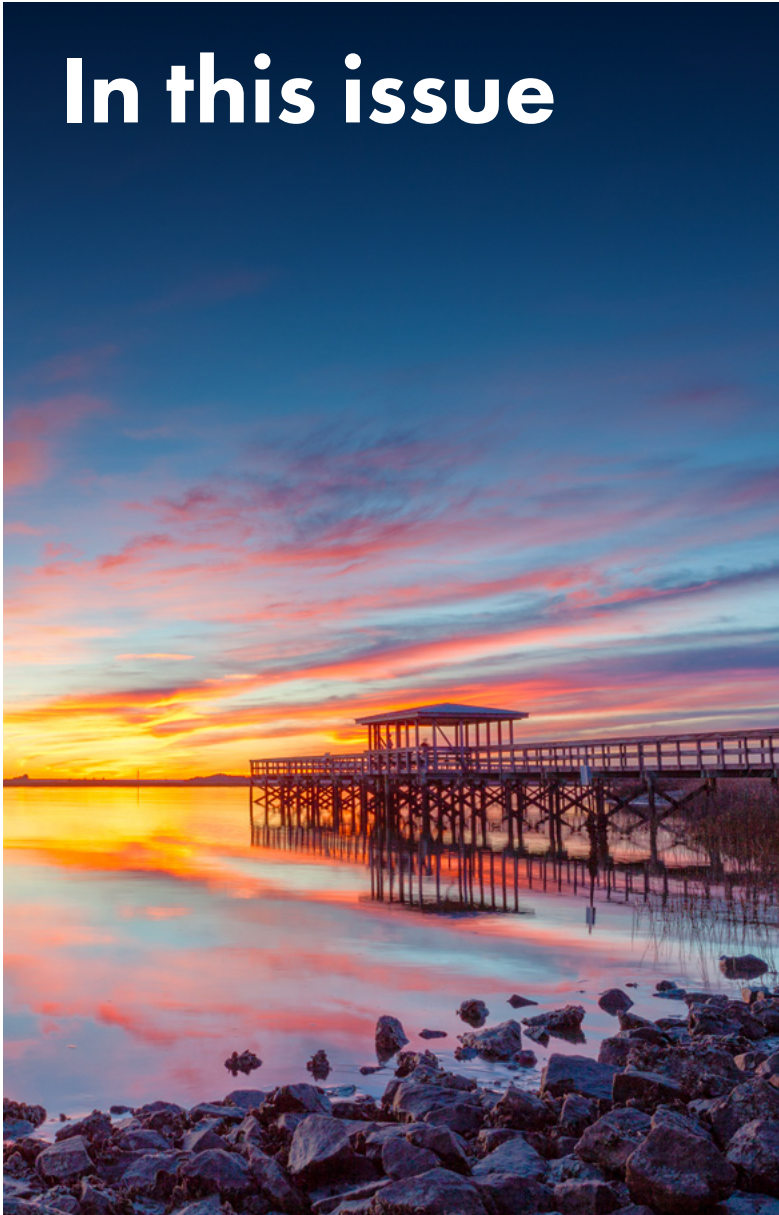
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Reserve Mechanical decision concludes in favour of IRS

The US Court of Appeals for the Tenth Circuit has affirmed the Reserve Mechanical decision in all respects, rejecting the petitioner's appeal.

Reserve previously appealed the court's decision that it did not qualify for an exemption from income tax as a small insurance company in 2020. The long-running case met its conclusion on 13 May when the Tenth Circuit affirmed its original decision, indicating two grounds for deciding that Reserve was "not engaged in the business of insurance".

First, the court argued that Reserve had not adequately distributed risk among a large number of independent insureds. Virtually all the insured risk was that of one insured, a company that had the same ownership as Reserve itself, the court found.

To appear to distribute risk, the court added, Reserve entered into an insurance pool with other purported insurance companies, each owned by an affiliate of its insured. The arrangement lacked substance and the pool itself did not distribute risk, the court argued.

Although recognising that no part of the Tax Code clearly defines the term "insurance" owing to the subjectivity of context, the court uses four general criteria: the arrangement involves insurable risks; shifts the risk of loss to the insurer; distributes the risk among policyholders; and constitutes insurance "in the commonly accepted sense".

The Tax Court determined that the policies issued by Reserve failed to meet these criteria.

However, the Court of Appeals also stated: "Contrary to what is suggested in some briefs filed in this court, the Tax Court did not criticise risk pools as a general matter. Instead, its findings were specific to the PoolRe risk pool."

How the court's decision to uphold the actions and injunctions of the IRS will pan out for the captive industry remains to be seen.

Certainly, this ruling affirms the need for risk distribution and risk transfer among captive insurance companies, for which the many consultants and brokers in the industry can provide invaluable knowledge. ■

Gallagher Re: Insurtech investment continues "incredible upwards trajectory"

Global investment in the insurtech sector throughout 2021 reached a record-high of US\$15.8 billion, according to the first Global Insurtech Report by reinsurance broker Gallagher Re. The annual capital inflow, consisting of a record 564 deals, is higher than 2020 and 2019 combined. In addition, 2021 saw record-breaking numbers for international participation, unicorn creation, initial public offerings, and single-deal size.

Approximately \$9.4 billion of this was invested into property and casualty insurtechs specifically.

Gallagher Re began collecting information on global insurtech funding in 2012. Andrew Johnston, global head of insurtech at Gallagher Re, comments: "An incredible upwards trajectory of global insurtech funding has occurred during the past nine years, culminating in the record-breaking \$15.8 billion total for 2021.

"By the end of 2021, an enormous \$41.65 billion had been invested globally into insurtechs across 2,249 deals in 63 countries. More than half of all the investment (52 per cent) deployed during this period went into only 4.4 per cent of all insurtech deals."

Johnston adds that "there is no slowing down for the time being", with the report noting that the first quarter of 2022 saw a further \$2.2 billion investment, including five mega-rounds.

Johnston explains that this lower number of mega-rounds, as well as higher



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participation in early-stage investment, is an indication that capital invested is becoming democratised — delivering a more equally distributed spread of total capital invested.

Commenting more broadly on the funding and deal data, Johnston says: “Much of the money in more recent years has been invested into companies that would not necessarily have been labelled insurtechs five years ago.

The vast majority of new insurance projects, ventures and businesses will be heavily supported by tech. Technology will be the platform, enabler, and product that continues to keep our industry relevant and cost efficient, so the label ‘insurtech’ needs redefinition.”

Gallagher Re will produce its Global Insurtech Report on a quarterly basis throughout 2022, focusing on the theme of ‘Global trends and regional idiosyncrasies’.

The first report focuses on the Americas, including profiles on various insurtech

businesses, clients and individuals in the region, as well as the most up-to-date insurtech investment data.

At year-end 2021, the US saw more insurtech investment (in terms of both cash and deal count) than the next 60 countries combined, totalling \$27.2 billion through 1,237 rounds (55 per cent of all deals completed).

The report features a profile on the region’s ‘deal of the quarter’, a transaction which saw the creation of Latin America’s first unicorn, Betterfly, a digital health insurtech that automatically tracks individuals’ habits and lifestyles to reward no-cost life insurance coverage.

The inaugural Global Insurtech Report also contains a regional expert’s view, a discussion on the role of big tech, a technology spotlight on how to bring efficiency to the commercial insurance industry, and an interview with Jonathan Hendrickson, vice president and head of insurtech development at Gallagher.

SIIA: Expand captive participation in TRIP for SMEs

The Department of the Treasury should expand the size and scope of the Terrorism Risk Insurance Program (TRIP) to cover small- and medium- sized enterprises (SMEs) that are vulnerable to the same significant losses from terrorism-related risks, according to the Self-Insurance Institute of America (SIIA). In response to the department’s request for comment on the 2022 Report on the Effectiveness of TRIP, SIIA outlines emerging trends and recommendations relating to the participation of captive insurers in TRIP.

Signed by Ryan Work, senior vice president of government relations at SIIA, the comment letter notes that an effective programme encouraging risk protection for terrorism losses is essential amid the ongoing and evolving threats facing the private sector. Captive structures also support an affordable market for terrorism-related risk mitigation, as well as helping to broaden participation in offering required terrorism coverage for many organisations.

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Labuan IBFC is a wholesale financial, risk and wealth management intermediation centre that also boasts a wide range of business structures including solutions for fintech or digital businesses. It is also home to the world's first sukuk and is acknowledged as an Islamic financial hub.

Well-supported by a robust, internationally recognised yet business-friendly legal framework, Labuan IBFC operates within comprehensive legal provisions and guidelines, enforced by a single regulator, Labuan Financial Services Authority –a statutory body under the Ministry of Finance, Malaysia.

SIIA identifies several trends in organisations looking to utilise captive insurance to insure risks in high-risk geographical areas (such as urban centres and areas in close proximity to nuclear and other high-risk facilities), as well as across various industries (residential real estate, transportation, telecommunications, energy, healthcare) and types of properties (sports facilities, concert venues, public venues, religious institutions).

Captives contribute to TRIP's post-loss sharing mechanism, which in turn contributes to the overall loss payments and broadens terrorism risk pool participation, SIIA notes.

The comment letter highlights the current structure of TRIP presents coverage issues concerning the interplay of terrorism-related risks, while the evolving cyber risk landscape, rapid digital transformation and the rise of ecommerce has increased systemic vulnerabilities to cyberattacks.

The comment letter says: "The treatment of cyber coverage under TRIP has enabled more robust participation among insurers and reinsurers due to the mitigation of losses under some extreme scenarios. The cyber threat landscape is continually changing and evolving as attackers develop new tools and discover new attack vectors.

"Machine learning and artificial intelligence are being increasingly used by both attackers and defenders, and the importance of these tools is likely to increase in the future. Modern computer networks are complex systems, and a weakness in any component of the system could render the entire system vulnerable."

SIIA adds that this is a complex area because cyberattacks do not adhere to geographical boundaries — for example, a cyberattack outside the US could still cause substantial damage and losses within the country.

Currently, coverage for cyber or terrorism may be offered on either a standalone or



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embedded basis — while many captives generally address the economic impact of a cyber event on the policyholder's business, they often lack coverage for potential liabilities to third-parties from such an attack, which has caused significant losses.

SIIA anticipates these risks and losses will likely increase as carriers strengthen their underwriting standards and required service vendor purchases in order to offer their coverage.

Crucially, this will likely affect many SMEs that do not have the financial resources to employ the robust cybersecurity services

that some standard carriers now mandate for coverage.

The comment letter concludes that the department should expand the size and scope of TRIP to afford the same protection to SMEs that are exposed to terrorism-related risks and are generally unable to access sufficient protection under the current programme structure.

"TRIP was established to ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk, and to build capacity to absorb any future losses."

"Thus, SIIA recommends that the department consider examining the appropriate size and scope of TRIP, which could and should include SMEs that run the risk of significant losses from the same terrorism-related risks that large businesses face."

Nayms becomes first platform of its kind to be fully-regulated in Bermuda

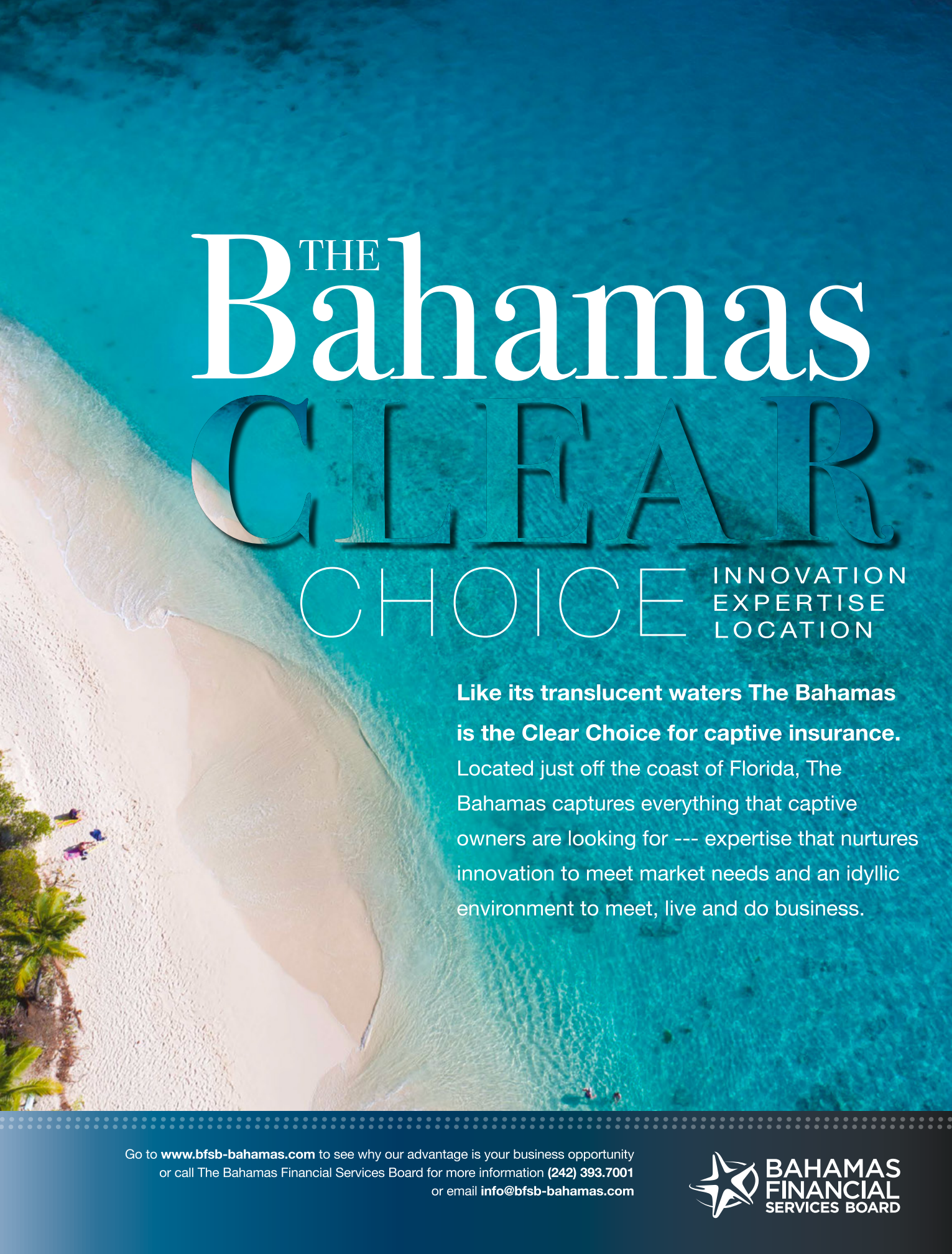
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both the full Digital Asset Business Act licence and the Innovative General Business Insurance licence, which enable Nayms' insurance partners to conduct regulated insurance business on-chain for the first time.

Insurance brokers can place a contract between market participants in a limitless number of areas on the Nayms platform, and share in the future value of the open trade.

Crypto investors wrap assets into Nayms Smart Contracts platform, providing cover for crypto-related losses of the same denomination.

The contract is immutable and preset by brokers and asset managers so risk is transparent, Nayms says.

Dan Roberts, CEO of Nayms, says: "It is very rewarding to see the hard work of the Nayms team pay-off as we reach this critical milestone. It has been a very positive experience working with the Bermuda Monetary Authority, who have allowed Nayms to grow within a developed regulatory framework."

He adds: "We look forward to taking this relationship forward, and furthering the innovation Bermuda is providing by scaling the Nayms marketplace on island."

AXA S.A. obtains its reinsurance license from ACPR

AXA S.A., the holding company of AXA Group, has obtained its reinsurance license

from the French Prudential Supervision and Resolution Authority.

The news follows the transformation of AXA S.A. into AXA Group's internal reinsurer. The merger is subject to customary regulatory approvals.

The transformation of AXA S.A. into the group's internal reinsurer aims to enhance capital fungibility across AXA Group, in line with AXA's capital management policy.

AXA S.A. intends to reinsure part of its European property and casualty carriers through annually renewable quota share reinsurance treaties. The transformation will be complete following the merger of AXA S.A. and its captive reinsurer, AXA Global Re, currently expected at the end of June 2022. ■



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Soul in the South

Amid favourable market conditions, Joe McDonald
and Lauren Robertson of the South Carolina
Department of Insurance (SCDOI) discuss the state's
regulatory oversight and development agenda



**How do you assess current market conditions for the captive industry in South Carolina?
What about the landscape?**

Current assessments of market conditions for the captive industry appear to all be very positive. Captives were originally created to address availability and affordability issues in the commercial market. As everyone is keenly aware, we are once again experiencing these hard market conditions.

Specifically, it is a hard market for directors' and officers' (D&O) liability, cyber liability and commercial auto, just to name a few. With the commercial and reinsurance markets tightening conditions and raising rates, we are seeing more coverages being put in captive insurance companies.

Commercial carriers are requiring insureds to increase their deductibles and stack limits, retaining more risk. Therefore, captive professionals and those with captive experience are primed to offer creative responses to numerous industries being negatively impacted by current market conditions.

How is the regulatory environment of South Carolina beneficial for captive owners? Is the department working on any legislative amendments?

The regulatory environment in South Carolina is beneficial for captive owners for many reasons. We are a mature domicile with a highly experienced autonomous captive division that is dedicated to regulating captive insurance companies by applying the principle of proportionality in our approach.

Working closely with the South Carolina Captive Insurance Association, the SCDI is planning to propose certain statutory amendments that will expand, update and refine the intention of the existing captive statute and supporting regulations. It is imperative that the letter of the law and the intention of the law are synoptic in their vision of captive regulation.

Furthermore, as the sophistication increases in how companies use captives in a more efficient manner, we continue to facilitate an efficient use of excess capital and surplus for owners. All of this adds value to captive owners in South Carolina.



“Meeting with service providers and prospective owners to discuss creative ways to use a captive helps us keep our finger on the pulse of the industry as a whole”

What are the most significant challenges facing the captive industry, in South Carolina and as a whole?

Several significant challenges facing the captive industry include decreasing capacity in the reinsurance market, procurement taxes, increased scrutiny by the Internal Revenue Service, and “promoters” who market the industry for the wrong reasons. That said, we don’t know what we don’t know. The greatest challenges to the industry are those things we are currently unaware of: The next black swan event, how to best manage and navigate the modern world of volatility, uncertainty, complexity and ambiguity, and how to properly incorporate ESG and other themes of the zeitgeist. This all applies to South Carolina as a captive domicile as well.

What emerging risks have been identified in the pipeline for the captive industry in 2022? How will the SCDOI work to address or accommodate these risks?

Key emerging risks include: cyber liability, D&O, climate risk, coastal property, rising healthcare costs, cannabis, and commercial auto liability.

Joe McDonald
Director, captives division
SCDOI



The captive division in South Carolina will respond to these emerging risks by remaining aware of the wider insurance and reinsurance markets. Meeting with service providers and prospective owners to discuss creative ways to use a captive to fill in the gaps that the commercial market is not well suited for helps us keep our finger on the pulse of the industry as a whole.

What will be top of the SCDOI's captive development agenda for 2022?

For us, it will be a focus on relationships. We consistently emphasise that we want quality companies in South Carolina. But the calibre of companies that we want to attract, and that we already have here, must also experience our professionalism, our responsiveness, and know how greatly we value them.

While professional interactions will necessarily revolve around doing business, we also want to take the time and make the additional effort to cultivate relationships in a way that companies and captive professionals here feel appreciated and heard. Relationships drive this industry, and people matter to us. ■

Lauren Robertson
Supervising financial analyst
SCDOI



Time to cough up

As the traditional insurance market diverges further from the needs of healthcare systems, industry experts explain how a group medical stop-loss captive can provide the answer to stabilise costs and supply greater control

Rebecca Delaney reports

The climbing costs of healthcare, as well as the intricacies of legislative compliance following the Affordable Care Act in 2010, have caused more US employers to consider self-funding as an alternative option for their healthcare plans.

Medical stop-loss (MSL) coverage provides a layer of coverage above employer group self-funded healthcare insurance plans to protect against catastrophic specific or aggregated events.

MSL is included in US benefit plans under the Employee Retirement Income Security Act (ERISA). This means that the US Department of Labor has regulatory jurisdiction over the benefit plan itself, but does not regulate the insurance vehicle.

Healthcare systems and companies are increasingly looking to form MSL captives as a response to the traditional insurance market's failure to evolve and adapt, particularly concerning exponential rate increases.

Joe Parrilli, senior vice president at Captive Resources, explains: "The lack of transparency in the traditional market makes it difficult for companies to gain any insight into their cost."

"Companies are turning to group captives to find control and stabilisation of total medical spend."

This difficult market dynamic has been shaped by the economy, the COVID-19 pandemic, legislative reform, and other circumstances such as ever-increasing pharmacy costs, notes Prabal Lakhanpal, vice president at Spring Consulting Group.

He explains that this has caused an increase in premiums, as well as greater claims volatility and higher reinsurance costs for self-insured employers.

In response to these tough market conditions, a well-structured MSL solution can provide greater programme control.

Lakhanpal adds: "A captive is an extremely flexible tool that creates a funding solution that protects employers from the volatility associated with the traditional market and allows for customised coverage otherwise unavailable in the commercial market."

“A captive provides the opportunity to receive dollars back in the form of a dividend when an individual company outperforms the actuarial underwriting calculation”

Spring Consulting's Lakhanpal outlines the other key reasons why companies are increasingly looking to form a captive for MSL coverage:

- **Cashflow volatility:** Claims in excess of US\$1 million are becoming commonplace which, for large employers who have traditionally self-insured, causes volatility from a cashflow perspective, making it harder for finance teams to budget and build expected proformas. Using a captive to support a MSL programme eliminates this cashflow volatility as claims above the self-insured retention level are funded in the captive, creating a level-funded premium plan for the employer.
- **Healthcare costs:** Employers are having to leverage solutions such as high deductible health plans and other forms of cost sharing to bend the healthcare cost curve. This creates an additional burden on employees and, in some cases, creates a detrimental impact on total programme costs. A stop-loss solution provides a sustainable approach to increasing costs owing to consistent transparency from a claims, costs and profit perspective, which leads to clear and balanced programme pricing.

- **Control:** By funding stop-loss through a captive, an employer can leverage timely data and captive savings to focus on initiatives most useful for its employee demographic, such as wellbeing initiatives, and cost control programmes focused on disease management, population health management, wellness and health advocacy.
- **Transparency:** Once organisations begin to use a captive funding solution for their medical spend, they usually begin to expand their horizons and seek out additional cost reduction initiatives. For example, carving out drugs and implementing a pharmacy benefit management solution, which can generate additional savings ranging from 15 to 30 per cent of drug spend.

Prescribing a group captive

The twofold trend of new formations and the expansion of existing MSL captives is a reflection of employers seeking greater control over healthcare costs, which is the main — and for healthcare, the most relevant — advantage of a group captive.

The primary function of stop-loss coverage is to cover all claims above a specified deductible level so that, when included in a group captive plan, the risk of catastrophic claims is spread over all members of the captive to decrease both volatility and cost for all participants.

Costs are reduced through a group captive owing to the eradication of carrier profit and premium taxes. For MSL captives specifically, further savings are realised through improved cash flow, as the employer holds onto the claim lag between date of service and date of payment, and exemption from state mandates.

Captive Resources' Parrilli explains: “A captive provides the opportunity to receive dollars back in the form of a dividend when an individual company outperforms the actuarial underwriting calculation. In the traditional market, those dollars would be kept in a pool or kept as profit by a carrier.”

Control over a captive insurance programme is crucial for larger healthcare providers, argues Aon's 2021 Captive Benchmarking Report, as hospital systems are focused on continuous



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improvement in general. The appeal of receiving, issuing and offering grants within captive programmes to reinvest money back into the system, therefore, is fundamental.

In addition, a group captive reduces volatility within a self-funded benefit plan by offering risk distribution and diversification, surplus accumulation, and long-term rate stabilisation. This allows for transparency in risk sharing, income and total captive performance between members.

Parrilli notes that the member-owned element of the captive structure allows like-minded group members to share new innovative approaches to control their organisation's total medical spend. "The sharing of ideas helps members when it comes to creating a health management plan and continually improving it," he says.

Spring Consulting's Lakhanpal outlines that the key advantage of economies of scale applies to MSL group captives. He explains: "This leads to a level of risk stability that one organisation cannot reach on its own, as risk is spread across the group, as well as lower administrative costs and improved reinsurance terms."

For the former, administrative costs can be reduced via direct contracts with pharmacy benefit managers and third-party administrators. For the latter, a group captive provides access to reinsurance markets for group members for both specific and aggregate stop-loss protection.

With these advantages of group captives outlined, Parrilli notes that companies are tired of the status quo. "Companies of all sizes are working to provide a true benefit for their employees but can no longer pass the premium increases down to them, so they are willing to make changes to their medical plan structure if it means the opportunity for savings," he says.

And this is clearly demonstrated in the statistics. A recent whitepaper by Strategic Risk Solutions (SRS), 'Captive insurance and the state of the market', found that SRS-managed stop-loss captives saw a premium increase of \$180 million between 2017 and 2021, indicating an annual growth rate of 23.8 per cent.

In addition, the number of employers participating in these programmes increased at an annual rate of 17.9 per cent.

"The sharing of ideas helps members when it comes to creating a health management plan and continually improving it"

Similarly, Aon's benchmarking report identified that the amount of gross written premium underwritten by healthcare captives has risen by 73 per cent since 2016, marking a larger-than-average increase compared to many other industries.

Aon noted that this upward trend is likely to continue as organisations and systems increasingly recognise the value-add that captives bring to the healthcare sector, particularly in the US.

What the doctor ordered?

Despite the advantages afforded by a group captive structure, finding and implementing the right MSL coverage is not without its challenges. Parrilli highlights the importance of ensuring the appropriate employee groups are being brought into the captive, as not all risks will be provided a quote.

To address this potential concern, he recommends making use of available data "to make sure proactive, high-quality, high-performing companies are joining [and] helps the captive programme continue to outperform the traditional market."



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“Many group captives that start with the purpose of funding MSL coverage are looking to expand the scope of services to include other organisational risks”

Spring Consulting's Lakhanpal affirms another challenge lies in understanding the risk structure and captive terms to ensure that the captive is the right fit for an organisation and their needs. He notes that, as a risk-taking vehicle, members should understand that participation in a captive programme has an upside-downside potential of a profit or loss.

Lakhanpal adds: “Completely understanding the programme structure is an essential component from a member perspective, especially in group captive programmes where the captive structure is predetermined. We also encourage members to gain a complete understanding of the expense loads and profit distribution methodologies.”

Aegis Risk's 2021 Medical Stop-Loss Premium Survey outlines other actions a company can take to help to overcome these potential issues, reduce stop-loss premium and ensure adequate coverage, including a review of competitive offers to leverage plan data and vendor strengths, carefully managing claims disclosure to avoid coverage gaps, and using an experienced broker or consultant.

A clean bill of health

Looking to the future of stop-loss insurance, Captive Resources' Parrilli describes alternative approaches like group captives as “the way of the future”. He says: “As double-digit increases have become the norm, more companies that are outperforming the traditional market are going to continue to look for other outlets.”

Lakhanpal affirms this outlook, concurring that MSL funding through captives will continue to grow at a rapid pace over the next 12 months, particularly as specialty and prescription medication costs continue to rise. He adds that an area demonstrating significant potential in this space is data-driven wellness and loss prevention initiatives. Trends around wellness and lifestyle benefits programmes were exacerbated by the COVID-19 pandemic — while traditional health benefits included in MSL coverage focus on the health requirements of employees, lifestyle benefits cater to the specific needs of different demographics.

A report by MAXIS Global Benefits Network, ‘Global perspectives: COVID-19 and the future of employee benefits’, found that 46 per cent of surveyed employees said that the pandemic caused them to reassess the value of their employer's benefits offering, while 15 per cent said they expect to see an increase in their benefits offering after the pandemic. This places captives in a prime position to capitalise on these increased demands. Lakhanpal anticipates that additional solutions, such as pharmacy benefit management programmes and other point solutions, will be incorporated into captives.

He adds: “Many group captives that start with the purpose of funding MSL coverage are looking to expand the scope of services to include other organisational risks. As group members become more comfortable with each other and get to know their business and risk profiles, groups start to look for additional ways to leverage their buying power. Looking at other risks is a natural extension.”

Lakhanpal concludes: “We continue to see innovative solutions being adopted by smaller organisations that have, until recently, been hesitant to move away from the traditional insurance structure. It is clear that employers are frustrated with rising costs, and it is innovative solutions such as these that are providing them with the solution.” ■

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Top of the range

Ahead of this year's Western Region Captive Insurance Conference, event chair Renea Louie talks to Rebecca Delaney on what to expect from the 2022 conference, hot topics on the agenda, and the current landscape of the captive industry in Western Region domiciles



Following the success of last year's conference in Salt Lake City, Utah, the Western Region Captive Insurance Conference (WRCIC) once again returns to an in-person event, this time hosted at The Cosmopolitan in Las Vegas, Nevada between 27-29 June.

WRCIC is a limited liability corporation linking the state captive insurance associations of Arizona, Missouri, Nevada and Utah together to jointly host an annual industry conference. The corporation consists of two board members from each state association.

The partnership is instrumental in linking captive owners, regulators, service providers, educational institutions and students across Western Region domiciles with captive legislation.

This year's conference chair, Renea Louie (who also serves as vice president of Pro Group Captive Management Services), explains the benefits of the Western Region partnership: "The concept provides for many domiciles to come together annually and provide an efficient, broad and effective conference, robust with regulators and diverse domicile topics."

She adds that the corporation provides immense efficiencies and cost savings for members of the captive industry; rather than attending four or more individual state conferences every year, WRCIC provides a "win-win" consolidated event.

Not to mention, Louie adds, the regional approach creates and fosters valuable synergies between neighbouring regulators and service providers.

Louie highlights that WRCIC is further strengthened by the dedication of committee members, with several having served since the board's inception where they worked with the early adopters who saw the value and potential WRCIC offered.

"The dedicated team that serves on the WRCIC board today is incredibly hardworking and we cannot thank them enough. We are absolutely going to knock it out of the park for the industry this year," Louie says.

Turning to the hot topics on the 2022 conference agenda (straplined "Viva La Captives!"), Louie says: "This year I am particularly proud of the committee and their sophistication to take

“There is a palpable positive energy around us as we move into the next years of service for the captive industry”

WRCIC to the next level. We have expanded the sessions, topics and tracks to include pooling discussions, claims management and many other hot topics.”

Scheduled conference sessions include “The four C’s: captives, control, consolidation and change”. If this mnemonic alone seems daunting to captive beginners, not to worry — the event includes an introductory session and discussions on industry hot topics to get you started.

For those already familiar with the captive industry, sessions are available on a range of topics, including captive taxation, the importance of cooperation between service providers, pooling operations, claims management, and a “Regulator Roundup”.

Louie adds that this year’s conference will feature more networking time and special events, including a golf tournament and a unique “Minus 5” ice experience. “Las Vegas will not disappoint as one of the most fun networking events in recent times,” she states.

Looking more broadly at the captive industry, Louie recognises “[it] has been doing a great job for many years as it grows and evolves”, particularly following the outbreak of the COVID-19 pandemic, which changed almost every aspect of people’s personal and professional lives.

The effects of the pandemic on the hardening commercial insurance market conditions — and, by extension, the increased interest in captives and alternative risk transfer — has been widely discussed among industry participants, leaving Louie to comment: “There is a palpable positive energy around us as we move into the next years of service for the captive industry.”

She adds: “Business owners are now turning to the captive insurance industry at the highest rate ever to solve problems the traditional insurance carriers cannot, especially those issues that were painfully obvious during the pandemic.”

As with any field or discipline, the ever-evolving captive industry is driven by changing client demands, new and expanding regulation, new technology, and innovation, Louie notes.

She adds that, in this dynamic environment, it is important for Western domiciles to “keep our eye on the ball and empower the cycle of positive progress.”

“This requires leadership and intelligent dedicated practitioners to renew and constantly update our knowledge and skills.”

This knowledge and skill set is particularly essential as the captive industry, located in Western Region domiciles and more widely, continues to address the challenging high demand for services and expertise at an accelerated pace.

This demand requires a talent pool of qualified employers and employees — in the lingering context of the talent crisis, Louie explains that a qualified and capable workforce must be nurtured to meet the demands of business.

“WRCIC remains committed to quality education and standards to that end,” she says.

Describing the International Center for Captive Insurance Education and the Captive Insurance Companies Association as “dominating forces” in providing industry-wide best standards in education and practices, Louie notes their ongoing relationship with WRCIC.

“WRCIC has always partnered and supported both powerhouse organisations, and in turn they have always supported WRCIC. These are important partnerships that we will continue to nurture and grow to meet the coming challenges.”

Looking forward, Louie concludes: “The next several years will bring large growth and demand for qualified services, and WRCIC remains committed to the best education, standards and practices.” ■



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Keep it 100

Marking one hundred years since Guernsey first incorporated a captive vehicle, WTW's Mike Johns talks to Rebecca Delaney about how the captive industry has evolved on the island over time, and how it stands today





Marking a myriad of significant anniversaries, including the tragic sinking of the Titanic, the founding of the BBC, and Queen Elizabeth II's Platinum Jubilee, the year 2022 is also the centennial of the incorporation of Guernsey's first captive vehicle, Commercial Insurance Company Limited.

This arguably lay the foundation for the growth of an insurance sector specialising in alternative risk transfer solutions, including, among others, captive insurance, reinsurance and insurance-linked securities (ILS).

For the latter, special purpose insurers can be used for catastrophe bonds, sidecars and risk-linked securitisation, to purchase additional protection for low frequency, high severity losses. ILS are popular among investors in Guernsey as returns are not mutually associated with financial markets, therefore allowing portfolio diversification.

Guernsey was the first jurisdiction in 1997 to introduce cell company legislation, which has since been repeated in several other domiciles in conjunction with captive insurance company legislation. In 2019, Guernsey saw the world's first mixed-purposed protected cell company (PCC) and incorporated cell company (ICC), which operates as both a licensed insurance company and a regulated fund.

As part of Guernsey's centenary milestone, Mike Johns, head of office at WTW Management (Guernsey) and committee member of the Guernsey International Insurance Association (GIIA), spoke to Captive Insurance Times about the evolution of the captive landscape and market conditions in Guernsey to where they stand today, as well as the regulatory environment and innovation.

Key 2021 statistics

Total number of captives = 307

New licenses = 31

Closures = 13

Year-on-year net growth = 6.23 per cent

“Guernsey has seen quite an increase in interest in the use of captives, primarily driven by the fact that available commercial insurance rates have hardened significantly”

How has Guernsey’s captive landscape evolved over time as a captive domicile? What is the current landscape and what are the market conditions?

The current landscape and market conditions are positive. Guernsey has seen quite an increase in interest in the use of captives, primarily driven by the fact that available commercial insurance rates have hardened significantly.

From a WTW perspective, we have seen a lot of our clients re-examining how they structure their self-insurance and retention levels. Some are also looking at placing new risks in their captives. These are risks where the market has either imposed or restricted cover, or else completely withdrawn elements of cover, so they are looking at setting up and running those risks through a captive.

Another change I have witnessed is the increased onus on governance and regulation; there is certainly more of it than when I started in the industry. This is not necessarily a bad thing, as with regulation comes control. Guernsey is fortunate that the regulator, Guernsey Financial Services Commission (GFSC), is approachable. The increased level of scrutiny on the way businesses operate has put more onus on managers to focus on governance.

How is the regulatory environment of Guernsey beneficial for captive owners?

Guernsey’s minimum capital requirement is significantly less than the one posed under the Solvency II regime — £100,000

compared to €3.2 million — which certainly makes the domicile more attractive.

The regulatory environment here is robust, but not as stringent as the Financial Conduct Authority (FCA) or the Prudential Regulation Authority, for example. We can talk to the GFSC at very short notice, which is not always possible with the FCA.

The extent of Guernsey’s legislation is the Insurance Business Law of 2002. The legislation itself is fairly concise and easy to apply compared to UK legislation. This makes it more advantageous to set up and run a captive in Guernsey.

What challenges has the captive industry in Guernsey faced over the last 100 years? What are the most significant challenges currently?

A few decades ago, there were much fewer domiciles offering captives. Now it seems everywhere can offer a captive; certainly the US has grown significantly with the number of states that offer captive insurance and protected cells.

There is now more competition than ever.

The challenge that Guernsey faces is trying to stay innovative and attractive. Pricing is critical — owners focus on the actual cost of managing an insurance company, but the biggest challenge is ensuring that legislation does not get too onerous or that it does not become too restrictive.

As a captive domicile, Guernsey is recognised for its innovation. What are some recent examples of Guernsey being the domicile of choice for “world firsts” in alternative risk transfer?

PCC legislation was developed in Guernsey in 1997 through an ordinance — the first domicile to do so. We then moved onto ICC legislation in 2006.

More recently, we have seen Guernsey becoming a centre of excellence for longevity hedging.

This is where pension companies try to minimise their exposure to higher life expectancies by hedging and reinsuring that risk out of the actual pension vehicle. Guernsey has become quite a centre to actually facilitate that process.

We have also seen developments as Guernsey recently launched its own ESG framework, spearheaded by GIA. We work well together as an industry, all of the managers meet at least once a month to discuss the latest trends and try to come up with new

ways of improving processes and techniques. We are proud of our long history and reputation for innovation.

What will be top of Guernsey’s captive development agenda for the rest of the year and beyond?

The main concern is to maintain our position as the premier domicile in Europe, as well as maintain our reputation for innovation, ease of setup and specialism.

Guernsey is very competent and capable of managing insurance vehicles, with all of our managers qualified and experienced. Working together as an industry to maintain our position as the number one domicile for captive insurance is going to be our primary aim.

Guernsey offers stability as a domicile, as well as flexibility with our innovation. Organisations can set up various different types of alternative risk vehicles, and we can set them up a lot quicker than other jurisdictions (usually within 10 weeks). ■

“We work well together as an industry, meeting to discuss the latest trends and try to come up with new ways of improving processes and techniques. We are proud of our long history and reputation for innovation”

Mike Johns

Head of office, WTW Management (Guernsey)
Committee member, Guernsey International Insurance Association



A holistic view

Michelle Bradley, consulting actuary at SIGMA Actuarial Consulting, and Chrystina Howard, vice president of client analytics at HUB International, explain why it is important for an organisation to implement an effective ERM approach, as well as the value independent enterprise risk consultants bring to the risk qualification and identification process when placing enterprise risks into a captive

Enterprise risk management (ERM) frameworks provide a holistic view of risk management and financing across an organisation, which in turn allows the optimisation of company value.

Multiple types of consultants are often engaged in enterprise risk initiatives, so more specific definitions may vary across disciplines.

For example, the Casualty Actuarial Society has an ERM committee that develops its own frameworks, measures, definitions and summarised case studies.

Other organisations, such as risk management and accounting groups, may have variations on the frameworks and definitions being used, but the underlying goals are the same: maximise firm value and optimise risk-related strategies through a holistic approach.

Similarly, each discipline will bring their own unique approach to an ERM initiative, so the elements of success may differ between each consultant.

All will likely agree, though, that the core elements are organising cross-discipline collaboration and partners, as well as developing initial goals that are attainable, and selecting an internal ERM team leader with C-suite support.

An effective ERM approach implements a structured, consistent method for surfacing and managing risks across a company. By having this in place, companies can better prepare for possible threats to executing their business strategy, while becoming more agile and proactive rather than reactive.

When ERM is implemented successfully, companies have a deeper understanding of their risk profile and experience less performance volatility.

Pitfalls of ineffective approaches include the tendency to “boil the ocean” and trying to document many risks beyond those that have the greatest impact on operations and strategy.

This typically ends up becoming merely a box-ticking exercise that loses momentum quickly and, therefore, commitment from key stakeholders. Ultimately, ineffective ERM activities fail to produce meaningful actions.

“Captives are increasingly adding emerging and non-traditional enterprise risks, such as loss of key employees, cyber threats, reputational risk, and administrative actions”

ERM and insurance

As more and more companies have adopted ERM frameworks, insurance options have developed a wider appetite and more solutions. In the early days of ERM implementation, insurance was one of many financial instruments — and typically the least used.

A growing option for financing enterprise risks is a parametric trigger insurance policy. While this is very effective and clear cut, many companies still struggle with setting appropriate triggers. Where insurance is available using a parametric trigger, risk events captured during ERM risk assessments can serve as input for determining the parametric trigger.

Enterprise risk management initiatives often have three distinct phases:

- **Risk identification**
- **Risk quantification**
- **Risk strategy development**

The captive feasibility process often incorporates the first two phases, meaning a captive solution could be woven into ERM initiatives with relative ease. Furthermore, captives provide another risk financing option for the risk strategy phase that brings both long- and short-term solutions

When comprehensive risk assessments are conducted correctly, the primary output is a robust risk register containing articulation components such as drivers, consequences, mitigation strategies and triggering risk events.

On the other hand, one of the most common methods of risk financing now is the use of captives that offer more creative, yet consistent, structures.

Captives are increasingly adding emerging and non-traditional enterprise risks, such as loss of key employees, cyber threats, reputational risk, and administrative actions.

This is taking place in both established and newly-formed captives, especially in recent years.

The supportive resources offered by service providers are also maturing with respect to analytics and programme structures. Professionals in the captive area have gained significant experience in developing contract and policy wording, determining coverage triggers, and setting retentions and limits for these risk types. Such growth is crucial to the captive industry's long-term health, as many of these risks are low in frequency and high in potential severity.

The captive feasibility process often incorporates the first two phases, meaning a captive solution could be woven into ERM initiatives with relative ease.

Furthermore, captives provide another risk financing option for the risk strategy phase that brings both long- and short-term solutions.

“Enterprise risk consultants bring objectivity and success factors to the effort along with specialisation in assessment facilitation that yields actionable output”

Enterprise risk consulting

ERM often seems overwhelming and complicated. Experienced independent enterprise risk consultants distil the volumes of methodologies into clear and concise options, as well as assisting companies in selecting and implementing the most appropriate framework elements. Enterprise risk consultants bring objectivity and success factors to the effort along with specialisation in assessment facilitation that yields actionable output. Companies benefit from working with these consultants because they help to navigate regulatory requirements while advising on best practices to ensure a sustainable ERM programme.

When the captive feasibility process begins, the parent company is often joined by a captive manager, an actuarial consultant and other captive advisors. This is not an unreasonable approach, but significant value could also be found in engaging an ERM consultant prior to or during the captive feasibility process.

ERM consultants will likely have a broader perspective on all enterprise risks, not just those emerging in the captive space. As such, an ERM consultant would add depth to the captive formation team that may not otherwise be achieved. Their inclusion could therefore ensure the long-term performance of the captive remains in line with the parent company's expectations. ■

Michelle Bradley

Consulting actuary
SIGMA Actuarial Consulting



Chrystina Howard

Vice president, client analytics
HUB International





TDCI adds Michael Schulz as business development head

The Tennessee Department of Commerce and Insurance (TDCI) has promoted Michael Schulz to the role of director of business development for the TDCI's insurance division.

Schulz has served as executive director for six regulatory programmes within TDCI's division of regulatory boards since joining the department in 2020.

Schulz will succeed Joshua Clark, who is returning to the private sector as area vice president at Arthur J. Gallagher after joining TDCI in 2020.

In his new role, Schulz will focus on expanding the use of captive insurance companies as a risk management solution

for businesses, as part of a wider effort to attract new captives to Tennessee.

Prior to joining TDCI, Schulz worked in the insurance and financial services industries, simultaneously holding a Tennessee insurance producer's license as well as Financial Industry Regulatory Authority Series 6 and 63 licenses.

Schulz also worked as the marketing director for brokerage firm LocalShares where he managed the brokerage's outreach, including supervising its marketing and advertising efforts.

Additionally, he served as the firm's liaison to the U.S. Securities and Exchange Commission. ■

MSL Captive Solutions (MSLCS) has appointed Peter Parent and Jean Verrier as chief underwriting officer and chief financial officer respectively.

These appointments to MSLCS' executive team will support the company's growing underwriting activities for medical stop-loss captives.

Parent has more than 25 years' experience in the medical stop-loss insurance industry, including underwriting, operations and marketing for stop-loss managing general underwriters. He previously held the position of president at AGS Risk Management.

Commenting on Parent's appointment, Philip Giles, managing director of MSLCS, says: "I am extremely pleased to have Peter join us at this stage of the company's development. His experience in growing a managing general underwriting business will be invaluable as we expand our underwriting operations."

Verrier has more than two decades' experience in insurance accounting ranging audits, captive management and commercial insurance. He previously served as chief financial officer at captive manager firm, RiskCap, and vice president of finance for iCAT, a diversified catastrophe insurance organisation.

Verrier currently serves as senior account manager at MSLCS' parent company, Strategic Risk Solutions (SRS), where he is responsible for the management and supervision of a portfolio of single-parent captives, group captives and risk retention groups.

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Own Your Outcomes





Molly Hentges joins Captive Resources

Captive Resources has appointed Molly Hentges as assistant vice president and business development executive for medical stop-loss group captives.

As a consultant to member-owned group captive insurance companies, Captive Resources provides support across implementation and operation, including safety and claims advocacy, operational oversight, risk management and investment services.

Hentges previously served as account executive in the carrier practice at Gallagher Bassett, where she was responsible for new business development for carriers, captives, programmes and alternative market claim sourcing solutions.

In this role, Hentges also oversaw the financial aspects of property and casualty programmes throughout the sale and implementation processes, including proposal, pricing and contract.

Before this, Hentges was a sales intern at Gallagher Bassett.

Commenting on her new role via LinkedIn, Hentges says: "I am excited to announce that I have started a new position as an assistant vice president, business development executive for medical stop-loss group captives at Captive Resources. This is a great opportunity to expand my skill set and advance my career. I am thrilled to embark on this journey!" ■

Brady Young, CEO of SRS, comments: "We look forward to seeing Philip and the expanded executive team establish MLSCS as the leading provider of technical underwriting services for captive medical stop-loss programmes."

Aon has appointed Tarryn Pongrácz as corporate insurance and captive consultant.

Based in London, Pongrácz will be part of Aon's global risk consulting team.

Pongrácz has previously served as a multinational account technician for Allianz Global Corporate & Specialty, a role she held from July 2017 to May 2022.

Prior to that, she was a high net worth underwriter at MUA Insurance Acceptances.

Based in Cape Town, South Africa, Pongrácz held the role from October 2012 to February 2017.

The South Carolina Department of Insurance (SCDOI) has appointed Eva Conley as captive supervising financial analyst.

Conley previously held this role between July 2020 and November 2021.

Since November 2021, she has served as senior manager of captive consulting services at Somers Risk Consulting.

In her previous tenure at the department, Conley served as captive supervising financial analyst, captive senior financial analyst, and captive financial analyst, over a period of five years. ■

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