captive insurance times

The primary source of global captive insurance news and analysis

May 2024 - **Issue 267**

Ankner v. IRS

Victory for micro-captive

Matthew Reddington, partner at ZMFF&J Law, sheds light on the first victory of a micro-captive against the IRS in court

Climate Risks

Enhancing captive resilience in a changing climate

North Carolina

What the Old North State is doing right

Cook Islands

Overview of the captive insurance regime

captiveinsurancetimes

Issue 267

www.captiveinsurancetimes.com

Published by
Black Knight Media Ltd

Unit 23, Metro Business Centre, Kangley Bridge Rd, London, SE26 5BW

Publisher: John Savage
johnsavage@captiveinsurancetimes.com

Publishing Director: Justin Lawson
justinlawson@captiveinsurancetimes.com
020 3667 3244

Office Manager: Chelsea Bowles
accounts@captiveinsurancetimes.com

Group Editor: Karl Loomes
karlloomes@blackknightmedialtd.com
020 3617 1722

Reporter: Diana Bui
diana@captiveinsurancetimes.com
020 3372 5997

Reporter: Jack McRae
jackmcrae@assetservicingtimes.com

Reporter: Sophie Downes
sophiedownes@securitiesfinancetimes.com

Junior Reporter: Klea Neza
kleaneza@blackknightmedialtd.com

Lead Designer: James Hickman
jameshickman@blackknightmedialtd.com

Follow us on Linkedin

Contents

Solvency II reform to reduce regulatory obligations on captives in Europe

The European Parliament has voted in favour of proposed amendments to the Solvency II directive that would lower regulatory obligations on captives from 2026. The legislation, known as the EU's main piece of legislation in the insurance area, cites captives under its definition of 'small and non-complex undertakings'.

It says: "Small and non-complex undertaking means an insurance and reinsurance undertaking, including a captive insurance undertaking and a captive reinsurance undertaking."

Once classified as 'small and non-complex', undertakings should benefit from proportionality measures on reporting, disclosure, governance, revision of written policies, calculation of technical provisions, own risk and solvency assessment, and liquidity risk management plan.

'Small and non-complex' undertakings may also use a simplified calculation for a specific risk module or risk sub-module without having to comply with the general conditions for using a simplified approach.

According to AM Best, "Solvency II amendments, expected to come into force in January 2026, should lead to a more streamlined, proportionate and risk-based prudential process for EU-domiciled captive entities."

"As captives are often small and have lightly staffed operations, this principle of proportionality is of particular importance in ensuring that the regulatory requirements do not become overly burdensome," the rating agency says. ■

IRS maintains micro-captives on 2024 'Dirty Dozen' list

The Internal Revenue Service (IRS) has maintained micro-captives on its annual 'Dirty Dozen' list of potentially abusive tax arrangements.

This proposal follows the mention of micro-captives on its 2023 list.

Tax law generally allows businesses to create captive insurance companies to protect against insurance risks.

It also provides that some small non-life insurance companies can choose to pay tax solely on their investment income under Internal Revenue Code section 831(b). These are known as micro-captives.

According to the IRS, abusive micro-captives involve schemes that lack many of the attributes of legitimate insurance.

The institution states: "These structures often include implausible risks, failure to match genuine business needs, and in many cases, unnecessary duplication of the taxpayer's commercial coverages.

RMC Group wins against IRS in captive dispute

A Florida federal jury has ruled in favour of RMC Group in a captive dispute against the Internal Revenue Service (IRS). In the verdict, the jury cleared RMC Group, owned by Raymond Ankner, from penalties under Internal Revenue Code Section 6700, which governs the promotion of abusive tax shelters.

The IRS claimed that RMC's captives were not real insurance companies, accusing the business of making false statements in connection with illegitimate insurance plans.

Ankner had filed the lawsuit after being fined almost US$4 million by the IRS for their promotion of micro-captive arrangements between 2010 and 2016.

US district judge John Steele ruled in February that a jury should decide whether Ankner knowingly lied to clients by telling them they could take illegal tax deductions in connection with captive insurance arrangements.

The IRS alleged the penalties were proper because Ankner and his companies created, sold and managed a plan to skirt federal income taxes by using illegal deductions for supposed insurance premiums related to microcaptive insurance programmes.

Ankner argued that the federal government built its case on its own summary interpretations of statements, and that he and his businesses followed IRS guidance.

Under microcaptive insurance transactions, companies set up small, in-house insurers that are taxed only on investment income, excluding payments received under the insurance contract from taxable income. ■

Check out the full interview on page 20

"In addition, the premiums paid under these arrangements are often excessive, reflecting non-arm's length pricing."

The IRS emphasises that combating abusive micro-captive transactions remains a high-priority enforcement area.

The agency has prevailed in most of the micro-captive tax and appellate court cases since 2017.

Recently, RMC Group became the first captive manager to succeed in court against the IRS on this issue, marking a significant step in the ongoing dialogue surrounding compliance in captive insurance company management.

Darag Insurance Guernsey acquires Cayman-domiciled captive

Darag Insurance Guernsey has signed a sale and purchase agreement to acquire a Cayman-based (re)insurance captive. The contract, one of the largest transactions completed by Darag Group in the captive space, is subject to regulatory approval from the Cayman Islands Monetary Authority.

The company intends to merge with the acquired captive in due course, and reinsure the longer-tail portion of the portfolio with its core risk carrier in Germany, Darag Deutschland AG.

According to the firm, the (re)insurance captive, purchased from a very large multinational corporation, possesses long tail UK employers' liability (EL) exposure.

Tom Booth, CEO of Darag Group, comments: "This transaction is further evidence of [Darag's] continued interest in acquiring and managing UK EL exposure."

He adds: "We look to the future with increasing confidence as demand for our legacy solutions is plentiful, investment yields and capital efficiency continue at attractive levels, and competition at the small to mid-sized end of the legacy market reduces.

"Darag's focused and well capitalised business, helped by its newly simplified structure, is particularly well placed to take advantage of these much improved market conditions."

Darag Group specialises in the assumption of discontinued business and the provision of capital and operational relief solutions.

The firm has completed 67 run-off transactions in 21 countries with a value in excess of US$1.81 billion.

Vermont licenses 15 new captives in Q1 2024

Vermont has added 15 new captives in the first quarter of 2024, taking the total number in the domicile to 669. The state is known as the largest captive domicile in the US, followed by Utah and North Carolina, holding 439 and 311 respectively.

Since 1981, Vermont has licensed a total of 1,330 captive insurance companies.

According to a recent statement from the Vermont Department of Economic Development, 2023 marked a strong year for captive insurance in the state, with the formation of 38 new captives.

The division further adds that 2024 is already off to an even stronger start.

Christine Brown, director of captive insurance at Vermont Department of Financial Regulation, says: "Companies continue to face challenges placing insurance, and find they are better able to negotiate when they have a captive that can take on higher retentions and fill gaps in coverage.

"A captive gives its owner options, and allows for greater control over underwriting and claims management, ultimately resulting in better risk management practices to create positive outcomes."

Iowa lowers tax rates for captive premiums

Iowa has passed the House File 2636 bill that lowers the reinsurance tax rates imposed on some captive insurance companies' premiums.

Under the act, premiums written above US$60 million will be taxed at a rate of 0.02 per cent, instead of the five per cent rate that applied previously.

The legislation does not change the rates of 0.2 per cent for premiums of up to US$20 million and 0.125 per cent for premiums between US$20 million and US$40 million.

Previously, Iowa passed the Senate File 549 bill into law on 1 June 2023 to allow the formation of captive insurance companies in the state, which made it the thirty-sixth US jurisdiction to adopt captive insurance legislation.

The law authorised the formation of pure, association, protected cell, special purpose and industrial insured captives.

Minimum capital and surplus requirements are not less than US$250,000 for pure captives; and not less than US$500,000 for industrial insured captives, including risk retention groups, and for protected cell captive companies.

The Iowa Insurance Division is responsible for administering the law and promulgating its rules. ■

HDI Global introduces climate risk reporting service

HDI Global has introduced climate risk reporting to assist clients with physical climate risk analysis, in line with EU taxonomy guidelines. The initiative, developed by HDI Risk Consulting GmbH, provides detailed data on climate risks such as water levels and heatwave metrics. The service supports customers who fall under the reporting obligation as part of the Corporate Sustainability Reporting Directive (CSRD) and the EU Taxonomy from 2024.

Using a grid of around 30 potential physical climate risks, HDI Global assigns customers' locations to a six-level scale.

Partnering with Mitiga Solutions, the company has expanded its database to include scientifically validated climate data on the commonly used climate change models, as set out by the Intergovernmental Panel on Climate Change.

The service follows the EU taxonomy guidelines and supports reporting on climate risks, as well as more precise and faster due diligence reviews of investments.

By being able to evaluate future risks, it also serves as decision support in location planning.

In turn, customers can benefit from bureaucratic simplification and receive support in actively preparing for future climate change challenges.

Dirk Höring, member of the HDI Global's executive board, comments: "With our climate risk reporting service, we are setting a new standard in the insurance industry.We not only highlight risks but also provide recommendations for action on how our customers can mitigate risks and seize opportunities."

Florida targets out-of-state captive insurers with 5.3% tax

Florida has initiated audits on businesses paying captive premiums to assess the 5.3 per cent Independently Procured Tax (IPT).

Every insured who purchases insurance from another state or country with a “unauthorised foreign or alien insurer” is subject to a 5.3 per cent tax under Florida Statute Section 626.938, titled Report and tax of independently procured coverages.

The IPC tax is due on the forty-fifth day following each calendar quarter after the insurance is procured.

Delinquent taxes bear interest at six per cent per year, compounded annually.

The measure targets captive insurance entities, which often operate outside their business’s state, bypassing local insurance companies and agents.

The state’s strategy to audit and penalise non-compliant businesses seeks to ensure tax compliance and enhance revenue from insurance operations using out-of-state channels.

Despite the historical laxity of enforcing this tax, some US states have taken measures to collect it, including Texas, Washington and Florida.

Experts advised that businesses utilising captive insurance must now contemplate strategies to mitigate the tax impact, such as redesigning their programme and policies to limit the premium subject to the IPC tax or re-domiciling a captive to their home state. ■

Marsh introduces new alternative risk practice

Marsh has introduced the Global Alternative Risk Solutions practice, which brings together its parametric solutions, alternative risk transfer, captives and complex risk offerings.

The new division, led by Christophe Letondot, will integrate capabilities from Marsh’s Specialty, Global Placement, Captive Solutions and Advisory divisions.

It will also work with another Marsh’s company, Guy Carpenter, to access broad capital pools — including insurance linked securities markets — for corporate clients.

According to the company, the practice aims to leverage Marsh’s vast resources, data, and technologies, to drive innovation and accelerate the development of new risk solutions for clients.

Commenting on the new practice, Pat Donnelly, president of Marsh Specialty and Global Placement, says: “Global Alternative Risk Solutions represent our commitment to being the risk advisor of the future and providing clients with easily accessible, cutting-edge risk management solutions.”

Aon expands middle-market presence with acquisition of broker NFP

Aon has completed the acquisition of NFP, a middle-market property and casualty broker, benefits consultant, wealth manager and retirement plan advisor. As an Aon company, NFP will operate as an “independent and connected” platform, delivering risk capital and human capital capabilities across Aon, and will continue to be led by NFP CEO Doug Hammond, reporting to Aon president Eric Andersen. The purchase came from Aon’s funds affiliated with NFP’s main capital sponsor Madison Dearborn Partners and with HPS Investment Partners for US$13 billion, including US$7 billion in cash and assumed liabilities, as well as US$6 billion in equity in the form of 19 million Aon shares.

Greg Case, Aon CEO, states: “It is a historic day for our firm as we welcome NFP to Aon and work together to help clients address increasing volatility across risk and people issues.

“This acquisition is another example of how we are going further, faster with our 3×3 plan to accelerate our Aon United strategy and further enhance our relevance to clients.”

Andersen adds: “The idea of being ‘independent and connected’ is key to how we will collaborate and create more options for clients across our risk capital and human capital capabilities.

“Doug and his team have built an exceptional client-centred business, and we are focused on using our Aon Business Services platform to scale the delivery of new capabilities to small and middle market clients across Aon and NFP.”

Hammond says: “Aon’s diverse resources and global reach enhance our ability to serve the dynamic risk, workforce, wealth management and retirement needs of our clients.”

Insurtech MGA Loadsure expands to European market

Loadsure, an international insurtech managing general agent (MGA) and Lloyd’s coverholder, announces its launch in Europe. With an initial focus on the Benelux region, Germany, France, Denmark, Norway, Finland and Sweden, the company aims to use high resolution data, AI and automation to provide accurately priced freight insurance and insight products.

Ben Brough has joined as director of Europe, and Loadsure plans to expand the European team this year.

Following a phased launch across Europe, all of Loadsure’s freight insurance products will be available to insurance intermediaries throughout the region, including Thames (dynamic on-demand cargo insurance), Huron (ocean cargo and stock throughput insurance) and Danube (dynamic ocean cargo insurance).

According to the firm, its presence in Europe helps cover broad risk exposure for freight brokers, shippers and carriers, especially small-to-medium-sized businesses underserved by the insurance industry on the continent.

The company states that Loadsure’s arrival will address a number of issues faced by European freight service and logistics providers, for example, using real-time data collection to provide risk insights on observed loss trends such as theft hotspots.

Johnny McCord, Loadsure CEO and co-founder, comments: “The freight industry is being transformed by digitalisation and we look forward to working closely with local distribution partners to deliver the leading edge, tech-powered solutions the freight community demands.” ■

GIIA Guernsey conference to discuss future concerns for captives

The Guernsey International Insurance Association (GIIA) has collaborated with Airmic to stage a one-day conference on the island, scheduled for 25 June.

Titled ‘Positioning for the Future’, the event is expected to connect risk managers, captive owners, those considering setting up a captive, brokers, board members, advisers and insurers.

Delegates will hear from a line-up of speakers at both plenary sessions and nine breakout sessions.

The event’s keynote speaker will be General Sir Richard Shirreff, ex NATO Deputy Supreme Allied Commander Europe. He is a co-founder of Strategia Worldwide, an author of the book War with Russia and an honorary fellow of Oxford University.

A plenary session will review case studies from The Hut Group, Landsec and BAT, which all have different captives in Guernsey.

The break-out sessions include speeches from the Red Cross, which recently used Guernsey to set up its disaster relief financing vehicle together with Aon, as well as a discussion about the changing global tax environment, moderated by Jenny Coletta, EY tax partner, and Nicky Forshaw, director of Guernsey’s Revenue Service.

Zurich and Allianz will join a panel with McGills to explore the future of fronting and reinsurance in the context of captives, whilst PwC, LSEG, Ravenscroft and SRS will moderate a panel aboutclimate change and opportunities for the captive industry.

One of the most important elements of insurance, paying claims, will be addressed by Howdens, with participants from Network Rail and ARM.

Local law firms and consultants will run a session with case studies looking at the flexibility of Guernsey’s corporate structures for serving captives looking to metamorphosise.

Other topics in the event include the practical side of cyber risk, parametric insurance, and professional indemnity and D&O coverage that meets the needs of captive directors.

Julia Graham, CEO at Airmic, says: “There is a joint benefit of knowledge, understanding and sharing between Airmic and Guernsey’s insurance industry.”

Adele Gale, GIIA chair, states: “Captives are part of the risk management infrastructure that businesses use to meet the challenges and opportunities of tomorrow.” ■

Swiss Re launches AI-powered underwriting assistant

Swiss Re has introduced Swiss Re Life Guide Scout, a generative AI-powered underwriting assistant for life and health insurance, in collaboration with Microsoft Azure OpenAI service. The new feature comes in an augmented version of Swiss Re’s life and health underwriting manual, Life Guide.

It aims to revolutionise underwriting efficiency and accuracy by generating rapid, expert responses to natural language queries from underwriters.

Underwriters can pose professional questions and promptly receive AI-generated answers, along with information sources.

According to Swiss Re, the tool enables faster and more accurate decision making and enhances knowledge sharing to improve human decision making, with a solid data foundation and advanced analytics capabilities.

Swiss Re Life Guide Scout is initially launching as a pilot programme in English, with a wider roll-out planned for later this year.

Julien Descombes, Swiss Re’s chief underwriting officer of life and health reinsurance, comments: “Our ambition is to provide insurers access to the risk perspective we have built into Life Guide in an even more efficient and user-friendly way to help them continue to write sustainable business and deliver on their promises.”

Catrin Hinkel, CEO at Microsoft Switzerland, says: “By integrating Microsoft Azure OpenAI, Swiss Re can unlock the power of advanced analytics and generative AI to provide new capabilities to the insurance market through a secure, compliant and reliable cloud environment.

Alliant acquires real estate captive manager POPIC

Alliant Insurance Services has acquired Property Owners Protection Insurance Company (POPIC).

POPIC is a national captive programme manager serving owners and managers of multi and single-family residential portfolios.

The move aims to enhance the Alliant Underwriting Solutions division's real estate products and underwriting capabilities.

Greg Zimmer, Alliant CEO, says: "POPIC has a proven track record of helping large property owners and managers assume moderate and manageable risk to grow their income.

"With a diverse team of certified public accountants, attorneys, insurance and underwriting professionals, POPIC brings extensive experience and a consultative approach to our growing underwriting practice."

Bill Mecklenburg, senior managing director at Alliant Underwriting Solutions, adds: "The POPIC team has differentiated itself in the marketplace by combining institutional knowledge with a creative and results-driven approach.

"This will enable the company to further diversify our services and expand our reach in residential real estate programme administration."

Based in California, POPIC's risk management solutions redirect revenue streams that historically have gone to carriers or other third parties and back to property owners and managers.

The firm provides a suite of services to its clients, including structuring their captives, managing their programmes and administering tenant compliance.

Noah Molnar, POPIC CEO, comments: "Joining forces with Alliant provides our team with expanded capacity and resources, which will help us provide service and responsiveness to multifamily clients nationwide." ■

MS Amlin partners with Moody's RMS to boost modelling capability

Lloyd's (re)insurer MS Amlin has partnered with risk modelling and solutions company Moody's RMS to boost its exposure management and modelling capability.

The firm has invested in Moody's RMS Intelligent Risk Platform to inject new data and functionality to support its analysts, providing better insights to frontline underwriters, as well as capital and pricing teams.

The new functionality will also deliver more accurate and detailed information to guide business planning, risk and solvency assumptions, and decisions on capital models.

MS Amlin will also use different Moody's applications, including Exposure IQ, Risk Modeler and Treaty IQ.

By onboarding multiple applications, the company will have access to an integrated solution across exposure management, catastrophe modelling, pricing and portfolio management.

With increased workflow speed and efficiency, MS Amlin aims to free up its analysts and modellers to focus on more high-value services, including the provision of more insight-driven consultancy.

Jessica Turner, head of exposure management at MS Amlin, comments: "The world is getting more complicated, with a multitude of constantly and quickly evolving factors and situations. The ability to deeply understand our exposures, model scenarios, test a variety of hypotheses, and then use that as the basis for our risk management and pricing is vital.

"[Moody's] modelling and analytical software will accelerate our capability and support our insurance and reinsurance lines."

PARIMA 2024 conference to address Asia's response to global risks

The Pan-Asia Risk and Insurance Management Association (PARIMA) 2024 conference, scheduled for 29 to 30 May in Manila, will address Asia's resilience to the global geopolitical challenges facing the risk management and insurance sectors.

The event aims to bring together over 300 risk and insurance professionals from the Philippines and across Asia Pacific.

With the theme 'Global Risks, Asia's Response', the conference will shine light on topics of key concern for the risk and insurance community in the Philippines, including captives, natural catastrophes, cyber risk, geopolitical risks, supply chain disruption and climate change.

According to the organiser, global and regional leaders from the risk and insurance sectors will attend the conference, including Martin South, president and CEO at Marsh; David Jacob, CEO at Marsh McLennan Asia; Jane Drummond, chief commercial officer for Asia Pacific at Aon; and Robert Drysdale, head of Southeast Asia at Descartes Underwriting.

The event will begin with a day exclusively designed for risk managers as well as four masterclasses centred on AI, climate resilience, natural catastrophes, and claims management.

The next day will see discussions covering captives and emerging risks across industries.

The list of keynote speakers for the event includes Robert E.A Borje, vice chairperson and executive director of the Philippines' Climate Change Commission; Jaime Urquijo, chief sustainability and risk officer at Ayala Corporation; and Jaime Moraza, head of strategy and business development at Pilmico International.

Bitsight and Moody's launch new cyber risk solution

Bitsight, in partnership with Moody's, has launched Implied Cyber Threat (ICT), providing cyber risk insights and market context for more than 325 million organisations worldwide.

The initiative is built on Bitsight's cyber risk analytics engine and Moody's Orbis company database.

According to Bitsight, ICT provides the highest coverage in the market by a factor of more than 25 times.

The ICT quantifies the inherent cyber risk for an organisation based on Moody's firmographic indicators, including company size, sector and geography, plus a subset of Bitsight's risk vectors, including botnet infections and open ports.

As a result, the platform will provide a highly actionable inherent risk indicator, with a significant correlation to breach and ransomware.

Matt McDonald, managing director at Moody's, states: "Cyberattacks and ransomware cost companies billions in losses every year, jeopardising global business stability and making cyber risk management a top priority for business leaders.

"The ICT will help our customers assess their third-party cyber risks. The scale of ICT is a major advancement that will help provide actionable cyber risk insight into extended business ecosystems."

Derek Vadala, chief risk officer at Bitsight, emphasises: "Our partnership with Moody's is rooted in helping global institutions better understand, quantify and respond to cyber risk.

"By bringing together Bitsight cyber analytics with Moody's company information, the market now has a mechanism for assessing cyber risk at scale." ■

North Carolina becomes third largest captive domicile in US

North Carolina now ranks as the third largest captive domicile in the US, below Vermont and Utah, announces commissioner Mike Causey.

The state currently hosts 311 captive entities, up from 294 in 2022, with Utah holding 439 and Vermont licensing 659.

Since the passage of the state's Captive Insurance Act in 2013, North Carolina has licensed more than 1,500 captive companies, a significant rise from the three it started with.

Causey says: "North Carolina's competitive premium tax rates and laws provide us with a lot of discretion in the regulation of captive insurers, which helps us remain attractive to captive owners and captive managers.

"Laws drafted over the years designed to meet the insurance needs of North Carolina businesses have had a positive economic impact, attracting new businesses to our state."

The commissioner emphasises that the North Carolina Captive Insurance Association and the Department continue to propose legislative changes to keep the law relevant to the needs of the industry.

The state also aims to expand its captive programme to support diverse industries and businesses. ■

AM Best upgrades outlook rating of Trisura Group to 'Stable'

AM Best has revised the outlook rating to 'Stable' from 'Negative' for Trisura Group.

Trisura Group includes Trisura Specialty Insurance, Trisura Insurance and Bricktown Specialty Insurance, domiciled in Oklahoma; and Trisura Guarantee Insurance, based in Toronto.

According to the rating agency, the upgrade reflects improved enterprise risk management (ERM) practices, policies and procedures around Trisura's risk management of US captive reinsurance contracts.

As a result, Trisura has successfully renewed all of its ongoing programmes, reducing its overall captive exposure.

These effective changes are reflected in the company's improving operating performance.

AM Best also affirmed the financial strength rating of 'A-' (Excellent) and the long-term issuer credit ratings of 'a-' (Excellent) of the operating entities of Trisura Insurance Group.

The credit ratings reflect Trisura's overall balance sheet strength, which AM Best assesses as very strong, as well as its adequate operating performance, neutral business profile and appropriate ERM.

Aon introduces blockchain technology for insurance placement

The global professional services firm Aon has completed a pilot for insurance placement using blockchain and smart contract technology.

The initiative also involves Nayms, a crypto-compatible insurance marketplace, and Copper.co, a digital asset custodian.

The pilot showcases blockchain's capacity for increasing capital sources, improving transparency and reducing costs in insurance processes.

Nayms' platform supports the tokenisation of risk-bearing capital, offering liquidity to investors through secondary trading.

Jillian Slyfield, chief innovation officer at Aon, states: "Aon is committed to investing in new solutions to better serve our financial institution and commercial clients, who are testing and developing innovative products underpinned by blockchain technology. The potential benefits of blockchain are compelling, including lower transaction costs, which can lead to greater access and participation in financial services."

In the trial, Aon used a Copper Web3 custodial wallet to sign transactions and transfer funds on Nayms' platform.

Within the Nayms marketplace, Aon performed on-chain insurance quotations and received crypto-native commissions.

Using Copper's infrastructure, premiums were paid in stablecoins, and Aon's commissions were automatically transferred to its account on Nayms' platform through smart contracts, eliminating the need for manual processing.

Lachlan Douglas Ferguson, business operations manager at Nayms, says: "This pilot demonstrates the efficiency gains that institutions can expect from the Nayms platform, which leverages blockchain technology to conduct insurance."

Dmitry Tokarev, founder and CEO at Copper, adds: "With this pilot, we demonstrated how to bridge the gap between insurance and crypto.

"This innovative project represents a significant step towards revolutionising the insurance industry by embracing the power of blockchain and digital currencies." ■

Matthew Reddington
Partner
ZMFF&J Law

Ankner v. IRS

Victory for micro-captive

Matthew Reddington, partner at ZMFF&J Law, sheds light on the first victory of a micro-captive against the IRS in court, after the federal agency failed to show that the captive management firm RMC Group was liable for Section 6700 penalties

In April 2024, Raymond Ankner and his captive management company RMC Group won an important case against the Internal Revenue Service (IRS) with the assistance of law firm Zerbe, Miller, Fingeret, Frank and Jadav (ZMFF&J).

The jury concluded that the IRS failed to show that the captive manager was liable for Internal Revenue Code Section 6700 penalties, which govern the promotion of abusive tax shelters.

RMC becomes the first micro-captive to prevail against the IRS in court on this issue, marking a big step in the ongoing dialogue surrounding compliance in the management of captive insurance companies.

The Ankner case focused on the IRS's assertion of penalties under IRC Section 6700. Can you provide an overview of the key elements that must be established for the imposition of those penalties, and how the court's analysis of those elements played out in this case?

Under Section 6700, the government must prove: (1) there was a partnership, entity, investment plan, or arrangement; (2) the person (including an employee or agent) must make a false or fraudulent statement; (3) that person must know or have reason to know that the statement is false; (4) the statement must be with respect to a material matter.

Although the definition of the first element, a plan or arrangement, is very broad, case law from other circuits indicates that the plan or arrangement must relate to a tax shelter. That is why we requested the court instruct the jury that they must find that Ankner and his companies — RMC Group — organised a plan or arrangement for the purpose of tax avoidance. The court did not instruct the jury as per our request, and defined the term 'plan or arrangement' very broadly. The Department of Justice (DOJ), on behalf of the IRS, pointed to several instances in the documents where RMC used the term 'programme' in describing their services in connection with the formation and management of 831(b) captives, and tried to equate the use of that term as a stand-in for an admission to plan or arrangement. That fell flat with the jury, and we were able to draw a distinction that appeared to have weight with the jury despite the court not instructing them on the tax shelter element of the plan or arrangement.

The second element consists of a false or fraudulent statement. The DOJ cited various statements from RMC Group's emails and marketing materials, indicating that insurance premiums could be deductible as ordinary and necessary business expenses under Section 162(a), and that Section 831(b) provides an exclusion from taxable income to the captive for premiums paid to the captive, with only investment income subject to taxation. These are generally true statements, but the DOJ asserted that they are false because the companies never actually obtained 'insurance' as defined by the court. The government hired three expert witnesses (an economist, an actuary and an underwriter) to prove to the jury that the captives were not real insurance companies, but then only brought two of the three to the trial.

The experts tried to persuade the jury that RMC's captives were not real insurance companies because they did not meet the insurance's risk distribution element. Shortly before trial, the DOJ conceded that the captives were covering insurable risk, had risk shifting, and were insurance companies in the commonly

"The jury seemingly held the view that RMC, having adhered to the IRS's guidance, did not know and had no reason to suspect that the captives did not meet the risk distribution requirement. As a result, the jury likely found that the government did not prove the knowledge element of a Section 6700 penalty"

accepted sense — all the other elements of insurance. The government was only challenging risk distribution.

The government's position was that if the captives did not provide risk distribution, then they were not real insurance companies, and the statements regarding deductions by the insured businesses and exclusion of income by the captives would be false. The jury did not find that RMC made false statements.

The third element is that the individual making the purportedly false statement must know the statement is false or fraudulent, or have reason to know. It is this element of a Section 6700 penalty that may have weighed most heavily in the jury's verdict. We showed that the captives managed by RMC did distribute risk through reinsurance agreements, in which they accepted risk from unrelated insureds. We hired Robert Walling of Pinnacle Actuarial, who analysed the programme and concluded that it did distribute risk.

More importantly, RMC's general counsel, Jeffrey Bleiweis, testified that he had engaged in substantial research before RMC began managing captives and had found scant guidance from the IRS about how a small captive insurance company can achieve risk distribution. Bleiweis testified that the only relevant guidance at the time was Revenue Ruling 2002-89 and that the captives were structured in such a way as to comply with the requirements of the revenue ruling.

The fact that the DOJ brought two paid expert witnesses to the trial in 2024, to argue that the the captives did not meet the risk distribution requirement, was a red herring meant to confuse the jury. But the main concern for the jury is what RMC knew in 2010, not what the government's paid experts believed in 2024. The jury seemingly held the view that RMC, having adhered to the IRS's guidance, did not know and had no reason to suspect that the captives did not meet the risk distribution requirement. As a result, the jury likely found that the government did not prove the knowledge element of a Section 6700 penalty.

Finally, the last element that the government had to prove was that any statement was about a material matter or that a reasonable person would have relied on the subject statements. We presented evidence indicating that customers entered the programme solely for risk management purposes. The government did not offer any evidence to counter this point.

The jury determined that the government did not meet its burden to prove each of the four elements of Section 6700 by a preponderance of the evidence.

The court's opinion suggests there were material disputes of fact around whether the plaintiffs' captive management activities constituted a 'plan or arrangement' under the statute. What were the key factual nuances that made this a close and complex question?

The 'plan or arrangement' element has been defined broadly by the courts. The government took this element for granted and tried to equate RMC Group's use of the term 'programme' in various marketing materials to establish a plan or arrangement.

In defence, we argued against the government's partial motion for summary judgement, citing case law from other courts that required the government to demonstrate a connection between the 'plan or arrangement' and a tax shelter, a requirement we believed the government could not meet. We also argued that the captives did not constitute a 'plan or arrangement' because each captive was a separate company with different owners, directors and insureds. The court, in ruling on the government's partial motion for summary judgement, chose not to extend the law as far as we suggested but found that there was a genuine issue of material fact whether the RMC captives constituted a 'plan or arrangement'. The court also ruled that the government had the burden of proving that there was a 'plan or arrangement' and they could not simply rely on the use of the word 'programme' to do that even if the term is broadly defined.

The government sought to preclude the plaintiffs from relying on advice from their general counsel, Jeffrey Bleiweis, to negate the scienter requirement. How did the court analyse the potential conflict of interest issues surrounding Bleiweis' role?

The government's argument on this issue was never clear. Jeffrey Bleiweis is general counsel for RMC Group but also vice president, and he played a key role in determining how RMC should organise and manage captive insurance companies and how the captives could achieve risk distribution. In addition, he drafted most of the marketing materials that the government claimed contained false statements.

He was a key witness for the scienter requirement in this case. Any knowledge imputed to RMC Group was Bleiweis' knowledge or based on memoranda drafted by Bleiweis for the benefit of RMC Group employees. Through summary judgement, the DOJ requested that we refrain from introducing evidence demonstrating RMC Group's reliance on his knowledge and advice. This request is likely due to the fact that many tax code penalties provide exceptions for taxpayers who have relied on professional tax advice, even though the Section 6700 penalty does not contain a reliance exception. The argument by the DOJ never made any sense, and the court pointed that out in its ruling on the government's partial motion for summary judgement. We were not claiming that RMC was immune from penalties under Section 6700 because they relied on Bleiweis' advice. Our argument was that Mr. Bleiweis' knowledge was RMC's knowledge and that the only way for the government to prove the element of knowledge was to prove that he either knew or had reason to know that his advice was false.

Assuming liability, the government sought summary judgement on the full penalty amounts assessed. What were the key disputes around the proper calculation of the penalties, and the burden of proof considerations?

The IRS miscalculated the penalty amounts for one of the corporate plaintiffs as well as for Ankner individually, and we presented evidence to that effect. If the government had been able to meet its burden of proof that the Section 6700 penalty could be assessed, then we would have had to prove that the amounts assessed by the IRS were incorrect. We were able to provide evidence that Ankner did not derive his income directly from RMC's captive management. He provided no direct service to the captives.

"We, like many other practitioners in the area, are waiting for the courts, Treasury, or Congress to provide guidance that illustrates what they want to see in an 831(b) captive programme"

Anything that he did was in his capacity as an officer and employee of the corporate plaintiffs. We also showed the source of all revenue derived from RMC's management of captives and proved that the revenue was paid solely to one or more of the corporate plaintiffs.

The government was, in effect, assessing a double penalty on the same revenue — first when paid to the corporate plaintiffs and then when Ankner was paid a salary by the corporate plaintiffs. Penalties under Section 6700 are already extraordinarily heavy, but it does not allow the government to penalise the same gross income twice, which is what the IRS tried to do here.

For the corporate plaintiff where we claimed that the IRS had miscalculated the penalty, we argued that the IRS had included insurance commissions in RMC income, despite the fact that the insurance companies had paid RMC these commissions, expressly requiring RMC to pay them to a third-party, and that the selling agents who earned these commissions were not RMC employees. Those commissions should not have been included in RMC income because RMC never had the right to those commissions.

The jury did not reach the issue of the amount of the penalties, concluding that the penalties could not be assessed against RMC or Ankner. However, this issue underscores the IRS's heavy-handed approach to these penalties. The IRS clearly took an approach more focused on looking to put RMC Group out of business with such draconian penalties than trying to apply the law appropriately.

In your view, what are the broader doctrinal implications of the court's refusal to grant summary judgement, even on individual elements of the government's case? How does this align with the standards for partial summary judgement?

I think that sometimes the courts (and practitioners) have difficulty extricating the legal arguments that can, and in some cases should, be settled on summary judgement. Dealing with a highly technical and fact-intensive case like captive insurance transactions exacerbates this issue. In retrospect, we would have much rather resolved the case in a pretrial motion and saved our client substantial legal fees and other costs, but at the end of the day, we are happy that the jury came to the conclusion they did. This was one of the first times the District Court has seen a case of this type, so we are hopeful that it provides an avenue for a judge to limit some of these issues via motion for summary judgement when appropriate.

As previously stated, these cases heavily rely on facts, so it is crucial for taxpayers and their legal representatives to present the complete picture and provide the jury with the necessary information to reach a fair decision.

This case has been described as a landmark win for the captive insurance industry. From a policy perspective, what do you think were the most significant aspects of the jury's rejection of the IRS's penalty assertions?

This is the first win for anyone in the 831(b) space. The IRS has notched seven straight wins in the tax court against individual captive insurance companies. The federal government had a lot of momentum prior to this decision, so I am hopeful that this taxpayer-favourable win balances things out a bit.

How do you anticipate this decision may influence the IRS's future enforcement approach in the micro-captive space, both in terms of asserting penalties and the level of scrutiny applied to captive arrangements?

We hope that the IRS is more prone to come to the table and make reasonable considerations on the front end — in audits, appeals and pre-litigation. It is an open secret that the IRS has not provided taxpayers with very many options for resolving a case other than going all the way to litigation or accepting a complete disallowance.

We have seen the IRS make 'settlement offers' consisting of a complete disallowance and penalties before even looking at a copy of the taxpayer's return. We want taxpayers to get a fair shake and an opportunity to be heard.

What lessons can captive insurance providers and their advisors take away from the Ankner case when it comes to navigating the complex regulatory landscape and potential disputes with the IRS?

Facts matter, and records do too. That your captive or your programme has operated in a forthright and ethical manner is not something that the IRS, the DOJ or a jury will assume. It is extremely important to (1) comply with the law and (2) keep records demonstrating your due diligence. In many cases, the IRS is asking about things that happened ten-plus years ago.

Being able to access those records and explain your actions to the court is invaluable.

Looking ahead, what outstanding issues or unresolved questions remain in this area of tax law that may be ripe for future litigation or regulatory clarification?

We, like many other practitioners in the area, are waiting for the courts, Treasury, or Congress to provide guidance that illustrates what they want to see in an 831(b) captive programme. Many large corporations have formed captives, so captives are ubiquitous.

Congress has explicitly provided for small insurance companies. Now that smaller entities have taken advantage of Section 831(b) and also formed captives, the IRS has decided that it wants to write Section 831(b) out of the Code.

The IRS should provide guidance to advance Congress' desires rather than frustrate them.

Via the cases that have passed through the courts thus far, we have seen glimpses of things that the IRS does not like, but very little in the way of how they intend to implement Section 831(b) as enacted by Congress.

The IRS often makes out captive providers to be boogeymen, but in our experience, nearly everyone we have worked with is a professional trying to do the best they can for their clients, with very little help from the IRS. ■


VERVE
Bespoke Insurance products for the Captive Industry
Bringing vision, passion and innovation to the Captive insurance industry, our underwriters have been providing specialist management and professional liability products and solutions to the Captive industry for over 20 years.
Ready for a fresh approach to building resilient businesses? Talk to Verve.
VERVE
scott.simmons@ververisk.com
www.ververisk.com
Verve Risk Services Ltd, company number 14615598, is a company registered in the UK with a registered office at 32 Threadneedle Street, London EC2R 8AY. Verve Risk Services Ltd is an Appointed Representative of Advent Solutions Management Limited which is authorised and regulated by the Financial Conduct Authority FRN:308751

Navigating new norms

How insurers are adapting to ESG regulations in 2024

As new regulations threaten to force a shift in many insurers' ESG strategies, leaders may need to focus on developing a strategy that not only meets new regulatory requirements but also enhances stakeholder engagement

The current landscape for environmental, social and governance (ESG) regulation is becoming increasingly complex for insurers. New standards are emerging worldwide as governments and international bodies tighten sustainability mandates. Insurance companies need to adjust their operations to remain competitive, yet ESG compliance presents numerous opportunities. Stakeholders in all areas of business, from employees to customers, are starting to become more engaged with ESG-related issues.

Developments in ESG-related regulation have not helped to assuage this growing pressure, and recent progress is forcing insurers to act. More specifically, the US Securities and Exchange Commission's (SEC) recent climate disclosure requirements have created a new demand for companies to do their part in tackling climate concerns. Insurers must look to define a clear ESG strategy to meet stakeholder demand.

Understanding and adapting to ESG regulations

According to data from PwC, a quarter of global insurers believe that understanding ESG regulations and guidelines is the main challenge in moving an ESG agenda forward. Meanwhile, nearly half of insurance company CEOs say their firms are currently unable to measure their greenhouse gas emissions.

Steve Bochanski, climate risk modelling leader at PwC, says that the current landscape of climate-related reporting rules is "complex", with new regulations emerging in many jurisdictions. These include the EU's Corporate Sustainability Reporting Directive (CSRD), California's new climate disclosure laws, the UK International Sustainability Standards Board's (ISSB) sustainability disclosure standards, and the SEC's climate disclosure rules.

"In response, insurers are creating specialised roles and teams to oversee and promote compliance with these evolving standards," Bochanski explains.

He adds: "The integration of sustainability considerations into core business practices is now becoming table stakes, leading to an elevated role for chief sustainability officers and chief financial officers. Sustainability now plays a prominent role in decision making across various functions, including investment, underwriting and operations."

Stakeholder pressure regarding ESG concerns has existed for some time, but the addition of regulation is pushing companies to

"Insurers are themselves business entities facing stakeholder market pressure just like any other sector. There is investor demand, talent demand, and so on, pushing businesses across the board to embrace sustainability and ESG in order to remain competitive"

Bessie Antin Daschbach, Hinshaw & Culbertson

act soon. Bessie Antin Daschbach, partner and leader of the ESG team at Hinshaw & Culbertson, argues that insurers have been and will continue to "grapple with ESG issues at multiple levels".

"First, insurers are themselves business entities facing stakeholder market pressure just like any other sector. There is investor demand, talent demand, and so on, pushing businesses across the board to embrace sustainability and ESG in order to remain competitive."

Daschbach notes that, combined with this existing pressure, present and upcoming regulations are now requiring insurers to do something, or do something differently, as well as ask the more important question of how.

She further states: "Add to that the patchwork of anti-ESG legislation in the US at the state level, including anti-ESG legislation targeting insurers directly in, for example, Texas and North Dakota. In those instances, insurers may also have to navigate whether they can consider ESG factors at all.

"Taking all that together, insurers definitely have their work cut out for them when it comes to sustainability and ESG. This is merely the initial level of consideration. For insurers, these issues are also all over their relationship with their insureds."

Impact of the new SEC climate disclosure requirements

Under the SEC's new climate disclosure requirements, insurers are now required to extensively report climate risks, scenario analysis, and the potential financial impacts. This includes specific challenges for property and casualty (P&C) insurers, who will need to model catastrophic events under the new guidelines. Bochanski says that the new disclosure rules can "provide companies with many benefits beyond just meeting compliance requirements."

According to Bochanski, in order to comply with the requirements, insurers will need to disclose significant climate risks throughout their business and value chain, as well as analyse and evaluate their importance.

He adds: "They will also need to disclose climate change targets, scenario analysis details, and the potential impacts on their strategy and business model. P&C insurers face specific challenges with catastrophe modelling, as it typically focuses on a single climate scenario and has a one year time horizon."

The SEC's rules will also require disclosure of expenditures from severe weather events exceeding one per cent of the earnings before interest and taxes, according to Bochanski, with more detailed information on factors like natural versus man-made catastrophes. If deemed material, insurers will need to describe how severe weather events affected financial statement estimates and assumptions.

Developing an effective ESG policy

In this increasingly complex environment, insurers must develop and formalise an effective ESG strategy. According to Bochanski, the first thing insurers should consider is the "prevailing climate-related regulations, how to foster long-term business resilience, maintain competitiveness, and align with the company's purpose."

For captive insurance companies, it is also important to consider how an ESG strategy reflects its parent company and whether or not it aligns with the parent's purpose and values. This also applies to their ESG investments. In effect, businesses with captive insurance interests should try to remain consistent across their entire ESG strategy. This will necessitate further consideration of stakeholder concerns, both within the captive and parent company.

> "The service can provide projections for each climate scenarios up to the year 2100, in five year intervals."
>
> **Steve Bochanski, PwC**

Bochanski notes that these firms should ensure stakeholder interests are addressed in order to help support a "sustainability strategy that resonates with customers and investors".

He adds: "The challenge lies in seamlessly integrating these considerations into a policy that not only addresses pressing sustainability issues, but also aligns with the insurer's strategic vision and business goals."

The benefits of a robust ESG strategy

Though it is a tricky minefield to navigate, a productive ESG strategy can lead to unique benefits. Bochanski says a strong sustainability strategy "helps position insurers to secure their businesses' longevity, by aligning with sustainable practices and risk mitigation principles important for long-term success".

"This strategy not only facilitates entry into new markets by meeting the growing demand for responsible business practices, but can also help enhance relations with investors who increasingly prioritise sustainability in their decision-making," he explains.

He further adds: "Moreover, a commitment to sustainability principles helps attract and retain a dynamic workforce."

Having a clear ESG strategy can also be a catalyst for insurers to take a leading role in driving sustainability. Daschbach says insurers are being given the opportunity to incentivise sustainability when it comes to coverage and rates and, in doing so, not only further mitigate risk but perhaps even create a competitive distinction in the marketplace.

Bochanski says that insurers can offer "advisory services to support clients in their journey towards decarbonisation," both by "providing guidance on reducing greenhouse gas emissions in operations and infrastructure, assisting with emissions calculations, and promoting transparency in reporting".

He emphasises: "Insurers can also play a key role in helping clients enhance resilience against extreme weather events, mitigating risks and potential losses.

"By innovating insurance products to align with the energy transition, such as offering enhanced warranty coverage for solar panels or insurance for renewable energy projects, insurers can actively support the shift towards sustainable energy practices."

According to PwC, 80 per cent of insurers have future ambitions to develop mature or leading governance capabilities.

Future considerations

Despite what may feel like a lot to process already, the ever-growing raft of ESG-related regulations will continue to add to insurers' workload.

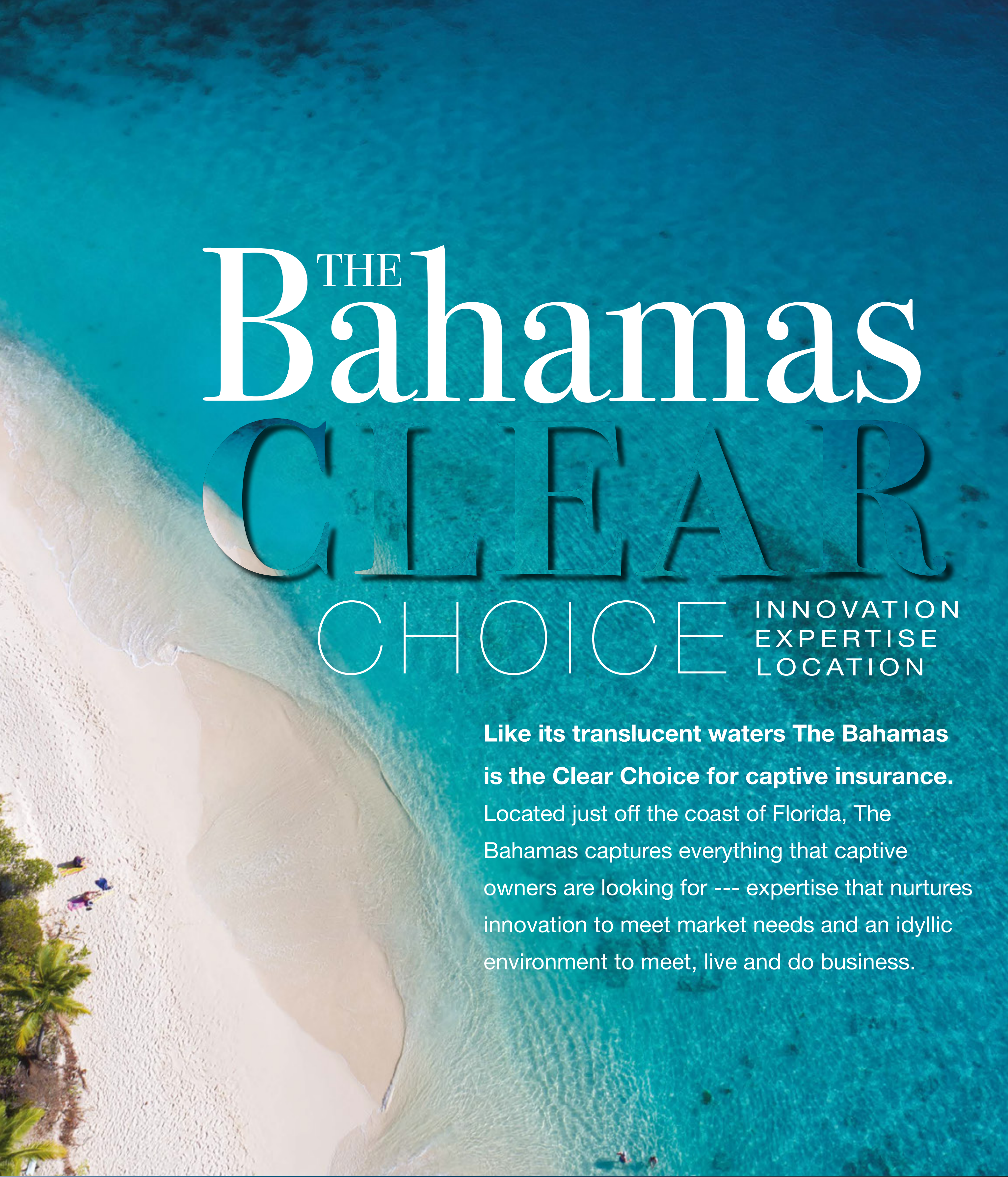
Daschbach notes: "As far as mandatory disclosure frameworks in the US, both the California rules and the SEC rules are held up in litigation. And, so as far as those rules go, some suggest it's pencils down. I don't agree. If the litigation progresses swiftly, compliance could be right around the corner, at least in terms of the structure and resources it will take businesses to undertake compliance."

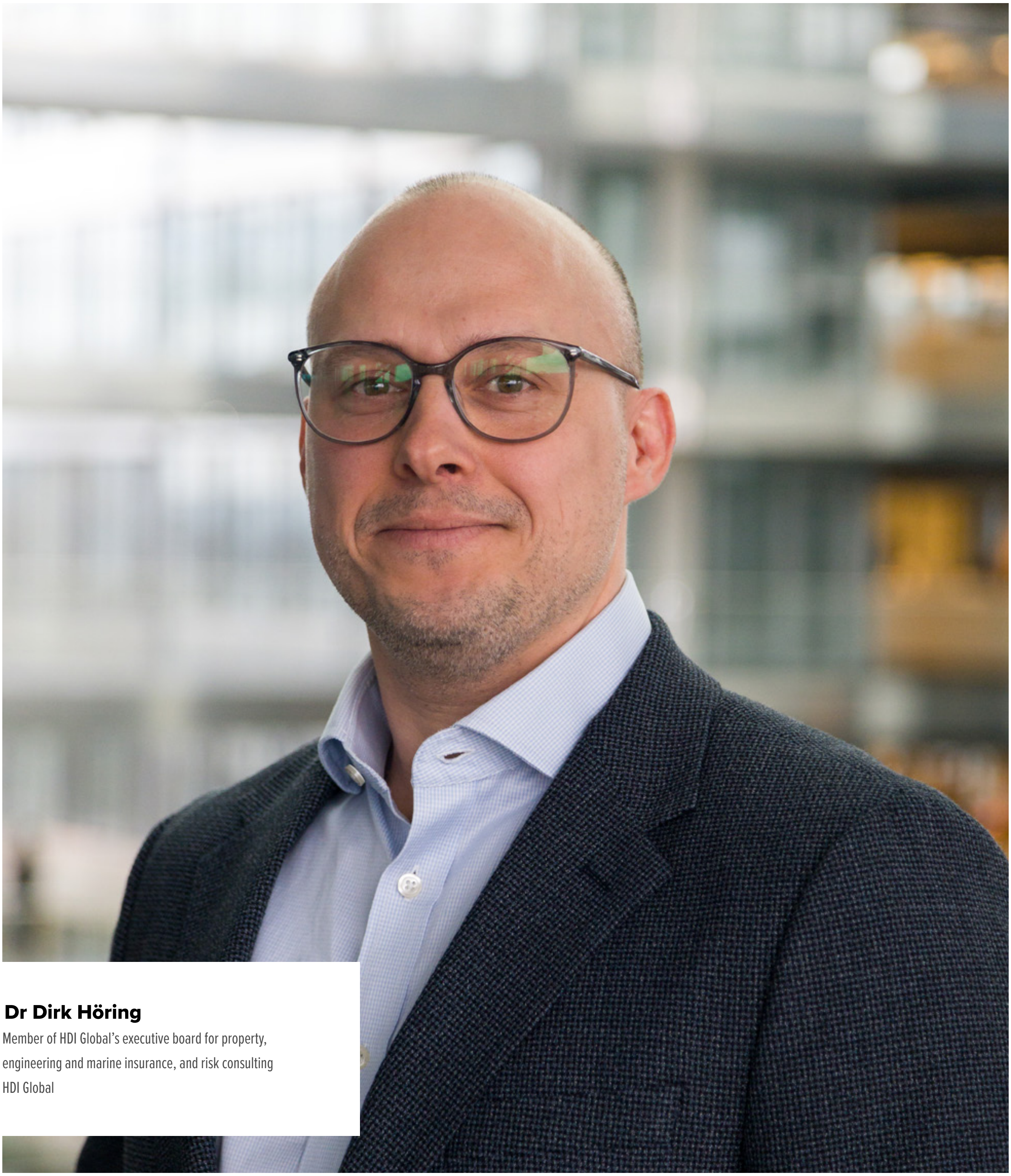
Regardless, Daschbach explains that the SEC and California frameworks "are but two data points in a much broader narrative of increasing market demands and other frameworks coming online elsewhere".

She adds: "There is plenty to keep an eye on and to assess whether businesses need to keep in line with."

As 2024 unfolds, insurers will continue to navigate increasingly complex ESG regulations.

Their success will likely hinge on their ability to integrate these requirements into a comprehensive business strategy that not only meets regulatory demands but also positions them as leaders in sustainable business practices. ■


THE Bahamas
CLEAR
CHOICE
INNOVATION
EXPERTISE
LOCATION
Like its translucent waters The Bahamas is the Clear Choice for captive insurance.
Located just off the coast of Florida, The Bahamas captures everything that captive owners are looking for --- expertise that nurtures innovation to meet market needs and an idyllic environment to meet, live and do business.



Dr Dirk Höring

Member of HDI Global's executive board for property, engineering and marine insurance, and risk consulting
HDI Global

HDI Global's climate risk reporting service:

Enhancing captive resilience in a changing climate

Dr Dirk Höring, member of HDI Global's executive board for property, engineering and marine insurance, and risk consulting, explains about the new climate risk reporting (CRR) service and its benefits for captives

What led HDI Global to develop this new service, and how does it fit into your broader strategic focus on risk management?

HDI Global developed the CRR service based on several factors, and it aligns with our broader strategic focus on risk management. Firstly, as a partner in transformation for our clients, we conducted a deep-dive into ESG topics and regulations. Additionally, we recognised the need for our clients to have access to HDI's knowledge and expertise in the field of natural hazards. We also realised that we could fill the remaining gap in clients' regulatory fulfilment by providing a robust physical climate risk assessment.

Many captive insurance companies are increasingly looking to incorporate climate risk analysis into their underwriting and risk management practices. How can HDI's CRR service benefit captive owners and managers in this regard?

HDI specifically designed its service as a standalone product to help clients meet their regulatory requirements. It provides comprehensive assistance in addressing the regulatory aspects of climate risk analysis. Furthermore, the climate risk gradings offered by CRR provide invaluable insights into future climate risk developments.

This information empowers captive owners and managers to make well-informed decisions regarding underwriting and risk management, helping them effectively navigate the challenges posed by climate related risks.

Can you explain how the CRR service helps your customers meet regulatory requirements like the EU Taxonomy and the Corporate Sustainability Reporting Directive (CSRD)? What specific data and analysis does it provide?

The CRR service incorporates a comprehensive assessment of climate risk and vulnerability, a crucial element of regulatory mandates. Though clients can handle certain aspects themselves, such as water and energy usage, we present more detailed data and analysis related to climate risks. Our service provides comprehensive data on both acute and chronic climate risks, encompassing three climate scenarios and examining three points in time between now and the year 2100.

Examples of these risks include heat waves and stress, flooding, heavy precipitation, and wildfires. By using this information, our customers can meet regulatory expectations, gain deep insights into their climate risks, and effectively plan and implement appropriate response and adaptation strategies.

HDI has recently partnered with Mitiga Solutions to expand your climate data. Can you elaborate on this and how the combination of HDI's expertise and Mitiga's data creates a unique offering for clients?

HDI's partnership with Mitiga Solutions allows us to enhance our climate data offerings and provide a unique value proposition to our clients. Mitiga Solutions provides scientifically based climate risk data, compiled by a team of climate scientists. This data is derived from the most recent Intergovernmental Panel on Climate Change's (IPCC) climate models, as well as weather stations and other reliable sources. HDI leverages Mitiga's high-quality data and combines it with our own natural hazard expertise. We interpret the data, derive risk assessments, and recommend standard mitigation measures and adaptation solutions.

By joining forces, HDI and Mitiga form a partnership that offers clients a comprehensive package. Our combination of robust climate risk data, scientific analysis, and practical risk management expertise, allows us to deliver a distinctive and tailored approach to address climate related challenges faced by our clients.

As captives seek to demonstrate their value proposition to parent companies, how can the data and insights from HDI's CRR service help them justify their role in managing physical climate risks?

Captive insurance companies have a critical role in managing and mitigating risks, including physical climate risks which are increasingly significant. HDI's CRR service can provide captives with essential data and insights that enhance their value proposition by demonstrating their effectiveness in identifying, managing, and mitigating these risks.

How does the CRR service support companies in their investment and location planning decisions beyond just meeting reporting requirements? What types of insights and risk forecasting does it provide?

The CRR service goes beyond meeting reporting requirements, offering significant support to companies in their investment and location planning decisions. The report includes risk gradings for nearly 30 physical climate risks, providing a comprehensive assessment of the potential risks that companies may face. This assessment is based on three IPCC climate scenarios, offering a range of future climate possibilities. Furthermore, the service provides insights for three different points in time, allowing companies to evaluate the long-term implications of climate risks for their investment and location planning. The report provides detailed and granular information when a rating of C or higher (where A represents 'minimal risk', and F represents 'extreme high risk') indicates an increased risk. This includes specific data, such as heat wave days and temperatures, flood depths, and other relevant factors. Additionally, the report suggests standard adaptation options that can help companies mitigate and manage the identified risks. By providing this comprehensive and detailed analysis, the CRR service equips companies with the necessary insights and forecasts to make informed decisions, proactively manage risks, and optimise their investment and location planning strategies.

As a leading global insurer, how does HDI's CRR service set new standards for climate risk analysis and management in the insurance industry? What gaps in the market were you looking to fill?

One of the key gaps that HDI's service addresses is the need for comprehensive climate risk data. We provide valuable insights into the physical risks that can emerge as a result of a changing climate. This data fills a crucial gap by offering insurers and clients a detailed understanding of the potential risks they may face. Additionally, HDI goes beyond merely providing data. We offer in-depth analysis and climate resilience consulting tailored to specific locations. This approach guarantees the provision of the most effective and suitable measures, fostering transparency and enabling businesses to make informed decisions regarding climate risk management. By fulfilling the need for data and analysis while also offering specialised consulting services, HDI ultimately bolsters the industry's ability to address the challenges posed by climate change.

Captive insurance is often used as a risk financing mechanism for hard-to-place or specialised risks. In what ways can the CRR service support captives in identifying emerging climate-related risks that may be suitable for captive solutions?

The report offers insights into the expected future development of physical climate risks. By analysing current trends and utilising scientific climate models, it provides captives with a comprehensive understanding of the potential risks that may arise due to climate change. Furthermore, the CRR service helps captives identify the development of emerging risks, such as heat waves or droughts. This means, with the help of CRR, captives can enhance their risk management strategies by gaining deep insights into emerging climate-related risks.

Can you discuss some of the key acute and chronic physical climate risks that the service is designed to assess for client sites and operations? How granular does the analysis get in terms of parameters like, for example, water depth and wind speeds?

The CRR service is designed to assess key acute and chronic physical climate risks for client sites and operations. The service assesses nearly 30 physical climate risks. These risks are detailed in the report example as a reference for clients to better understand the scope of the assessment. In order to offer a deep analysis, the CRR service provides granular data for areas where risks are determined to have increased. This includes parameters such as water depth, wind speeds, wildfire index, heat wave days, and heat wave temperatures, among others. The service can provide projections for each climate scenarios up to the year 2100, in five-year intervals.

Regulatory requirements like the CSRD are driving captive owners to enhance their ESG reporting. How can the CRR service integrate with a captive's overall sustainability and climate risk disclosure efforts?

First, the service fills the gap in climate risk assessments by providing a comprehensive evaluation of climate-related challenges. The service provides valuable data and insights that a captive can incorporate into their broader sustainability strategies and disclosure practices. By integrating the CRR service with a captive's overall sustainability and climate risk disclosure efforts, companies can enhance both the efficacy and transparency of their approach to managing climate-related challenges. This integration involves aligning the data and insights from climate risk reports with broader sustainability strategies and disclosure practices.

Furthermore, integrating climate risk reporting with a captive's sustainability and disclosure efforts helps create a robust framework that efficiently manages climate risks, while demonstrating a strong commitment to sustainable development and corporate responsibility. This integrated approach not only addresses the physical and transitional risks associated with climate change, but it also enhances the captive's reputation and aligns with broader corporate goals. ■

From seed to summit

Ten years after the inception of its captive insurance law, North Carolina is flourishing, having hit a significant milestone in licences, and having become the third largest domicile in the US. Ned Holmes examines what the Old North State is doing right

A decade is a long time in the captive insurance industry.

Few domiciles symbolise this better than North Carolina, which announced in February that the number of risk-bearing captive entities licensed or approved in the state had moved beyond 1,500 for the first time since its 2013 inception.

Just three of those were licensed in its inaugural year, but the Tarheel state has more than made up for that slow start by developing into the third-largest US domicile, behind only Vermont and Utah.

According to North Carolina's year-end 2023 statistics, 49 new captive insurance companies were licensed or conditionally licensed last year, while nearly 100 new cells and series were approved or conditionally approved.

This pushed the total number of captive entities under the Department of Insurance's regulation to 1,069, composed of 311 companies and 758 cells and series.

A journey of over 1,500 captives starts with a single step

In a statement in February, North Carolina insurance commissioner Mike Causey outlined his belief that the milestone is evidence of the "tremendous growth" seen since the introduction of the Captive Insurance Act 10 years ago. Indeed, it was that single step in 2013 that started the programme's journey of more than 1,500 captives.

Lori Gorman, deputy commissioner of the North Carolina Department of Insurance's (NCDOI) Captive Insurance Companies Division, explains that the flexibility built into the modern captive law has ensured its success has been two-fold.

"It is rewarding to see that the captive legislation, initially drafted to meet the insurance needs of North Carolina businesses, has had such a positive economic impact while also attracting new businesses to our state," said Gorman.

"North Carolina has a philosophy of prudent regulation in a business-friendly environment as evidenced by the low-cost formation and operation of captive insurers, competitive premium tax rates, and legislation that provides the Commissioner much discretion in the regulation of captive insurers to be attractive to captive owners and captive managers."

This is not a programme that rests on its laurels either. Gorman notes that there is a commitment to continue the regular improvements to the legislation, such as the 2022 law that included incentives for captives considering moving to the domicile. She says: "To ensure our captive law remains relevant and current, the North Carolina Captive Insurance Association (NCCIA) and the Department will work collaboratively to propose legislative changes as necessary to meet the emerging needs of the industry."

The legislation allows for all types of captives as well as risk retention groups, but Nicholas Gurgone, consulting actuary at Pinnacle Actuarial Resources, highlights that incorporated cell structures have "played a notable role in North Carolina's growth as a domicile. I've seen several clients make use of the incorporated cell structure in North Carolina. Our clients have mentioned that they appreciate being able to set up a cell with a smaller amount of capital than a single-parent captive. They then cite the advantage of having solvency protection of the cell's parent captive in the event of adverse loss experience."

A healthy ecosystem

The forward-thinking legislation has proven an ideal launch pad, but the growth within the domicile and this latest milestone could not have been achieved without an adaptable and attentive regulator.

"What truly sets North Carolina apart," according to the Risk Management Advisors' leadership team, "is the ability of its captive analysts and regulators to provide both timely and accurate guidance - whether clients need assistance with captive formation, ongoing operations, or even shutting down a captive. The outstanding client service and prompt responsiveness to inquiries from captive managers and owners have been hallmarks of the North Carolina domicile.

"They have a keen aptitude for anticipating changes before they arise and implementing robust remedies promptly. This proactive mindset, coupled with a deep understanding of the intricate captive space, enables them to create a regulatory environment that supports captive innovation while maintaining appropriate oversight and risk management protocols."

Diana Hardy, audit partner at RH CPAs notes: "North Carolina's insurance commissioner and Department of Insurance are known for their responsiveness and expertise in managing captive insurance.

"The regulators are actively involved in industry initiatives such as educational initiatives through conferences, and many industry events not just within North Carolina but also across the county. They are responsive and maintain open lines of communication not only with captive owners but service providers operating in the state.

"North Carolina has cultivated a robust ecosystem of professionals, including lawyers, accountants and consultants, with expertise in captive insurance. This expertise facilitates the setup and management of captive insurance companies."

Central to the development and ongoing strength of the state's captive ecosystem has also been the NCCIA. Since its establishment in 2014, the trade group has facilitated education, expanded its networks, and crucially, persisted in collaborating with the regulator and advocating for legislative reviews to guarantee continuous enhancements. Indeed, Gurgone believes "the strength of the NCCIA has also been key to the domicile's success".

He adds: "This recent and notable milestone is evidence of not only the state's status as a strong domicile, but [is] also reflective of the continued strength of the captive industry. Achieving this milestone also shows North Carolina's place as a key captive domicile."

Bumps in the road

North Carolina may be a success story, but it has not been without its challenges.

"Incorporated cell structures have played a notable role in North Carolina's growth as a domicile"

Nicholas Gurgone
Consulting actuary
Pinnacle Actuarial Resources

The most significant of these, Gorman explains, was the Covid-19 pandemic and subsequent staffing shortages.

“We sought creative solutions for our staffing issues, and pivoted to recent experienced retirees and hybrid work schedules to help meet our staffing needs, and to continue to fulfil our programme’s commitment to excellent customer service. The NCDOI has since rebounded and houses a full team of dedicated captive analysts in addition to in-house examiners and actuaries, in support of North Carolina’s captive insurance programme.”

Ten more years?

The growth in recent years shows that those issues are now behind them.

Hardening market conditions and inflation have encouraged more and more businesses to look to alternative risk management solutions, and North Carolina is well placed to help them access the reinsurance market to find better capacity and more advantageous pricing.

Gorman is confident that will continue as the domicile moves into its second decade.

“The state is well positioned to continue to see successful growth, and aims to continue increasing the overall number of captives domiciled in the state,” she says.

The NCDOI’s optimism is shared within the sector.

“The captive insurance sector in North Carolina is likely to continue growing, as more businesses recognise the benefits of forming captives to manage their risks effectively,” says Hardy.

“This growth may come from both new formations, and existing captives expanding their operations, as more captives increasingly explore innovative risk financing strategies to address evolving risks and challenges.

“This could include the use of alternative risk transfer mechanisms, as well as leveraging data analytics and technology to enhance risk management practices. Captives may also broaden their coverage offerings to include a wider range of risks, beyond traditional property and casualty insurance, such as employee benefits, cyber liability, and supply chain disruptions.

“This expansion of coverage reflects the growing complexity of risks faced by businesses and the need for comprehensive risk management solutions.”

"North Carolina has a philosophy of prudent regulation in a business-friendly environment"

Lori Gorman
Deputy commissioner
Captive insurance companies division
North Carolina Department of Insurance

The leadership team at Risk Management Advisors adds: “We anticipate the North Carolina captive insurance market will maintain its agility and responsiveness to meet the evolving needs of captive owners seeking tailored solutions.”

“As commercial insurers potentially retract capacity in certain sectors, we expect the state’s captive market to expand and effectively bridge coverage gaps that businesses increasingly rely on captives to fill.”

If the past decade tells us anything, however, it is that remaining adaptable and proactive will be vital to ensuring the domicile can maintain its standing among competitors.

“To ensure continued growth over the next decade, North Carolina must maintain its client-centric approach, providing exceptional service to both captive managers and owners,” explains the leadership team.

“This steadfast focus on meeting the evolving needs of all captive stakeholders will be crucial for attracting new formations amid intensifying competition among domiciles.

“By cultivating a deep bench of captive expertise and nurturing an agile, innovative regulatory environment, North Carolina can reinforce its reputation as a premier domicile.”

Hardy predicts that as the captive sector continues to mature, there “may be an increased focus on governance, compliance, and risk management practices within captive insurance companies”.

She continues: “Regulators may place greater emphasis on ensuring that captives maintain robust governance structures and adhere to best practices in areas such as underwriting, claims management and investment management.”

In accordance with his industry contemporaries, Gurgone adds: “Continuing education is equally important for the domicile and its regulators as it is for actuaries.

“Understanding, anticipating and being prepared to assist clients with emerging risks, changing market conditions, and top exposure priorities will help North Carolina continue to grow as a successful captive domicile.”

Where North Carolina is concerned, one thing appears clear — the journey that started 10 years ago is far from over, and there is excitement throughout the state about what the next decade can bring.

"North Carolina has cultivated a robust ecosystem of professionals with expertise in captive insurance"

Diana Hardy
Audit partner
RH CPAs

Overview of the captive insurance regime in the Cook Islands

Henry Brandts-Giesen and Jackson Tu’inukuafe of Dentons explain to family office and family business executives about the Cook Islands captive insurance regime

Family offices and associated businesses are typically dependent on the commercial insurance market for risk assurance, and are not aware of or understand alternatives such as captive insurance. Even so, the minimum capital requirements may be prohibitive. The Cook Islands has a captive insurance regime for family offices and businesses where a licensed insurance company (or captive) is set up to provide insurance to its non-insurance parent company and other related subsidiaries. This can enable family offices and businesses to fulfil their risk financing needs outside of the commercial insurance market, without the more onerous capital requirements of some other captive insurance domiciles.

Captive insurance in a family office ecosystem

Conventionally, captives have been utilised by major multinational corporations. However, industry innovation has also enabled captives to be utilised by high net-worth individuals to underwrite the unique risks of their family, their various businesses, and, if applicable, their associated family office.

Often, family offices have esoteric assets like air and marine craft, operating companies in developing nations, diverse real estate portfolios, art and antiquities, etc.

Because the operations of a family office can be broad, obtaining insurance that meets the family office’s risk financing needs, and is appropriate from a cost and coverage perspective, can be difficult.

Often, family office assets are subject to idiosyncratic risks (eg currency, sovereign, geographic, and climatic) and are difficult and expensive to insure. Captives can provide a solution to this problem, assisting a family office in the preservation of intergenerational wealth.

Captive domiciles

In the Asia Pacific region, the key domiciles for captives are New Zealand, Labuan, Hong Kong, Singapore and the Cook Islands.

More broadly, captives are popular in most offshore jurisdictions, including Guernsey, Bermuda, the Cayman Islands, as well as some states in the US.

Determining the domicile of the captive is crucial for evaluating its viability.

Its domicile has a significant influence on the factors that will impact a captive's administration, such as ease of formation, regulatory environment, flexibility of regulators, cost of administration, accessibility, communication, and convenience.

The Cook Islands captive insurance regime

The Cook Islands captive insurance regime is widely used for risk financing outside the commercial insurance market. Captive insurance in the Cook Islands is governed by the Captive Insurance Act 2013 (CIA) and the Captive Insurance Regulations 2013 (CIR), and is regulated by the Cook Islands Financial Supervisory Commission (FSC).

The CIA and CIR were enacted due to market demand and have been specifically designed to provide flexibility and administrative ease to organisations and individuals who want to establish and administer a captive in the Cook Islands. The Cook Islands captive insurance regime has several special features, including a low statutory minimum capital requirement. The Cook Islands require NZ$100,000 (US$58,800), whereas other key domiciles have much higher minimum capital requirements.

The abundance of experienced professional service providers is also noteworthy. The Cook Islands financial service industry has been operating since the 1980s, and has an experienced and knowledgeable fiduciary services industry.

Furthermore, the rule of law is strictly applied in the Cook Islands, and its judges are often current or former New Zealand judges. In addition, the FSC takes a pragmatic and sensible approach to captive regulation.

In the Cook Islands, captives must meet the following essential requirements:

- A company registered in the Cook Islands must act as the captive.
- There must be at least two directors who are natural persons, as well as one who is resident in the Cook Islands. All directors and shareholders must meet the 'fit and proper person' test.
- The Cook Islands Insurance Act 2008 requires the appointment of an approved insurance manager or an approved external manager.
- Individuals, corporations, unincorporated bodies, groups, and associations may own the captive.
- The fee required for a captive insurance licence is NZ$1,100, with an annual licence fee of NZ$3,100 being payable in advance.
- A Cook Islands international company incorporated after 18 December 2019 and acting as a captive must pay Cook Islands company tax of 20 percent on profits.

Countering money laundering, tax evasion and financial crimes

The Cook Islands has enacted laws and regulations aligned with international requirements.

It has integrated the Foreign Account Tax Compliance Act and the Common Reporting Standard into its legal framework for automatic financial information sharing, and bolstered its anti-money laundering and counter-terrorist financing regime with the Financial Transactions Reporting Act 2017, ensuring compliance with the Financial Action Task Force's recommendations.

By joining the OECD's Inclusive Framework on base erosion and profit shifting and eliminating preferential tax regimes, the Cook Islands is also recognised as a cooperative tax jurisdiction.

Henry Brandts-Giesen
Partner
Dentons

Jackson Tu'inukuafe
Solicitor
Dentons

Alberta:
A viable option for the captive market

Patrick Ferguson, senior vice president at Marsh Captive Solutions, dissects the key factors that make the Canadian province Alberta a viable option for market participants, and considers how the domicile needs to develop to invite further offshore and onshore participation

What key factors make Alberta an attractive captive domicile option for Canadian companies compared to offshore jurisdictions?

Onshore options for Canadian companies resonate well with some clients' board of directors, who would prefer to keep subsidiary companies, and funds, onshore.

I view this more as an optic item given the sometimes negative perception of companies moving funds offshore. There is no tax advantage for Canadian risks in a captive by being offshore versus in Alberta.

Alberta's capital regime, regulatory framework and licensing time frames are consistent with offshore domiciles, making Alberta an attractive option.

How do Alberta's regulatory approach and licensing time frames compare to other onshore captive domiciles in Canada?

Minimum capital requirements are similar to offshore domiciles. For pure captives, Alberta has introduced minimum capital to be a percentage of premiums written or reserves — depending on which is higher.

This is a significant improvement over the previous actuarial target capital model and is consistent with how capital is assessed for single parent captives in all offshore domiciles.

Alberta has consistently licensed captives within six weeks from the application being submitted, which is as fast as, if not faster than, offshore domiciles.

What challenges could Alberta face in maintaining its competitiveness as it grows its captive portfolio?

As Alberta matures, it will need to assess whether it can amend its legislation to permit both third-party business and life or pension business. These are two key growth areas in offshore domiciles, where the current Alberta captive legislation does not permit this business.

Alberta will also need to ensure its regulatory department is well staffed to maintain the current licensing time frames which are key to its success.

images by xxxx/stock.adobe.com

"Alberta is off to a great start and continues to do the right things to increase its visibility in the captive market"

How might evolving market conditions in the commercial insurance and reinsurance sectors impact captive utilisation and growth in Alberta over the next few years?

Commercial insurance remains expensive for some lines of business and industries which should continue to promote growth in the Alberta captive sector over the next few years. Certainly, the idea of an Alberta captive being able to access reinsurance is appealing to some of our clients — this type of structure will only increase in usage going forward.

For companies evaluating Alberta, what factors should drive their decision between an onshore versus offshore captive domicile?

It is a combination of the company's current tax status - CCPC versus public company, for example - their geography location of risk (Canada versus non-Canadian), recognising offshore captives still have a tax advantage for non-Canadian risk over Alberta and the desire of the company's board of directors to maintain the captive onshore (Alberta) versus offshore. We have seen several instances where companies, despite the financial advantages being greater offshore, chose Alberta.

How does having an onshore Canadian option like Alberta affect the overall captive landscape and decision-making for Canadian companies?

It provides another option and a Canadian option at that. Canadian companies traditionally have been conservative in moving down alternative risk paths, such as captives, and a part of that stems from the fact that the main domiciles for Canadian companies were offshore. With Alberta, we have a viable captive option in our country, which can be the difference between a company starting a captive or not

What role could Alberta play in driving more widespread captive adoption among Canadian companies across different industries and sizes?

All of the above plays into Alberta helping to push captive adoption among Canadian companies. I do not believe there is an industry specific play yet for Alberta, and setting up a captive is more about retained premium volume than it is about the size of the company.

As a relatively new entrant, what strategies might Alberta employ to differentiate itself and capture more captive business?

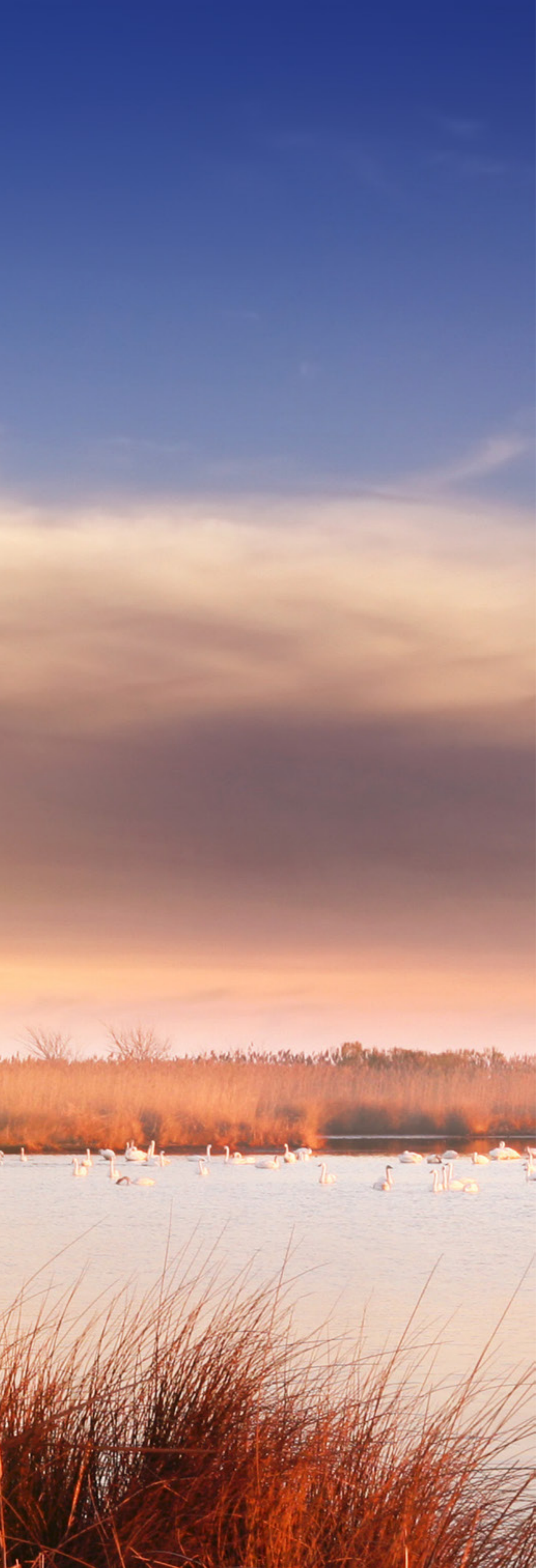
Alberta is off to a great start and continues to do the right things to increase its visibility in the captive market. The revised capital guidelines released recently are one example of Alberta continuing to evolve to meet company needs.

To the extent Alberta can continue to be nimble from a regulatory licensing perspective, that will be a big factor in continuing to make Alberta a viable captive option for companies. ■

Patrick Ferguson
Senior vice president
Marsh Captive Solutions

Transitioning to captive insurance

Strickland Hardee's Caleb Cronce, audit manager, and Audrey Cook, audit associate, explore the nuances between domiciles' regulatory environments and how market participants can optimise their captive insurance programmes



What led Strickland Hardee to specialise in providing services to captive insurance companies? What benefits do you see captives providing clients?

With increasing market costs, going captive could be a viable option for various companies looking to increase control while reducing overhead costs. One of the key benefits for transitioning to captive insurance would be personalisation. With the premiums from third-party insurers ever increasing, managing risk in-house reduces premium costs and personalises the coverage specific to the parent company's needs. Due to the nature of captives managing risk in-house, another benefit captives provide to their parent company is higher control over claims, which grants flexibility in risk management.

You currently serve over 100 captive insurance companies across the US. What trends are you seeing in the captive insurance industry?

Captives have been growing significantly over the past few years due to the challenging insurance market, evolving to accommodate the parent cell's needs. Increased risk prevention is a common trend, as captives across the US are identifying and addressing gaps in coverage by writing a personalised policy to mitigate risk and extend financial benefit and flexibility. Surging commercial insurance prices are forcing decision makers to develop savvy risk management plans. Captives are a great option for companies to mitigate the hardened insurance market and retain their business risks.

What are some of the biggest challenges captive insurance companies face from an accounting and regulatory compliance perspective? How does Strickland Hardee help address those challenges?

Captive insurance companies face several significant challenges from an accounting and regulatory compliance perspective. Some of those key challenges can include financial reporting, risk management and solvency, tax compliance and corporate governance.

Captive insurers must adhere to a complex set of regulations that can vary between multiple jurisdictions; compliance with these regulations requires constant monitoring and adjustment to ensure adherence. Captive insurers must produce accurate and transparent financial reports that comply with generally accepted

"With increasing market costs, going captive could be a viable option for various companies looking to increase control while reducing overhead costs. One of the key benefits for transitioning to captive insurance would be personalisation"

accounting principles (GAAP) or other relevant accounting standards. This can be challenging due to the unique nature of captive insurance transactions and the need to accurately reflect risk exposure and reserves.

Additionally, captive insurers face complex tax implications in multiple jurisdictions, including transfer pricing issues, tax deductibility of premiums, and compliance with various tax regulations.

Strickland Hardee, as a specialist in captive accounting and regulatory compliance, helps address these challenges through a range of services. Strickland Hardee helps captive insurers produce accurate and transparent reports by providing accounting expertise tailored to the unique needs of captive insurance transactions.

This includes assistance with GAAP compliance and financial statement preparation.

Strickland Hardee also provides captive insurers with tax advisory services to help navigate the complex tax implications of captive insurance arrangements. This includes assistance with tax planning and compliance with relevant tax regulations. Overall, Strickland Hardee's expertise in captive insurance management and consulting helps captive insurers overcome the challenges they face from an accounting and regulatory compliance perspective, enabling them to operate more effectively and efficiently while fulfilling their obligations to policyholders.

With the ever-changing regulatory landscape, how does your firm stay ahead of new accounting rules and taxation requirements impacting captives?

To stay ahead of new accounting rules and taxation requirements, our firm employs several proactive strategies. Our firm continuously monitors regulatory developments at both the national and international levels.

This includes staying up to date on proposed changes to accounting standards, tax laws and regulatory requirements that may impact captive insurers.

Our team actively participates in industry associations, forums and working groups focused on captive insurance and related regulatory issues. This involvement allows us to stay informed about emerging trends and regulatory developments. Additionally, we invest in ongoing training and education for our team members to ensure they have the knowledge and skills necessary to navigate the ever-changing regulatory landscape. This includes attending seminars, webinars and training sessions focused on accounting, taxation and regulatory compliance.

By employing these strategies, we can stay ahead of new accounting rules and taxation requirements impacting captives and provide our clients with timely and proactive guidance to ensure compliance and optimise their captive insurance arrangements.

Strickland Hardee has expertise across statutory accounting, financial audits, tax preparation, and other key services for captives. What is your approach to providing integrated solutions tailored to each client?

At Strickland Hardee, our approach to providing integrated solutions for each client revolves around the understanding of each client's unique needs, goals and challenges. We start by conducting a thorough assessment of each client's captive insurance programme, including their objectives, risk profile, regulatory environment and existing processes. This helps us gain a deep understanding of each client's specific requirements and tailor our services accordingly. Then, based on our assessment, we develop a customised service offering that aligns with the client's needs and objectives. This could include a combination of statutory accounting, financial audits, tax preparation, regulatory compliance, risk management, and other key services tailored to each client's unique circumstances.

We believe in working closely with our clients as strategic partners. We maintain open lines of communication, collaborate closely with clients, and actively seek feedback to ensure that our services exceed client expectations and add value to their captive insurance programme.

Additionally, we are committed to continuous improvement and innovation in our service delivery. We regularly review our processes, adopt best practices and use technology to enhance efficiency, accuracy and client satisfaction. We also understand that the regulatory landscape and business environment are constantly evolving, which requires responsive support to help clients navigate changes, address emerging issues and capitalise on new opportunities in a timely manner. By following this client-centric approach, we ensure that our integrated solutions are tailored to meet the specific needs and objectives of each client, helping them achieve their goals and optimise their captive insurance programme effectively.

What qualities make Strickland Hardee uniquely positioned to serve captive insurance clients compared to other accounting firms?

Strickland Hardee is a smaller firm that is committed to meeting the needs of our clients through personalisation. We value each client, big or small, aiming to satisfy each of their needs. Our mission is to help clients maintain financial viability in the present, while taking a proactive approach to achieve future goals. As a firm, we provide a variety of services ranging from tax management to year-end attestation services that showcase our commitment to quality.

What are some key differences you have noticed between different domiciles' regulatory environments?

Some of the key differences between domiciles' regulatory environments are changes in capitalisation, taxation, fees and differences in the local captive community.

Every domicile differs in captive law, which should be considered when domiciling a captive. The minimum required surplus is the initial capital to be invested and varies from domicile to domicile as outlined by the presiding Insurance Commissioner.

"Our mission is to help clients maintain financial viability in the present, while taking a proactive approach to achieve future goals"

Caleb Cronce
Audit manager
Strickland Hardee

Income tax rates differ across domiciles and are directly related to the captive's total direct written premium, underwriting and investment income. Some of the captive fees include government fees and formation costs. These fees vary across domiciles, including fees related to registration, incorporation expenses and annual assessments.

The capitalisation, taxation and fees should be assessed for each domicile when forming a captive entity to adequately accommodate the parent cell.

What advice would you give to captive owners looking to optimise their accounting procedures, financial modelling and relationship with their external auditor or CPA?

For captive owners looking to optimise their accounting procedures, financial modelling and relationship with their external auditor or CPA, we would offer the following advice: understand your needs and objectives, evaluate current processes, invest in technology and automation, stay up to date with any regulatory changes, collaborate with experiences professionals, regularly review and update processes and procedures, and emphasise relationship building.

Begin by clearly defining your objectives for optimising accounting procedures and financial modelling.

Consider factors such as regulatory compliance, risk management, financial reporting and tax efficiency.

Then, constantly update and redevelop accounting procedures, financial modelling practices, and internal controls to address these objectives and adapt to changing business needs and regulatory requirements.

Explore opportunities to leverage technology and automation to improve efficiency and accuracy in accounting procedures and financial modelling.

Work with experienced professionals who specialise in captive insurance accounting, financial modelling and audit services.

Seek out firms with a proven track record of success in the captive insurance industry and expertise in relevant accounting standards, regulatory requirements and tax laws.

Also, foster open and transparent communication, as well as a collaborative and cooperative relationship with your external auditor or CPA. ■

"Every domicile differs in captive law, which should be considered when domiciling a captive"

Audrey Cook
Audit associate
Strickland Hardee

Giles appointed chief growth officer at ClearPoint Health

ClearPoint Health has hired Phil Giles as chief growth officer. He will officially enter his role on 6 May.

With three decades in the fields of accident and health, as well as property and casualty alternative risk, Giles will lead ClearPoint Health's enterprise sales organisation.

Previously, Giles was a co-founder of MSL Captive Solutions and served as managing director since its formation in February 2020.

He specialises in medical stop-loss and the structure and development of stop-loss captives, as well as alternative risk transfer and self-insurance for accident and health and casualty lines of coverage.

Commenting on the appointment, Jeb Dunkelberger, ClearPoint Health CEO, says: "Giles expertise and foresight in alternative risk and captive insurance are exactly what ClearPoint needs as we embark on this next phase of growth.

"His alignment with our mission and vision promises to significantly propel our efforts to innovate within the alternative risk industry."

Giles comments: "I anticipate leading the growth initiatives at ClearPoint, contributing to the transformation of employer health insurance and driving our collective mission forward." ■

Connecticut Captive Insurance Association welcomes new director

The Connecticut Captive Insurance Association (CTCIA) has added Debra Gaglioti to its board of directors.

Gaglioti is president and chief financial officer of Captive Planning Associates, which specialises in alternative risk solutions for mid-size and large businesses.

She has more than 15 years of experience working with captives, and has expertise in risk management, financial services and financial analysis.

The new director holds a life and health insurance licence in the state of New Jersey.

Commenting on the appointment, CTCIA says: "We look forward to Debra's service to the association and are honoured to add her expertise to the CTCIA board."

Hogg promoted to Aon's director for captive management in EMEA

David Hogg has been promoted to Aon's regional managing director for captive and insurance management in Europe, the Middle East and Africa (EMEA).

Hogg joined Aon in 2008, serving in different senior and leadership roles.

With 32 years of experience in the captive industry, he has led captive service operations in Bermuda, the Isle of Man and across EMEA, particularly in the energy, power and utility sectors.

He is an associate of the Chartered Insurance Institute, holding chartered insurer status, as well as being a member of the Society of Technicians in Insurance.

Guy Carpenter appoints Chu to Global Specialties team

Guy Carpenter has named Richard Chu as managing director of credit, bond and political risk for Global Specialties.

Based in Singapore, Chu will report to David Edwards, head of credit, bond and political risk division for Global Specialties.

In this role, he will be responsible for new business development across the Asia Pacific region, supporting client relationships in the key areas of credit, bond and political risk.

Chu joins Guy Carpenter from Partner Re, where he served as head of financial risks for Asia Pacific since 2015.

With a 30-year career in the reinsurance market, he has held a number of senior financial, credit and specialty roles at different reinsurance firms, including Swiss Re and Asia Capital Reinsurance Group.

Commenting on the appointment, Edwards says: “Credit, bond and political risk insurance is playing an increasingly important role in supporting trade across the Asia Pacific region. The support of experienced reinsurers and brokers is crucial in delivering the capacity the market requires.

“Richard brings a wealth of experience and a track record of providing value to his clients across the region.”

Harris promoted to partner at McGill and Partners

Specialist (re)insurer McGill and Partners has named Samuel Harris as partner in the complex property and casualty team.

Harris joined the firm in 2022 as an associate focusing on mining and heavy industry.

Miller promoted to chief commercial officer at Lloyd’s

Dawn Miller has been promoted to chief commercial officer of Lloyd’s and CEO of Lloyd’s Americas, effective from 1 September.

She joined the company in 2022 as commercial director, overseeing Lloyd’s global network across the Americas, APMEA and European regions.

In her expanded role at Lloyd’s, Miller will continue to lead the commercial directorate and remain a member of Lloyd’s executive committee.

As CEO of Lloyd’s Americas, she will be responsible for fostering key relationships and driving strategic and sustainable growth in the region, along with building alignment with Bermuda.

The firm has also appointed Marc Lipman as president of Lloyd’s Americas, based in Canada, effective from 1 September.

Lloyd’s CEO John Neal comments: “The Americas represent over 60 per cent of our market’s total premium and we look to increase our presence.

“The appointment of Miller and Lipman to their new roles will strengthen our position to offer current and new stakeholders underwriting and investment platforms.”

Miller adds: “As we look at how our commercial strategy can support the market’s profitable growth over the next two years, these changes to the way we are structured in the Americas allow us to broaden the scope of our offering.

“We will be able to provide greater support to our large network of stakeholders and market participants based on the region and drive forward our global distribution strategy.”■

Davies promotes Vallejo to CEO of consulting division

Professional services and technology business Davies has promoted Pino Vallejo to CEO of its global consulting division, formerly known as Sionic.

Vallejo joined Davies in 2015, having served in senior roles in the banking and markets team. His multidisciplinary background spans finance, operations, international business and regulatory environments.

The consulting division at Davies incorporates eight practices: asset and wealth management, banking and markets, customer experience, assurance, financial crime and compliance, insurance, people and organisational performance, and specialist operations.

Under Vallejo's leadership, it forms part of Davies Global Solutions, which also incorporates the SaaS technology suite and insurance services, and forensic accounting businesses.

In 2021, Davies acquired the financial services consulting firm Sionic, rebranding it to Davies last year.

The acquisition enabled Davies to diversify and broaden its consulting offering and expertise.

Davies operates across 15 countries with a team of over 8,000 professionals, servicing more than 1,500 insurance, financial services and public sector businesses. ■

Before McGill and Partners, he worked as assistant vice president at Marsh, and held a dual broker and account executive role in the international property and mining team at Gallagher.

Harris says: "I joined McGill and Partners to work with industry-leading professionals to help further my development and to be part of a company with a one-team approach that puts the client first."

Argenta appoints Goddard as non-executive director

Argenta Syndicate Management Limited (ASML), a subsidiary of underwriting and insurance services group Argenta, has named Miriam Goddard as a non-executive director.

With extensive experience in the global (re)insurance industry, Goddard has held several underwriting and leadership roles, most recently as director of underwriting for specialty casualty at W. R. Berkley Corporation.

Prior to that, she served as head of professions at Hiscox and in underwriting roles at Jubilee Managing Agency and Brockbank Managing Agency.

She started her career by underwriting US and international professional risks for AIG.

John Whiter, chair of the ASML board, says: "The skills and experience Miriam brings will further enhance our ability to support the company's vision and business strategy."

Nick Moore, CEO of Argenta Holdings and managing director of ASML, states: "[Goddard's] extensive industry knowledge and expertise will be a major asset to the board."

Active Re promotes Ali to COO

Active Re has named Robert Ali as chief operating officer.

In his new role, Ali will lead the development of strategic alliances with managing general agents across various regions and lines of business, reporting directly to the CEO.

Ali joined Active Re in 2019 as deputy chief operating officer, with extensive experience in the reinsurance market.

He holds a Master of Science (MSc) in insurance and risk management from Cass Business School in London and a Master of Business Administration (MBA) in finance from Heriot-Watt University in Scotland.

He has also earned Advanced Diploma in Insurance (ADI) and Associate in Risk Management (ARM) qualifications.

Commenting on the promotion, Active Re CEO Ramon Martinez Carrera states: “We appreciate Ali for his invaluable contributions during his tenure with the company. We have complete confidence in his ability to excel in his new role.”

Based in Barbados, Active Re operates under a General Insurance and Reinsurance License issued by the Financial Services Commission of Barbados.

The company engages in a variety of reinsurance activities, including affinity, property and engineering, energy and power generation, credit and surety, as well as casualty.

In addition to its business lines, Active Re specialises in providing customised alternative risk transfer solutions, which encompass actuarial analysis and risk management consulting services. ■

BMS Re appoints Canavan as US chief operating officer

BMS Re, the reinsurance arm of global broker BMS Group, has named John Canavan as chief operating officer (COO) in the US, effective from 1 May. Canavan will report to Chris Brook, COO at BMS Group, and Andrew Wheeler, president at BMS Re.

In his new role, he will direct BMS Re’s operational expansion, from digital and technological capabilities to collaboration with its London and Bermuda offices.

Previously, he has held different senior and leadership roles at AIG, Guy Carpenter and Willis Re.

Commenting on the appointment, Brook says: “Drawing from over four decades of invaluable experience in the US reinsurance market, John brings a wealth of expertise to BMS Re.

“His unparalleled insight will be instrumental as we continue to expand our reinsurance business.”

Morley joins AXIS as head of E&O in US

Bermuda-based (re)insurer AXIS Capital has appointed Pauline Morley as head of errors and omissions (E&O) in the US. In her new role, Morley will lead the growth and advancement of the AXIS offering in the professional liability (PL) market and report to John Van Decker, head of global financial lines.

Previously, she served as senior vice president of miscellaneous professional, and architects and engineers liability at Argo Group. She brings to AXIS more than 35 years of PL underwriting and leadership experience, having held senior positions at Western World Insurance Group, Travelers, Tokio Marine HCC and USI Affinity. ■

VCIA

Where the Captive World Comes to Meet **2024**

Burlington, VT | August 12-14

REGISTER AT VCIA.COM

#VCIA2024 gathers the brightest

⋙captive owners ⋙risk managers

⋙prospective owners ⋙service providers

⋙captive managers ⋙regulators ⋙brokers

⋙domiciles & associations

⋙Those new to the captive space & seasoned professionals

ALL ARE WELCOME!