CIT
CAPTIVEINSURANCETIMES
ISSUE035
13.11.2013 WEDNESDAY
captiveinsurancetimes.com

# Illinois knows Wendy's captive is real

The captive of the popular fast-food chain Wendy's has received validation from Illinois's first court of appeal.

The Illinois Department of Revenue challenged the validity of Vermont-domiciled Scioto Insurance Company, claiming that it did not meet the definition of an insurance company under the Internal Revenue Code.

Scioto, set up by Wendy's in 2001 to insure the fast-food chain and its affiliated entities, owns a subsidiary called Oldemark, which is the assignee of the trademarks behind the Wendy's brand. It licenses them back to the captive's ultimate parent.

The captive was formed to cover, among other areas, workers' compensation, general liability, auto liability, and auto physical damage. Wendy's also feared an outbreak of mad cow's disease, and could not obtain appropriately priced coverage from the commercial market.

But in its case against Scioto, the Illinois Department of Revenue argued that the captive undertook no actual risk shifting and risk distribution, and that the majority of its income came from licensing revenue.

After subsequent motions and a summary judgement finding in favour of the Illinois Department of Revenue, the Illinois Appellate Court overturned the trial court's finding on 7 October.

In his decision, Justice John Turner found that the character of Scioto's business was one of insurance and, under federal income tax law, the arrangements with affiliates met the requirements of risk shifting and risk distribution.

He wrote: "Scioto was licensed by Vermont as an insurance company. Scioto's only business was to furnish insurance to Wendy's and other affiliates. Its ownership of Oldemark, a disregarded entity for tax purposes, does not alter this conclusion since Scioto, unlike Oldemark, was not engaged in the business of licensing intellectual property."

Justice Turner and the concurring justices reversed the trial court's decision to grant the Illinois Department of Revenue's motion for summary judgement.

readmore p3

## Solvency II's new start date is 'credible'

Solvency II is back on the agenda and many see 2016 as a credible implementation date for the directive, according to PricewaterhouseCoopers partner and UK Solvency II leader Charles Garnsworthy.

The Association of British Insurers (ABI) held its 'Looking to the Future' Solvency II Conference in London on 31 October. It covered issues ranging from reporting to third-country equivalence.

Following the conference, Garnsworthy said: "There is definitely a realisation that Solvency II is back on the agenda, and people, right up to board level, are seeing 2016 as a credible implementation date."

"A number of firms are reappraising whether or not what they have planned is enough. They are currently going through reviews to check that they've got the right level of resource allocated to it and they are moving at the right speed. Firms need to check now that they have the right level of resource allocated to Solvency II, and I'm aware of a number of firms that are actively reviewing that."

readmore p3

## Jardine Lloyd Thompson launches JLT Towers Re

Jardine Lloyd Thompson has launched JLT Towers Re, which the company has hailed as "a new force in the international reinsurance market".

The launch followsreceipt of the regulatory approvals required to complete JLT's acquisition of Towers Watson's reinsurance broking business, which was announced on 20 September 2013.

readmore p3

Kane
The Largest Global Independent Insurance Manager
Cayman US Bermuda Europe Middle East
Captive Management
ILS Administration
Life, Pension & Investment Administration
kane-group.com

# *The* *British Virgin Islands*

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

one of the world's premier domiciles for...

*captive insurance*

since 1990s

### BVI Advantages

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

*"...the grande dame of captive centres"*


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

## Illinois knows Wendy's captive is real

**Continued from page 1**

They remanded the case back to the trial court for the issuance of an order granting Wendy's motion for summary judgement.

Wendy's did not respond to a request to comment on the ruling.

## Solvency II's new start date is 'credible'

**Continued from page 1**

The directive has suffered several debilitating delays since its inception. In October, European Commissioner Michael Barnier put forward a draft directive to postpone the Solvency II start date to 1 January 2016.

On issuing the draft, Barnier stressed that he has always wanted a "rapid implementation" of Solvency II, but the planned date for implementation, the beginning of next year, was no longer tenable.

"We have therefore proposed this postponement in order to avoid any legal uncertainty, especially for undertakings and supervisory authorities."

Asked if he thought the legislation would be further delayed, Garnsworthy said: "There seems to be a very strong political will to reach an agreement now, and I think everybody is hoping that the November 13 Trilogue meeting will give us that agreement. It was clear [at the ABI's conference] that the devil is very much in the detail."

"I think some of the features of Solvency II will be adopted around the world. It represents an increasingly global trend around regulation. That trend is towards increasing consistency of capital and prudential regulation."

## Jardine Lloyd Thompson launches JLT Towers Re

**Continued from page 1**

JLT Towers Re combines Towers Watson's established North American and London Market reinsurance broking businesses with JLT Re's international reinsurance operations.

The new business will reportedly have combined revenues of $266 million.

The new company is aiming to provide clients with enhanced scale, capability and market presence.

Alastair Speare-Cole, CEO of JLT Towers Re, said: "I am delighted to welcome the Towers Watson team and their clients to JLT Towers Re. The culture of the two companies has been built around understanding client needs and meeting these needs with insight, deep analytical skills and effective execution."

## CITINBRIEF




Ross Howard, executive chairman, said: "The response from clients and insurance markets to the news of this transaction has been very positive. JLT is committed to investing in the business to enhance JLT Towers Re's client proposition and drive growth."

## A.M Best gives life insurers vote of confidence

Life insurance organisations using captive reinsurers have been given a vote of confidence by rating agency A.M. Best.

In a statement, the company said that "[A.M. Best] believes these transactions are reasonable mechanisms for companies to proactively address conservative statutory reserve requirements and achieve some capital and tax efficiency."

A.M. Best receives proprietary, detailed financial information on key reinsurance transactions undertaken by its rated companies.

Captive reinsurance transactions are similar to commercial reinsurance transactions in that they must meet the same regulatory requirements for the ceding company to receive credit for reinsurance.

Two regulators must review transactions, one from the company's state of domicile and the other from the captive's domiciliary state.

The statement from A.M. Best follows an investigation into 'shadow insurance' by the New York State Department of Financial Services.

Life insurers' use of captives has come under scrutiny from a number of regulators that are concerned that companies may be disguising their financial health by moving business to offshore entities, which are not subject to the same strict funding requirements as the insurance companies.

In its report, the department described shadow insurance as "financial alchemy", coming to the conclusion that the practice does not adequately transfer risk between entities.

## S&P Capital IQ has positive outlook on European insurance sector

Rising equity markets and long rates are set to support growth within the European insurance sector over the coming months, according to S&P Capital IQ.

Its report shows that rising equity markets are a positive for the sector on several fronts, including shareholders' funds, participating funds and higher fees received from assets under management.

Roderick Wallace, equity analyst at S&P Capital IQ, said: "We are becoming more positive on European insurance markets, where we have seen signs of recovery, following weakness in Europe—France, Spain and Italy in particular."

S&P Capital IQ observes signs of recovery in life insurance markets, initially in the US and now increasingly in Europe.

Following a slow expansion of economic activity during the remainder of 2013, growth generally is set to become more robust in 2014 and 2015, according to European Commission projections.

## Willis sees highest catastrophe bond issuance in 15 years in Q3

Willis Capital Management issued $1.4 billion of non-life catastrophe bond capacity in Q3 2013.

In comparison, Q3 2012 ended with $500 million issued.

Q3 2013 catastrophe bond issuance was approximately three times higher than the five-year average and was the highest on record for the company since 1998, according to the company's Insurance Linked Securities (ILS) report.

Bill Dubinsky, head of ILS at Willis, said: "If fourth quarter issuance remains at a similar level to that of recent years it will be a record year for ILS issuance, surpassing the 2007 record."

Charles Taylor

# MANAGING RISK WORLDWIDE

## DELIVERING SOLUTIONS FOR BUSINESSES AND INSURERS WORLDWIDE

At Charles Taylor, we provide management services to help Insurers, reinsurers and businesses around the world identify and manage their risk exposures.

Our services are delivered by experts working from multiple locations around the world providing ease of access to our clients:

- Risk Consulting
- Risk funding
- Insurance management and administration
- Run-off management

Our insurance management services are part of a wider range of services delivered worldwide by Charles Taylor to insurers, reinsurers and businesses from 40 offices in 23 Countries.


**To find out more, please contact:**

**Life Company Management**
Jeffrey More
+44 162 468 3602
Jeffrey.More@ctplc.com

**Captive Management**
Andy McComb
+1 441 278 7700
Andy.McComb@ctplc.com

**Risk Management (US)**
Chris Moss
+1 972 447 2053
Christopher.Moss@ctplc.com

**Risk Management (EU)**
Martin Fone
+44 207 767 2918
Martin.Fone@ctplc.com

## Asia Pacific catastrophe reinsurance demand peaks

A new report from global reinsurance broker Guy Carpenter has revealed that total Asia Pacific catastrophe limit purchased in 2013 has increased for the 10th year in a row.

The figures failed to keep pace with strong GDP growth in the region, according to the report.

In the report Guy Carpenter discusses some of the key factors that have fuelled this growth in limit over the past 10 years, notably an increasing focus on risk-based capital standards, growing awareness of non-modelled perils and rising insurance penetration in our emerging economies.

Despite this strong record of growth, the catastrophe limit has failed to keep pace with the rapid expansion of economies of the Asia Pacific region over the same period.

The report concludes that in many markets the purchase of insurance is still not a priority, while in others the product on offer does not satisfy demand.

With dedicated traditional reinsurance sector capital for Asia Pacific at a record high and with alternative capital seeking peak zone catastrophe opportunities in the region, Guy Carpenter predicts that the conditions are ripe for reinsurers to respond positively to this growth opportunity with innovative solutions.

James Nash, Guy Carpenter's CEO of the Asia Pacific region, said: "Our region has demonstrated strong, solid growth in catastrophe reinsurance over the past ten years. Growth in total catastrophe limit purchased, however, has failed to keep pace with the stellar economic performance of the Asia Pacific region."

"We remain committed, therefore, to helping our clients achieve profitable and sustainable growth with customised products and solutions that stimulate reinsurance buying."

## Fitch affirms KBC Group Re rating

Fitch Ratings has affirmed the insurance financial strength rating of KBC Group Re, the group's wholly owned core captive reinsurance subsidiary based in Luxembourg, at "A-".

The affirmation of KBC Group Re reflects its core strategic status in relation to its parent company as well as its solid standalone financial profile and cautious management.

An upgrade of KBC Group's rating could trigger an upgrade for KBC Group Re. Conversely, a downgrade of rating or a major deterioration within its collateralised debt obligation book could trigger a downgrade for KBC Group Re.

Fitch has been hesitant in its appraisal, citing uncertainty over sovereign support and stability.

The lack of a rating upgrade for KBC Group Re's parent company, KBC Bank, partly reflects the view that there is a clear intention of the EU to ultimately reduce state support for financial institutions, as demonstrated by a series of policy initiatives.

KBC Bank's performance has varied dramatically since 2009, although growth has been steady since the final quarter of 2012.

## Guy Carpenter updates MetaRisk tool

Guy Carpenter has updated its MetaRisk tool with new functionality that could improve usability and increase overall functionality.

Following the update, the software now supports direct input from third party model databases, and bulk data uploads of event loss files.

In a statement, the company said that the improvements will provide faster and more efficient modelling capabilities with even greater accuracy and transparency of results.

MetaRisk aims to provide users with the ability to make informed decisions that expand the value of their business. The platform is integrated to deliver comprehensive underwriting,

TECHNICAL EXCELLENCE
PRACTICAL SOLUTIONS

**camilleripreziosi.com**

Asset Management and Funds - Employment and Pensions - Capital Markets - Competition and EU Law - Corporate and Commercial
Corporate Support and Compliance - Banking - Dispute Resolution - Telecommunications, Media and Technology - Aviation
iGaming and Landbased Gaming - Infrastructure, Energy and Resources - Investment Services Regulation - Insurance - Intellectual Property
Mergers and Acquisitions - Public Procurement - Real Estate and Construction - Shipping and Yachting - Taxation - Finance
Tourism, Leisure and Hospitality - Estate Planning, Trusts and Foundations

reserve, catastrophe, credit and investment risk capabilities in a single economic capital planning solution.

Donald Mango, vice chairman of enterprise analytics at Guy Carpenter, said: "Capital allocation decisions are among the most important assessments made by company management and this latest version of MetaRisk represents the most innovative, transparent and effective economic planning tool for our clients."

## Guernsey signs 50th TIEA

The OECD has commended Guernsey for its leadership on tax transparency and cooperation.

Guernsey has recently concluded bilateral transparency and exchange of information agreements (TIEAs) with jurisdictions including Switzerland, Gibraltar, Bermuda, Hungary and Slovakia, Swaziland and Lesotho.

The latest TIEA to be signed, with Bermuda, marked Guernsey's 50th.

Monica Bhatia, head of the secretariat to the OECD's Global Forum on Transparency and Exchange of Information, said: "Guernsey has shown that a small jurisdiction with a clear commitment to transparency and exchange of information and strong engagement with partners can set the pace in developing an extensive network of tax information exchange agreements."

The praise from the OECD follows similar sentiments from UK Prime Minister David Cameron earlier this year. In September, he said there are no grounds on which to consider Guernsey a tax haven.

Guernsey started negotiating TIEAs in 2001 and signed its first, with the US, in 2002.

The Island's policy since then has been to demonstrate its commitment to transparency and exchange of tax information by negotiating agreements with as many jurisdictions as possible.

Rob Gray, Guernsey's director of tax, said: "This is an important milestone, but the work goes on, however, as we try to arrange the signature of the 17 further TIEAs and DTAs, which have already been finalised, and complete negotiations on several other agreements we currently still have under discussion."

## BNY Mellon insurers get rated

A.M Best has affirmed the financial strength rating of "A (Excellent)" and issuer credit rating of "a+" of BNY Mellon's insurers, Hamilton Insurance and BNY Trade Insurance.

Hamilton and BNY Trade both provide BNY Mellon with comprehensive reinsurance coverage and products.

Hamilton's ratings reflect the insurer's excellent risk adjusted capitalisation, strong liquidity and conservative operating strategy. The ratings also recognise Hamilton's excellent business position and its relationship with its parent, BNY Mellon.

Partially offsetting the positive ratings is Hamilton's short operating history, limited market scope, product mix and dependence on third parties for processing, servicing and administration.

BNY Trade's ratings reflect its strong capitalisation, consistently positive operating results, conservative operating strategy and robust enterprise risk management (ERM) framework as it follows its parent, BNY Mellon's ERM practices.

The ratings also recognise BNY Trade's excellent business position, as it has close ties to BNY Mellon.

Partially offsetting these positive rating factors are BNY Trade's limited market scope, product mix and its dependence on third parties.

An additional offsetting factor is BNY Trade's large underwriting exposure as it offers high gross insurance limits and insurers excess bankers' professional liabilities with substantial insured values.


Integrated **Captive** Advice for **Measurable** Results

*Brown Smith Wallace is ranked among the top 30 U.S. insurance audit firms by A.M. Best*

Our team of captive insurance professionals combines strategic tax and insurance consulting with in-depth regulatory knowledge to provide the best captive strategy for you. Our unique blend of services includes:

- Captive insurance company formation
- Tax research and structure analysis
- Reinsurance analysis
- Financial review, including premium claims analysis
- Business and coverage analysis
- Wealth transfer planning
- Tax compliance and planning
- External audits

Alan Fine, CPA, JD
1.888.279.2792
afine@bswllc.com
www.bswllc.com

BROWN SMITH WALLACE LLC
A MEASURABLE DIFFERENCE™

UNITED INSURANCE COMPANY

PERFECTLY TAILORED SOLUTIONS FOR OVER 30 YEARS.

Owned by the captive insurance companies of leading US, Canadian and European multinationals, United understands the needs and dynamics of captives and their owners.

Close interaction with its shareholders and clients gives United an unrivaled insight into how captives work and the requirements for success.

REINSURANCE · RISK POOLING · CELL COMPANIES · INSURANCE

Rated A- (Excellent) by A.M. Best Company

www.uiccayman.com

## Long-term insurance opportunities prevail in Asia

The first Asia Reinsurance Barometer, published by the Qatar Financial Centre (QFC), finds that the region's reinsurance markets are still bustling with confidence.

Asia's strong economic growth is seen as the market's key attraction. Reinsurance exposure and premium growth is expected to outpace regional GDP growth.

Based on detailed interviews with reinsurance executives and intermediaries in the region, the barometer examines the current market opportunities, challenges and key trends in the $30 billion Asian non-life reinsurance market.

The executives polled see the region's economic and insurance growth momentum as its most relevant strength.

The report finds that the overall reinsurance business sentiment in Asia is positive.

Reinsurance markets are set to expand further on the back of population growth, low average insurance penetration and an accelerating pace of product innovation.

Shashank Srivastava, CEO of the QFC, said: "Asia is one of the fastest growing reinsurance markets in the world and a strategic priority for any aspiring international reinsurer. Given the ever-closer economic ties between Qatar and Asia, it was only natural for the QFC Authority to extend its proven Barometer survey to the Asian reinsurance marketplace."

## Third quarter profits down 51 percent at Swiss Re

Global reinsurer Swiss Re has reported that its Q3 profits fell by 51 percent compared to the same period last year.

Net income fell to $1.07 billion from $2.18 billion a year ago. The company coffers benefited from the sale of its US Admin Re business to Prudential, but also partly explains the fall in net income.

Swiss Re said its largest business of property and casualty reinsurance saw profit decline to $807 million in Q3.

Michel Liès, Swiss Re's Group CEO, preferred to emphasise the positive aspects of the company's Q3 report.

He said: "This strong result demonstrates our excellent underlying earning power. P&C Re was clearly in the lead this quarter. Corporate solutions is making progress against its own growth plans even in a quarter with sizeable large losses. We are following through on our plans to make adjustments in L&H Re while Admin Re continues to generate significant cash for the group."

## Blue Capital shares down following IPO

Shares of Blue Capital Reinsurance (BCRH) fell sharply following its market debut.

The newly issued stock dropped $1.25, or 6.3 percent, to $18.75 at the end of trading. In the same time the broader markets rose.

BCRH is a newly formed Bermuda-based reinsurance holding company seeking to offer collateralised reinsurance in the property catastrophe market. The company is a unit of Montpelier Re.

The company said in a statement that the initial public offering of 6.3 million shares was priced as expected by analysts at $20 per share.

BCRH will compete directly with both local and global reinsurance firms, as well as capital markets participants, including Aeolus Capital Management, Credit Suisse, Lloyd's, RenaissanceRe and Validus Holdings.

The listing of Blue Capital is a rare opportunity for investors looking to access the returns of a collateralised catastrophe reinsurance business via shareholdings.

The company raised $126 million in the IPO.


WELLS FARGO

We've made posting collateral easy

**The Wells Fargo Collateral Trust is an ideal alternative to collateral-related letters of credit.**
Establishing a collateral trust allows you to:
- Eliminate LOCs and the associated fees
- Retain ownership of the assets
- Keep the investment income generated by the trust

**Learn why we've been ranked the global best bank for insurance trust.**
Visit wellsfargo.com/insurancetrust, or contact:

**Robert Quinn**, Business Development Officer
203-293-4394 • robert.g.quinn@wellsfargo.com

**Mike Ramsey**, Business Development Officer
425-337-0364 • michael.r.ramsey@wellsfargo.com

Wells Fargo Collateral Trust Services is internationally recognized for outstanding products and services
- U.S. Insurance Trust Team of the Year (2013)
- Collateral Service Provider of the Year (2012, 2013)
- Global Best Bank for Insurance Trusts (2011, 2012, 2013)

Together we'll go far

Captive • Deductible • Reinsurance • ILS • U.K. Captive • U.K. Deductible • Surety • Vermont Regulatory

Wells Fargo Corporate Trust Services does not provide legal or tax accounting services for its customers. Customers should always consult their own professional tax and legal advisors in connection with any effort to qualify a particular transaction for favorable treatment under applicable tax laws and regulations. Wells Fargo Corporate Trust Services is a division of Wells Fargo Bank, N.A. and may refer business to its affiliates, including Wells Fargo Bank International and Wells Fargo Securities International Limited. Wells Fargo Bank International is regulated by the Central Bank of Ireland and both Wells Fargo Bank, N.A. and Wells Fargo Securities International Limited are authorized and regulated by the UK's Financial Services Authority under the Financial Services and Markets Act 2000. © 2013 Wells Fargo Bank, N.A. All rights reserved. MC-7221

# CAPTIVATING

## THE CAPTIVE INSURANCE INDUSTRY

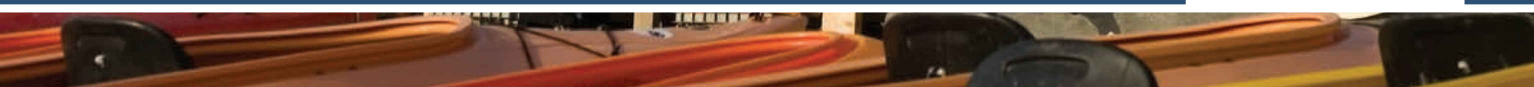
The secret is out. Not about South Carolina's pristine beaches, beautiful golf courses and warm, southern climate, but about our ideal captive insurance environment. That's because we know there's more to deciding about where to establish or relocate your captive insurance than sand, surf and sunny weather.

When it comes to the captive insurance industry, South Carolina has established an environment where you can grow and prosper. In fact, South Carolina is among the top captive domiciles in the world. All top seven captive managers have a market presence here – and it's not just because of our quality of life.

We are open to new ideas that enable this industry to thrive and we promote quality and innovation over quantity. Besides our business-friendly environment, we are on the forefront of captive insurance regulation in this country and have brought practicality to many of the regulatory standards for the captive insurance industry. And, as a dedicated partner, we work with you and the greater captive industry, to recommend laws that promote responsible development and growth.

Learn more about what makes South Carolina the ideal domicile for your captive insurance program at **www.doi.sc.gov**.

SC
CAPTIVE
INSURANCE



# Punching above its weight

## As a micro captive haven, Kentucky is in a class of its own. What has driven the phenomenal growth in the state? CIT takes a look

DANIEL JACKSON REPORTS

Ten years ago, there were just four American states with captive legislation. After several decades of stunted growth, that number now stands at approximately 37.

Competition is fierce, and it is more important now than ever that captive domiciles remain competitive if they would like to attract new companies, service providers and clients to their state.

Having lost multiple court challenges against self-insurance constructs, the IRS finally acquiesced in 2002. Since then the business-to-business insurance industry has changed significantly and grown rapidly.

Captives have been given an air of legitimacy following the landmark court ruling, and these days more than 90 percent of Fortune 1000 companies have one.

As well as the major corporations that have been utilising captives for decades, mid-sized companies have also been keen to take advantage of the opportunity to make significant savings on insurance premiums.

It is at this level that Kentucky has capitalised on the growing trend towards captives and captive groups among smaller companies.

Only six other US states have issued more captive licences than Kentucky. Considering that it only legislated for captives in 2000, its rate of growth has been phenomenal.

Brian Brezosky, of the Kentucky Hospital Insurance Company, believes this is partly due to the high standard and promptness of Kentucky's Department of Insurance.

"When we started our programme in 2003, we were one of the first groups of captives to come on board in Kentucky."

"Since then, they have very successfully marketed the state as a captive domicile. One of the things that makes Kentucky an attractive domicile is the short waiting time for new applicants. In other states with better-established reputations as captive domiciles, such as Vermont, the waiting times are much greater. One of the things that we considered in setting up our captive was how quickly we could get through the registration process."

Although it has slowed in recent years, between 2004 and 2012 the state increased its number of licensed captives from four to 127.

Despite these impressive figures, the state still has a relatively low profile as a captive domicile, which is something that it and the companies that do business in it would, no doubt, like to build upon.

Brezosky thinks that the situation is improving. "I think Kentucky's reputation is getting better and the only thing I would like to see change is the staff numbers at the department, although I understand that they are subject to budget restrictions."

**Mind the gap**

Since the mid 2000s, onshore captive domiciles have narrowly outnumbered their offshore counterparts, and this gap is growing. In 2011, 52 percent of captives were domiciled onshore, and by 2012 the figure had risen to 55 percent.

Brezosky partly attributes this shift to improvements at the state level: "If states are willing to work with captive managers to accomplish their goals and to make the administrative process more simple and streamlined, there is less of a need for captives to go offshore. As the expertise in the state department improves, it becomes more attractive to stay in the state."

As competition increases, it will become harder for states to attract the kind of business they would like to have in their domicile. Kentucky has a reputation as a haven for micro captives. This means that while Kentucky has a vast number of captives, they are mostly relatively small outfits.

This reputation has served the state well, but arguably the domicile could do some larger clients to increase its standing. The reputation it has is self-perpetuating, as other companies in the micro captive market seek out a domicile that is experienced in dealing with their particular requirements.

But the reputation as a haven for micro captives somewhat limits the profile of Kentucky as a captive domicile. The state is famous for its fertile pastures and thriving population of whitetail deer. In this venerable animal farm, all captives are equal, but some captives are more equal than others.

Section 831(b) of the US tax code has existed since 1986. Why is it so popular now among the kind of mid-size companies that Kentucky attracts?

Tax reforms under the Bush administration prevented small property and casualty insurers from underwriting investment income taxes. The 2003 reforms limited 501(c)(15) eligibility to the extent that the provision was effectively removed for the purposes of most insurers.

Another reason is that these days more risk managers and board level personnel are becoming aware of the existence and advantages of captives.

There are many business cases for joining a group captive or being part of a cell facility and pooling capital. However, absolute control over insurance structure via a pure captive continues to be the most popular captive insurance method.

Appealing to this popularity and attempting to attract more pure captives would be a step in the right direction for Kentucky.

If Kentucky can continue to market itself as a state that is open for business, and diversify its appeal to a broader range of companies, the state will have a long future ahead of it as a successful captive domicile. CIT


How are great banking relationships built? Carefully. Attentively. Uniquely.
Butterfield applies a highly individualised approach to captive insurance banking. With us, your company will have the services and advice needed to operate efficiently, plus a dedicated, professionally-qualified Relationship Manager focused on providing an exceptional level of technical expertise.

For more information about our service, please contact:

**Sue Holmes**
E-mail: susan.holmes@butterfieldgroup.com
Tel: (345) 815 7682

**Billy King**
E-mail: william.king@butterfieldgroup.com
Tel: (345) 815 7664

**www.butterfieldgroup.com**

Butterfield

The Bahamas | Bermuda | Cayman Islands | Guernsey | Switzerland | United Kingdom

# Even captives are bigger in Texas

## CIT talks to Jim Arnold of the Texas Captive Insurance Association, ahead of the association's first annual conference in Austin next year

DANIEL JACKSON REPORTS

### Why has Texas decided to start licensing captives?

There are a lot of Fortune 100 companies in the state, AT&T being a perfect example. Most major corporations have to domicile their captives outside of the state in which they do business, and we wanted to change that for companies in Texas, because people here have been telling us that they would rather have their captive at home.

I think there was also some recognition that there are economic benefits to having a captive insurance industry. It's a good clean industry, it provides jobs, and it provides revenue to the state.

### What are the advantages of the captive legislation in Texas?

We're new to the business so right now we have to go out there and make the case for companies to come to Texas to domicile their captives.

When we have the right regulations in place we think we are going to have a success story to tell. In a state with no captive industry, part of the process involves working with the regulators and making sure that the way they regulate is correct, and that they don't do anything to discourage the creation of captives.

### What sort of captive is Texas hoping to attract?

The legislation that we have passed here only allows pure captives. This means that for the moment, only the largest corporations will be able to domicile their captives here in Texas. What we had initially wanted to do was to license different kinds of captives, such as series LLCs and cell captives.

We think that there is an opportunity here for landowners that discover oil and gas on their property. That is certainly the kind of captive that we are hoping to attract. Companies that are interested in coming to Texas in the future have experience in farming captives, which face similar insurable risks, and so we are interested in hearing from them, too.

### Are there enough service providers with sufficient expertise to service captives in Texas?

There are plenty of service providers in Texas, and there are service providers that are members of our association that are actually based outside of the state. One of our jobs in the association is to let people know that the captive industry is now alive and well in Texas. There are a lot of certified public accountants and financial planners in the state, but it is a matter of educating them and letting them know there are possibilities here. At our conference in February 2014, we are going to be communicating with service providers in other states to let them know that Texas is open for business.

### Why was the Texas Captive insurance Association formed?

We started the captive association, because we wanted to make sure that the regulations that are put in place recognise that captives are a different kind of insurance company. We wanted to make sure that the rules that were written around captives recognised those differences, and we wanted to make sure that there would ultimately be no roadblocks to companies that want to come here and domicile their captives in the state.

The second reason is that we have a number of people who want to expand the kinds of captives that are available in the state, and so we are going to work to educate legislators in the interim on the merits of expanding the legislation. We meet every two years, so we will meet again in January 2015. By then the legislation will have been in effect, we will have some experience, and we will be able to go back to the legislator and say things are working well.

### Are you happy with the captive legislation that has been passed in Texas?

There isn't anything that we're unhappy with, but we would like to see an expanded version of the legislation that will allow for different kinds of captives. I think the negotiations with the department for insurance have been going well. There is a new commissioner in Texas, who recognises the potential for captives in the state, and she said as much three weeks ago, in front of a senate committee. We are happy with what we have, but we would like to expand on it. We think that by 2015 we can make the case for doing that.

Republican John Smithee, the House of Representatives sponsor, who is very well respected and the chairman of the insurance committee, felt that we needed to start slowly. Although most other states already license captives, he wanted to make sure that we didn't expand the opportunities for captives without fully understanding how they would work and how they would be regulated, and I respect that. It is all a part of the process.

In the next session, we are hoping to extend the legislation. We also think we are going to receive an interim hearing in the Senate on the possibility of expansion because the sponsor supported the more expansive legislation.

We have worked closely with regulators in the past few months, and we will continue to work with them on the regulations that are about to be finalised. CIT

**Jim Arnold**
Executive director
Texas Captive Insurance Association


# Discover the ease of doing business in Nevis

QUALITY | EFFICIENCY | INNOVATION | INTEGRITY

## Corporate Services include:

- International Business Companies
- Limited Liability Companies
- International Exempt Trusts
- International Insurance
- Multiform Foundations
- Mutual Funds
- Offshore Banking

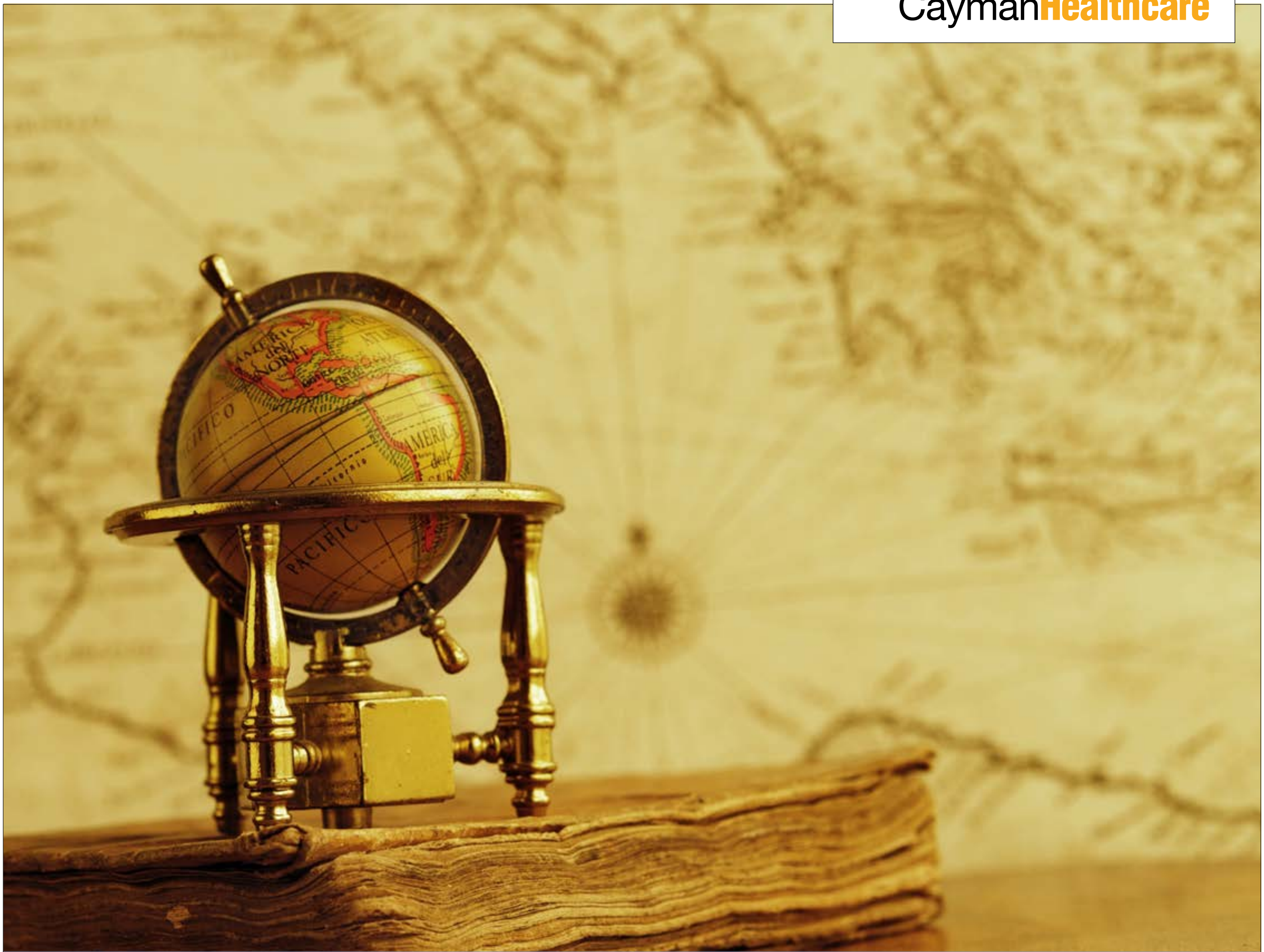
In Nevis, you can take comfort in knowing that your business will be conducted with the highest degree of efficacy. There are over 60 qualified Registered Agents with expertise in law, banking, finance, tax planning and asset management. To complement this sophisticated professional infrastructure, we are committed to providing a strong regulatory framework, 24-hour incorporations, innovative laws and competitive fees.

**Think Business...Choose Nevis!**

NEVIS FINANCIAL SERVICES

Nevis Financial Services
Development & Marketing Department
P.O. Box 882, Rams Complex
Stoney Grove, Nevis.
Phone: (869) 469-0038
Fax: (869) 469-0039
Email: info@nevisfinance.com

www.nevisfinance.com



# Making long-term plans

## Price increases in commercial insurance have encouraged long-term care facilities to consider captives, as CSI International Underwriting's JS de Jager tells CIT

MARK DUGDALE REPORTS

### What is it about long-term care that suits the use of a captive vehicle for insurance needs?

Our experience at CSI, especially in the last couple of years, is that very visible price increases in standard commercial insurance lines have encouraged these types of facilities to seriously consider taking greater control over their insurance and risk needs. Either as a single parent captive or a group captive, this has become a must-have for many long-term care facilities and associated service providers. The risk management, risk sharing and claims management techniques available to captive owners and policy holders, together with financing techniques through a captive vehicle, can make for more effective risk control and management of the insurance needs of a long-term care facility.

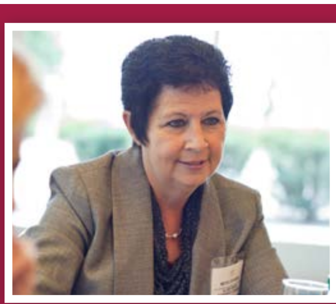
### How high are the capital requirements for a captive in the Cayman Islands?

The Insurance Law in the Cayman Islands provides for the following minimum capitalisation, which must be maintained as net worth at all times:

| | | General | Long-term | Composite |
|---|---|---|---|---|
| i. | Class B(i) | $100,000 | $200,000 | $300,000 |
| ii. | Class B(ii) | $150,000 | $300,000 | $450,000 |
| iii. | Class B(iii) | $200,000 | $400,000 | $600,000 |

The below is the minimum capital required (MCR) to operate under the law, but the law also sets out, in addition to that, the prescribed capital requirement (PCR), which is the minimum capital required under the law to operate in a sound and prudent manner. This, of course, does not affect a Class B(i) in practice as the

# Join Our Community of 6,000 Healthcare Professionals—Become an ASHRM Member Today!

ASHRM promotes effective and innovative risk management strategies and professional leadership through education, recognition, publications, and networking and interactions with industry leaders. Join ASHRM today in advancing safe and trusted healthcare through enterprise risk management!

## ASHRM members enjoy a wide array of valuable membership benefits...

- **Discounts on events and publications:**
  - ASHRM/AHLA Enterprise Risk Management Handbook for Healthcare Entities
  - ASHRM/Aon Hospital and Physician Professional Liability Benchmark Report
  - ASHRM's Annual Conference & Exhibition
  - ASHRM Academy
  - Toolkits
  - And More...
- **Educational advancement opportunities:**
  - HRM Certificate Program
  - Certified Professional in Healthcare Risk Management (CPHRM) Prep Course
  - Patient Safety Certificate Program
  - Webinars
  - ASHRM University
- **Complimentary Subscription** to the award-winning *Journal of Healthcare Risk Management*
- **Resources** to help members stay abreast of risk management news, including weekly *eNews* and *Career Connections* e-newsletters, and the quarterly *Forum* newsletter
- **Members-only access to:**
  - Online Member Directory
  - Career Center
  - ASHRM Exchange—*a web-based community exclusively for ASHRM members*
- **Opportunities** to network with nearly 6,000 highly engaged HRM peers and industry leaders
- **Professional recognition** with the Fellow of the American Society for Healthcare Risk Management (FASHRM) and Distinguished Fellow of the American Society for Healthcare Risk Management (DFASHRM)

**Join ASHRM and enjoy all of these benefits, and more!**

**Visit ASHRM at the IMAC Cayman Captive Forum (Booth #18) for more information.**

To learn more about membership, visit www.ashrm.org/membership.

ASHRM AMERICAN SOCIETY FOR HEALTHCARE RISK MANAGEMENT

safe and trusted healthcare

A personal membership group of American Hospital Association

11/12/13

MCR equals the PCR but becomes more relevant in the case of a Class B(ii) and Class B (iii) as prescribed in Schedule 1 of the Insurance (Capital and Solvency)(Classes B, C and D Insurers) Regulations of 2012. As insurance manager, CSI will assist the prospective client in calculating its PCR should it fall in the Class B(ii) or Class B(iii) bracket.

The law does not provide for specific net written premium to net equity ratios, but unless there are exceptional circumstances, the Cayman Islands Monetary Authority (CIMA) will expect a maximum starting ratio of 5:1, in the expectation that this will reduce to 3:1 or better over time as the company develops.

The typical captive will need to be licensed under the law as a Class B insurer and an application for a Class B insurance licence has to be made accordingly, for business other than domestic business in respect of which:

- Class B(i): at least 95 percent of the net premiums written will originate from the insurer's related business;
- Class B(ii): over 50 percent of the net premiums written will originate from the insurer's related business; or
- Class B(iii): 50 percent or less of the net premiums written will originate from the insurer's related business and annual net earned premiums are less than $16,400,000. Class B(iii) was amended in 2013 to introduce a new sub-category, Class B (iv), and it is expected that supporting regulations will be amended for full implementation by the end of Q1 2014.

## What can long-term care providers do to meet these?

Upon registration and licensing of a new captive insurance company say, for example, a Class B(i) insurance company, CIMA requires proof of funds deposited into the company's bank account to meet the minimum capital requirement. This can be by funds raised from the shares and premium on shares issued on registration of the company, as issued to the shareholder (single parent captive for full capitalisation) or shareholders (group or association captive combining to meet the requirements). Thereafter, there are various financial instruments, referred to as admissible assets, that will be taken into account by CIMA when calculating the PCR for reporting and regulating purposes, and they include but are not limited to the following:

- Class 1 assets:
  - (i) Cash and cash equivalents including time deposits and money market funds rated "AA" or higher;
  - (ii) Investment grade obligations of government or central banks rated "AA" or above;
  - (iii) Incoming irrevocable letters of credit where acceptable by CIMA;
  - (iv) Loans or notes receivable where supported by irrevocable letters of credit acceptable by CIMA;
  - (v) Income tax receivables; or
  - (vi) installment premiums not yet due.
- Class 2 assets:
  - (i) High investment grade bonds or paper rated "AA" or higher;
  - (ii) Exchange rate derivative contracts, designated and accounted for as hedging, with a maturity of one year or less and interest rate derivative contracts, designated and accounted for hedging, regardless of the maturity date;
  - (iii) Receivables from insurers or highly rated reinsurers;
  - (iv) Unearned premiums recoverable from insurers or highly rated reinsurers;
  - (v) Unpaid claims and adjustment expenses recoverable from insurers or highly rated reinsurers outstanding for less than one year; or
  - (vi) Gold and other commodities acceptable to CIMA.

There are various further classes of admissible assets (Class 3 assets to Class 8 assets) and CSI (www.csi.ky) and/or CIMA (www.cimoney.com.ky) is always on hand and willing to discuss any questions the client or prospective client have regarding the classing of assets to meet the capital requirements.

## If capital requirements are too much, what else can long-term care providers do to get their own captive?

The specific use of a captive for long-term care facilities creates a structure whereby individual facilities have found that they can share risk within a defined layer of exposure when reviewing premiums and their access to the reinsurance market, and also further close the gap to greater predictability. CSI creates and sets up group or association captive insurance companies whereby various long-term care providers group together to form a captive, thus sharing the initial cost and capital requirements.

With the recent amendment to the law that introduced the portfolio insurance company (PIC), captive prospects can also consider the option of establishing a PIC under a segregated portfolio within a new or existing segregated portfolio company (SPC) structure, given the advantages unique to PICs such as the ability to contract with other PICs within the same SPC to facilitate reinsurance, quota share and risk pooling, etc. Supporting regulations are still being drafted to implement the new PIC legislation, but it is an option that prospective clients can bear in mind.

## What tax advantages are there for a long-term care provider using a captive?

While the risk management benefits of captives are primary, the real draw to Cayman is due to regulatory purposes such as minimum capital requirements, ease of set-up and the advantages of not having to deal with the various individual state regulations and taxes as well as not having to deal with the National Association of Insurance Commissioners. Although a company would get the same tax deduction for paying premiums to a captive as to a regular insurer, US ownership of the captive means either it or the shareholders will still be subject to US tax on a current basis.

A simple tax example is where under a self-insurance programme, a corporation will deduct casualty losses incurred as they are paid. However, a captive may be able to accelerate casualty loss deductions, because an insurance company deducts not only paid losses, but also the present value (PV) of its loss reserves, which are provisions for future payments on incurred losses.

As the captive programme adds additional years, policies and programmes, the potential tax savings will become even more significant.

All of the above depends on whether or not the captive is considered 'insurance' for US tax purposes. A single parent not-for-profit captive will not get this deduction for tax as it will not be considered 'insurance' for US tax purposes, but, on the other hand, they do not care because as a not-for-profit, they are tax-exempt.

Captives considered 'insurance' are getting a deduction for the movement of the PV of their loss reserves subject to some IRS discounts. As the loss reserves increase, so does the deduction

Each state in the US, for example, will have its own insurance law that will cover taxes payable (procurement taxes, premium taxes, etc). Working closely with tax consultants during the captive insurance company set-up and licensing process is encouraged by CSI and by CIMA. Appropriate tax advice is a key element in the successful operation of any captive. **CIT**

**JS de Jager**
Senior vice president
CSI International Underwriting (Cayman) Ltd

# METICULOUS &CO

**Is it enough to be thorough?**

We don't think so. Thorough is what you expect. Thorough is industry standard. At Carey Olsen, we view every instruction as a chance to surpass your expectations, to set new standards and reaffirm our position as leading offshore lawyers. We haven't been just thorough for a very long time.

**We prefer meticulous.**

*Offshore law specialists*

BRITISH VIRGIN ISLANDS

CAYMAN ISLANDS

GUERNSEY

JERSEY

WWW.CAREYOLSEN.COM

CAREY OLSEN


# Cellular activity

## Experts offer an insight into Malta as a captive insurance jurisdiction

**As a fast growing financial services centre, how is Malta competing to attract new captive business?**

**Stuart King:** Before the island's accession to the EU in 2004, the Malta Financial Services Authority (MFSA) had a very connected approach to promoting and developing Malta's financial services legislative infrastructure. Later, EU accession afforded the MFSA the luxury of being able to: analyse other domiciles, define its competitive edge, develop its strategy and then implement legislation in comparison to others.

Malta has developed a framework that is structured in a manner that provides clearly defined Insurance Act Subsidiary Legislation that includes: captives, protected cell companies (PCCs) and incorporated cell companies (ICCs). In my view, creating specific risk retention legislation provides a neat mechanism to accommodate flexibility as market conditions change. The island is forward thinking as it avoids the slow process of governmental lobbying to change, clarify or create new legislation. Clear legislation that can accommodate flexibility is a significant factor that many potential captive owners consider when deciding on a domicile.

**Ian-Edward Stafrace:** Innovation is key. Malta is the first, and to date, only full EU member state to have adopted PCC legislation.

The regulator's increased workload arising from new EU requirements such as IMD2 (Insurance Mediation Directive) and Solvency II have not stopped it from further innovations such as implementing ICC legislation and proposing reinsurance special purpose vehicles (RSPV) legislation.

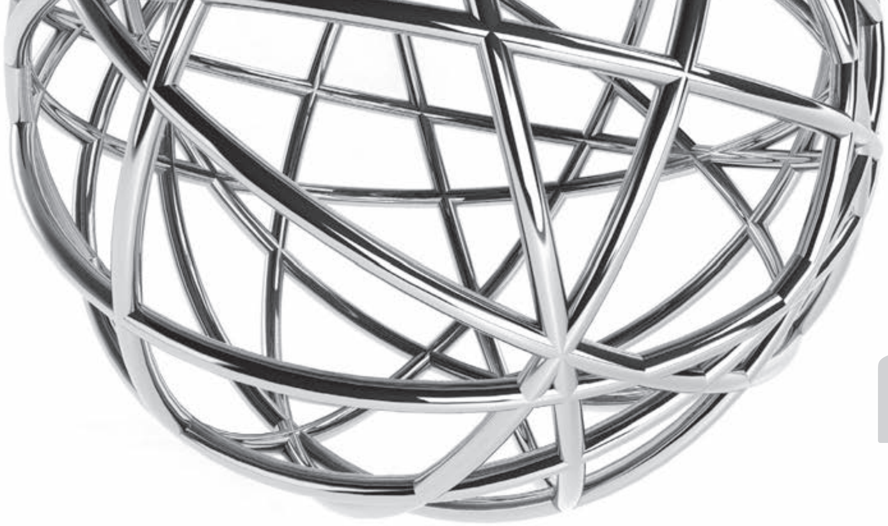
Malta is a jurisdiction that complies with and helps to develop international best practice and is actively involved with the OECD and the EU in modelling global regulatory policy. The MFSA is a member of the European Insurance and Occupational Pensions Authority (EIOPA) and the International Association of Insurance Supervisors (IAIS). The efficient Maltese income tax legislation has also received approval from the European Commission.

Malta's finance industry has built a solid mass of skills, knowledge and products with a proven regulatory system, a trusted legal system and political consensus on this growing sector of our economy.

**Cell companies are a viable alternative for those that do not wish to set up a standalone company. How does Malta embrace this type of structure?**

**King:** Rather than competing with a wholly owned captive, it is perhaps worth considering a cell arrangement as a complimentary tool that is available to captive owners. For example, a cell in a Malta-domiciled PCC is permitted to issue admitted insurance paper directly to EU territories. This is particularly effective for US captive owners with unique short-term European risk exposures. Administration costs and a reliance on an insurance carrier's non-US based network, underwriting criteria and policy form can often be disadvantageous to include the risk in a global insurance programme in comparison to the relative ease of establishing a cell.

A cell is certainly a lower cost alternative to a wholly-owned captive, in addition to reducing the routine governance and compliance burden. However, what is often overlooked is a cell owner's internal cost of collateral and security that is requested by PCC promoters and




# malta

## flawless structure
## seamless opportunities

Malta is host to a myriad of captive re/insurance companies, protected cell companies and cells that have come to enjoy the domicile's stable regulatory environment and EU membership benefits. Malta offers re/insurers and cells:

**European Union Membership** - Malta's status as an EU member allows companies and cells the ability to passport their services throughout the European Union and EEA states. Maltese insurance law and regulation implements all relevant EU directives.

**Redomiciliation Legislation** - Companies established in other countries can seamlessly transfer to Malta without any break in their corporate existence.

**Protected Cell Legislation** - Protected Cell Companies can be incorporated in Malta, enabling cell promoters to write insurance through a cell. The law ensures proper protection and insulation of cell assets and liabilities from those of other protected cells and the core of the protected cell company.

**A Stable Regulatory Framework** - The Malta Financial Services Authority (MFSA) is reputed to be "firm but flexible" - encouraging discussion with promoters at all stages of an application process and also on an ongoing basis.

**Extensive Double Taxation Treaty Network** - Malta has over 70 tax treaties with various EU and non EU countries.

more information on:
www.financemalta.org

Scan QR Code
with your smartphone

FinanceMalta
Effective | Secure | Skilled

Find us on: FinanceMalta @FinanceMalta FinanceMaltaYT FinanceMalta

FinanceMalta - Garrison Chapel, Castille Place, Valletta VLT1063 - Malta | info@financemalta.org | tel. +356 2122 4525 | fax. +356 2144 9212

FinanceMalta is the public-private initiative set up to promote Malta's International Financial Centre

regulatory authorities to cover the 'risk gap' of the cell, given that cash-backed capital is generally minimal. In particular, issued parental guarantees can often raise challenges from tax authorities that may seek clarification on the arrangement in order to permit premium paid to be an allowable expense for corporate tax returns.

**Stafrace:** PCCs are essentially segregated business structures. Third parties are allowed to enter the PCC as cell owners with their business segregated (ring-fenced) and accounted individually. Each cell's assets and liabilities accrue solely to the shareholders of that cell. Such cells could be used for multiple purposes, such as captive risk financing tools or writing third party risks for added revenue and profit.

Being domiciled within the EU, the PCC, on behalf of its cells, is allowed to directly write into Europe and this eliminates the requirement of European fronting insurers.

One of the most important features of Maltese PCC regulation is that the regulations presuppose that the individual cells will have recourse to the PCC core capital. While absolutely protected from liabilities from the core or other cells, a cell will not have to be capitalised to the minimum EU directive requirements for standalone insurers, so long as such requirements are met by the PCC as a whole. Maltese regulations establish that once the cell has exhausted all of its assets in meeting its liabilities, it will have perfect access (secondary recourse) to the PCC core capital. Non-recourse provisions are allowable under regulations, but solely for pure captive (affiliated) or reinsurance cells.

> "Being domiciled within the EU, the PCC, on behalf of its cells, is allowed to directly write into Europe and this eliminates the requirement of European fronting insurers"
>
> *Ian-Edward Stafrace, risk officer and member of Solvency II team, Atlas Insurance PCC Ltd*

### Where does Malta currently stand on Solvency II? Is its eventual implementation a worry for the country?

**King:** Malta is subject to the Solvency II regime, and as with all domiciles both regulatory authorities and insurers grapple with their respective challenges. Regulators have to ensure that adequate resources are available and that they have the skills to fulfill their supervisory obligations, while insurers and captive owners continue to analyse the commercial impact the regime may have. I imagine both regulators and insurers will be relieved when Solvency II is implemented. It has been a long process, especially considering the time and cost incurred to both parties.

Not withstanding its challenges and perhaps having fewer resources available than other supervision departments, I believe the MFSA is well positioned given its early investment in quality staff and upfront engagement, approachability and collective openness with industry representative bodies and service providers.

PCCs are not currently addressed in Solvency II. This does raise some interesting questions, challenges and potential benefits with respect to their treatment. A particular challenge may be the calculation of required solvency margins (catastrophe risk charges and the like) and the solvency margin admissibility and classification of the numerous forms of security (letters of credit, parental guarantee, unpaid capital, etc) that is utilised in PCC structures. I have no doubt that the MFSA will do the right thing to ensure that the structure remains commercially viable, competitive and well regulated, recognising the importance of continued dialogue with service providers and professionals who actively promote the structure.

**Stafrace:** From a PCC perspective, Solvency II is actually an opportunity that we are keen to embrace. The Maltese PCC provides benefits on all Solvency II pillars, causing substantial cost burden sharing and reduced own funds requirements.

As an EU member state and EIOPA member, Malta is contributing to the development of Solvency II. Under the quantitative capital requirements of Pillar I, the core puts up the minimum capital requirement (MCR). EIOPA, in its updated Solvency II Technical Specifications, prescribes that cells in PCCs should be considered and treated as ring-fenced funds. As such, a cell will typically only put up own funds equivalent to the calculation of its notional solvency capital requirement (SCR), which with a small undertaking often falls far below the €2.3 million/€3.5 million MCR absolute floor. A PCC may lend its surplus core capital to cells to meet their notional SCR where in deficit and the cell will therefore always be backed by the core capital.

A fully operational PCC will have all of the risk management, internal control, own risk solvency assessment (ORSA) process and other governance system requirements of Pillar II catered for under its regulated licence, with cost sharing significantly benefiting cells. The same applies to Pillar III's reporting and disclosure requirements where all procedural structures and resources will be in place to meet the new extensive quarterly and annual reporting requirements as one single legal entity.

Small monoline insurers and captives struggling with Solvency II requirements could very well consider converting to cells as an alternative to consolidation or closure.

Protected cells are therefore a cost-effective, extremely flexible and secure alternative to owning a standalone insurer, reinsurer or captive. Such structures can result in significant cost and capital savings for cell owners, even more so in the EU once Solvency II is implemented.

### How do captive managers make sure they stay premium-tax compliant, and is this getting harder with ever-increasing specialist lines being written?

**King:** The approach captive management firms adopt to ensure premium tax compliance differs between firms. Some consolidate the function with outsource service providers, whereas others internally manage numerous providers across multiple countries.

FiscalReps

OUTSOURCING | TECHNOLOGY | CONSULTING | TRAINING

# A complete solution to Global Premium Tax Compliance

Global Compliance | Global Programs | Global Taxes

| Outsourcing | Technology | Consulting | Training |
|---|---|---|---|
| **Easing your compliance burden** | **Automating your tax compliance** | **Solving your tax compliance problems** | **Making your employees tax specialists** |
| full premium tax compliance service through one point of contact | tools to allow you to manage your own tax compliance | bespoke advice | comprehensive tax training |

## Save the Date

## FiscalReps' 8th Annual Indirect Tax Academy: Setting the Pace

**Date: Wednesday 27 November 2013**
**Venue: Trinity House, Tower Hill, London EC3N 4DH, UK**
**Time: 08:45 – 16:00**

This year marks FiscalReps' 10 year anniversary and the hosting of its 8th Annual Indirect Tax Academy.

Recently named 'Tax Advisory Firm of the Year' at the UK Captive Services Awards 2013, FiscalReps is the leading European supplier of premium tax compliance services.

Hosted by Mike Stalley FCA, Chief Executive, and supported by industry expert guest speakers, this year's Annual Indirect Tax Academy covers a wide range of topics including an Insurance Premium Tax Update, IUA discussions with the European Commission on Premium Taxes and a European Tax Compliance Case Study.

There will also be opportunity to attend breakout sessions on: -

- The Changing Landscape of Spanish IPT
- Fiscal Federalism in Italy
- VAT Issue for Captive Managers
- Non-EU Captives with EU Tax Exposures
- Rise of Eastern European IPT
- Settling Legacy Taxes
- Federal Excise Tax & FATCA
- Asia-Pacific Tax Review
- Managing Global Tax Information
- Global Programs = Global Taxes

Capacity is limited so please reserve your FREE place now for the definitive update on Indirect Tax by emailing Ruth Thompson at ruth.thompson@fiscalreps.com

UK CAPTIVE SERVICES AWARDS 2013 WINNER
Tax advisory firm of the year

@fiscalreps
FiscalReps

**t: +44 (0)20 7036 8070 | www.fiscalreps.com**

London office: 10 Fenchurch Avenue | London | EC3M 5BN | UK
Head office: 200 Fowler Avenue | Farnborough Business Park | Farnborough | Hampshire | GU14 7JP | UK
FiscalReps is a trading name of Fiscal Reps Limited | Registered in England and Wales (company number 4994134)
FiscalReps®, taxbox® and taxDNA® are all registered trademarks owned by Fiscal Reps Limited

In my view, it makes commercial sense to standardise and automate the process, achieving economies of scale and ensuring full compliance rather than exposing a captive management firm's balance sheet to potential error, omission and reputational risk for non-compliance. As many firms are not contractually appointed by captive owners to provide tax services, this can often lead to awkward discussions between manager and client as the captive, the legal insurance entity, is issued the penalty. In addition, an increasing risk for firms is keeping abreast of subtle tax code changes, particularly in emerging economies, which are often not widely published.

With respect to specialist lines, I don't believe it poses a substantial challenge as many risks can be classified in globally accepted classifications of insurance, such as: property, casualty, life and health, etc. These are broadly the same classifications that the vast majority of tax authorities adopt.

However, when you consider the growing trend of cross-class global insurance products, tax and regulatory compliance, it becomes more challenging for international captive owners. On the one hand, cross-class cover simplifies a captive insurance programme, whereas on the other hand, it increases the risk of non-compliance. This is not so much on day one, but it is rather more obvious when settling and funding a large claim as this can often trigger an investigation by local authorities on premium allocation (premium tax collection) and admissibility of insurance policies.

Considering the increased communication and information exchange agreements between global regulators (the MFSA has a good network) and tax authorities, it now makes it easier for authorities to pursue non-compliant captives. Captive owners would be wise to ensure global programmes are compliant (both from a regulatory and insurance tax perspective) when first underwritten as challenges can often lead to delays in cash-flow funding of foreign subsidiary claims, an increase in advisory fees, and detract risk management resources from other duties.

**This year is nearing its close—how has 2013 been for you and what do you see on the horizon for 2014?**

**King:** In my experience, there is a growing trend among the senior management of multinationals to challenge insurance arrangements, ensuring that they are optimised, adequate, provide value for money and are aligned to the board's risk appetite and the corporate's financial tolerance. Business environments have changed significantly, whereas insurance programmes often remain static or 'renew as expiring'. This includes many captive programmes and strategies—I envisage (and recommend) that captive owners will perform more regular captive strategic reviews to align/compliment overall risk management efforts.

I say this as I believe that the risk management function will continue to gain a higher profile within corporates (an upward trend in chief risk officer role creation) as risk management efforts are being realised in bottom line results. This is attributable, in my view, to the increasing availability, importance and use of data analytics and understanding one's own risk profile. Not only does this improve board-level decision making, but it also provides accurate quantification of risk, which in the past was often challenging to do—a captive being a perfect vehicle for data warehousing.

Historically, a captive's role was judged more on its profitability, however, when you actually consider this, it is not an entirely correct judgement to make because a captive's actual profit is as a result of transferring cost from another subsidiary business unit. I think that in the future a captive's role will be judged more strategically, as a conduit for improving (and funding) risk management data and efforts. Increasingly, captive owners are assessing less traditional risks, such as cyber and reputation, where many are 'incubating' the risk to build up a risk profile for an eventual underwriting submission.

Looking to Europe, I suspect many captive owners will focus on preparing and understanding their Solvency II ORSAs—captive management firms are (or should be) well positioned and adequately resourced to provide client advisory services in this respect, using the opportunity to increase firm revenues.

Looking to US captive owners, I envisage a growing trend and desire for catastrophe risk transfer mechanisms/products, particularly those corporates in natural disaster-prone areas. Captive owners may indeed consider establishing a new captive (or using a dormant captive) to act as a conduit for this risk type. The recent introduction of SPRV legislation, coupled with the ability for captives to redomicile, puts Malta in a positive position to benefit.

**Stafrace:** The positive flow of enquiries and conversion rate has remained consistent for us at Atlas. Admittedly, with increased regulation, the work and time taken to implement vehicles has increased, especially for standalone companies. Significant timing advantages remain with protected cells.

We are also pleased to see an increased number of enquiries and licensed cells coming through leading insurance management companies. Our independence, together with our active core, provide the possibility of offering a manager's clients an EU onshore protected cell facility that is also able to write third party risks. The management companies retain management of cells hosted by our PCC.

With increased certainty around the imminent implementation of Solvency II, we expect to see an increase in enquiries and applications in 2014 from various entities seeking cost and capital savings, and new prospects preferring the more efficient cellular route to write insurance. **CIT**

> "Considering the increased communication and information exchange agreements between global regulators (the MFSA has a good network) and tax authorities, it now makes it easier for authorities to pursue non-compliant captives"
>
> *Stuart King, managing director FiscalReps, Global Advisors*

# Captive Design and Management Solutions

FULL-SERVICE CAPTIVE MANAGERS • CAPTIVE FEASIBILITY ANALYSIS AND IMPLEMENTATION

The Refreshing Alternative For Risk Transfer

ARTEX

www.artexrisk.com

15 DOMICILES • ANGUILLA • BERMUDA • CAYMAN • HAWAII • VERMONT

- Rent-a-Captive
- Micro Captives
- Program Solutions
- Single-Parent Captives
- Bermuda Market Access
- Group and Association Captives

**Primary Office Locations**

| Arizona | Bermuda | Cayman | Hawaii | Vermont |
|---|---|---|---|---|
| 480.553.6221 | 441.294.4300 | 345.945.9273 | 808.426.5904 | 802.922.9450 |

**www.artexrisk.com • artexinfo@artexrisk.com**

## Industry appointments

JLT Towner has confirmed the appointment of **Mitchell Ribera**, who will serve as an account executive in its New York office.

Thomas Stokes, managing principal and US consulting practice leader, said: "With his experience and education, Ribera adds an important element to our consulting and captive management efforts. His addition comes at a crucial time, because it helps us continue to fully meet the needs of our clients as our company grows."

Previously, Ribera was assistant manager of the accounting controls and analytics department of AIG P&C America, where he had worked since 2007.

He was also an accountant and assistant manager of quality control, and an accountant in the company's reconciliation department.

He began his insurance career in 2002 for reinsurer Guy Carpenter, as a broker's assistant before working as a technical accountant for that company.

Ribera is a graduate of St John's University, where he earned his BBA in Risk Management and Insurance. He brings with him experience as an assistant manager and an accountant in both the commercial insurance and reinsurance industries.

Public accounting and consulting firm Rives & Associates has confirmed the appointment of **Justin Boyd** as senior tax manager.

He will provide tax planning, consulting and preparation services from the firm's Raleigh office. He is also a senior manager of the insurance services division, delivering auditing and tax services to mutual and captive insurance companies.

He will relocate from the firm's Lexington office.

Boyd was previously employed as an accountant at Costello Hill & Co.

Insurance management firm Robus has confirmed the appointment of **Katja Spindler** as senior accountant.

Spindler joined the company on 26 September and will work from the company's Gibraltar office.

Prior to moving to Gibraltar in 2010, Spindler was based in Dublin, where she worked for Pfizer GFSS as an accountant for the German market.

Her career in financial services began after graduating from the Otto Friedrich University in Bamberg, Germany in 2005.

Robus CEO Chris Le Conte said: "I have no doubt that the experience and skills that Katja brings with her will make her a highly valued member of the team"

Spindler commented: "The team at Robus have gone from strength to strength in the last 18 months as, amongst other triumphs, they have become the first insurance firm in Gibraltar to be awarded Chartered status by the insurance industry's governing body, the Chartered Insurance Institute, and they picked up the inaugural Captive Service Award for Independent Captive Manager of the Year 2013. This is certainly an exciting time to be joining an exciting company."

The independent insurance broker Lockton has recruited a new Middle East and North Africa CEO, expanded its healthcare team and bolstered its national employee benefits practice.

The Middle East and North Africa unit of Lockton has appointed **Tony Saada** as its CEO.

He will be responsible for developing and serving Lockton's client base in the Middle East and North Africa region.

Prior to his appointment, Saada spent 27 years at Marsh, most recently as senior executive officer of Bowring Marsh in Dubai.

Wael Khatib, executive chairman of Lockton (MENA), said: "Lockton is committed to providing our clients with the highest standards of service while introducing innovative risk transfer, insurance and reinsurance solutions. Our operation here in the Dubai International Financial Centre delivers that service in one of the region's most influential financial centres and insurance market places."

"Saada's appointment will deliver a breadth and depth of experience and expertise that will help us continue to build our business and deliver results."

In the US, Lockton has added **Ross Downing** as vice president in its healthcare practice. He will be based in the broker's Boston office.

In his role, Downing will provide strategic advice to large provider organisations, health systems, accountable care organisations, health plans, and consumer oriented and operated plans.

He will advise clients on an array of issues including innovative risk financing solutions for healthcare organisations that enter into risk-bearing contracts.

Prior to joining Lockton, Downing worked as a vice president at Beecher Carlson in Boston. He has also worked as a financial analyst for Aon Risk Services.

"Downing's unique expertise in risk financing solutions for alternative care and other health provider organisations is an important addition to our healthcare team." said Tim Ryan, executive vice president and CEO of Lockton Northeast.

Lockton has also expanded its national employee benefits practice with the hire of **Liz Vollmar** as vice president in the compliance services division.

In her new role, Vollmar is responsible for consulting with Lockton clients on complex employee benefits engagements related to health reform and tax laws, among others.

She previously worked for Willis North America as a vice president and principal employee benefits attorney.

"Vollmar has more than 25 years of outstanding experience as an attorney, and a deep knowledge of health reform and compliance topics. She 'gets' how the reform law impacts the employee benefits landscape and can help guide our clients accordingly," said Ed Fensholt, senior vice president and director of Lockton's compliance services team. **CIT**

CIT
CAPTIVEINSURANCETIMES

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

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

Reporter: Daniel Jackson
danieljackson@captiveinsurancetimes.com
Tel: +44 (0)20 8663 9622

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

Publisher: Justin Lawson
justinlawson@captiveinsurancetimes.com
Tel: +44 (0)20 863 9628

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

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

Company reg: 0719464
Copyright © 2013 Black Knight Media Ltd.
All rights reserved.

# DESHACKLE YOUR CAPTIVE INSURANCE.

**Enjoy your insurance freedom in Delaware.**

- Top 10 domestic domicile in terms of written premium
- Efficient and well-run Department of Insurance
- Collaborative regulators
- Low premium taxes
- Well-established service provider infrastructure
- Legal home to two-thirds of the Fortune 500
- Preeminent body of corporate and alternative entity law
- Stable legislative environment
- Flexible leading-edge insurance statutes
- 150 traditional commercial insurers, 600+ captives and regulators who understand the difference
- Delaware—WHERE BUSINESS GETS DONE

You DEcide.

**DelawareCaptive.org**

Caitlin Pawlowski
DCIA
4023 Kennett Pike, #801 • Wilmington, DE 19807
Email: cpawlowski@delawarecaptive.org
Phone: 888-413-7388

DCIA
Delaware Captive Insurance Association


## AIG delivers, with captive program solutions.

AIG set up its first captive program in 1945. Over 65 years later, our international network transacts billions of dollars of captive premiums and processes well over 100,000 captive claims each year. By designing programs that blend elements of risk retention and risk transfer, we can offer creative and nontraditional captive insurance solutions. Learn more at www.AIG.com/captives

AIG

Bring on tomorrow

Insurance and services provided by member companies of American International Group, Inc. Coverage may not be available in all jurisdictions and is subject to actual policy language. For additional information, please visit our website at www.AIG.com.