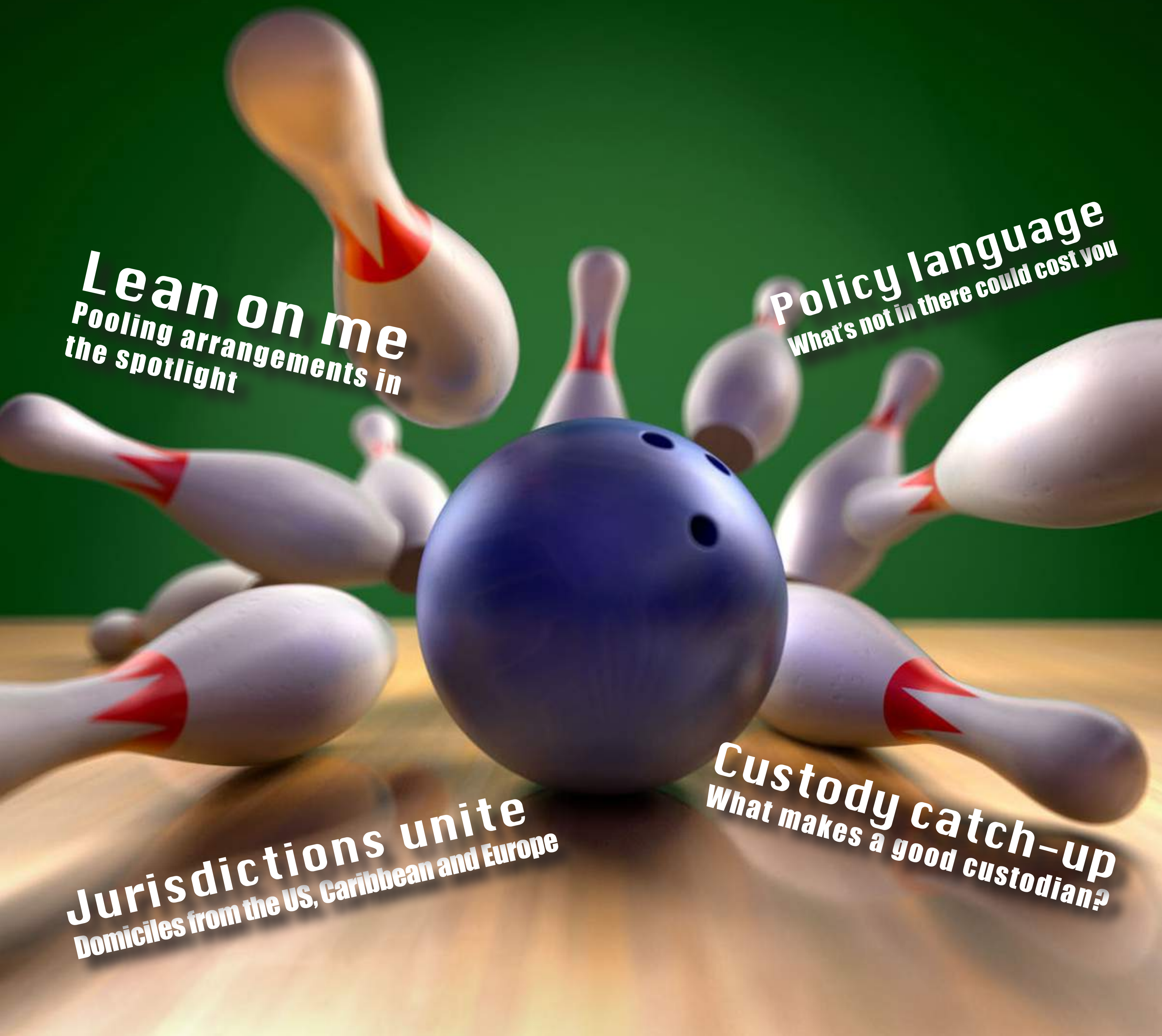
CIT CAPTIVEINSURANCETIMES

VCIA Special

captiveinsurancetimes.com

Strike it rich

Why do US states score so highly?



Lean on me

Pooling arrangements in the spotlight

Policy language

What's not in there could cost you

Jurisdictions unite

Domiciles from the US, Caribbean and Europe

Custody catch-up

What makes a good custodian?

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

Energy sector switched on to speciality insurers

Specialty insurers operating in the energy sector have produced positive operating results over the last five years (2009-2013), according to a report by A.M. Best.

This is largely the result of strong investment income supplementing underwriting results, which have been more volatile over this period.

A.M. Best looked at the specialty insurers and industry captives competing with the commercial insurance market for the energy sector's insurance premiums.

Its rated specialists consists of eight insurers: four specialty insurers, three single-parent captives and one electric cooperative, which operates as a reciprocal exchange structure serving rural utilities.

The group's risk profile is relatively high, reflecting the industry's exposure to property and catastrophe events, according to A.M. Best.

As a result, although positive, earnings have varied widely over the past several years, with the group's combined ratio fluctuating from a low of 90 to a high of 140, with a five-year average combined ratio of 104.

The variability of the group's operating and underwriting results has compared reasonably well with the commercial casualty composite, according to A.M. Best.

The five-year combined ratio (before policyholder dividends) of 104 through year-end 2013 was slightly more than the 102.9 percent of the commercial casualty composite.

The group's after dividend combined ratio of 109.4, against 103.2 for the composite, reflected some distribution of profits by the group to the members.

Bumper H1 for Bermuda

The Bermuda Monetary Authority (BMA) registered 36 new insurers for H1 2014, a 6 percent increase from the 34 firms registered during the same period in 2013.

Some of the other specialised risks covered by Bermuda's new captives include property cover for a fleet of seismic recording ships and product liability coverage for a company involved with the sourcing, manufacturing and sale of agricultural goods.

Shelby Weldon, director of licensing and authorisations at the BMA, said: "On the insurance side, we have seen a number of innovative new vehicles being formed. In March 2014, the first ever African catastrophe insurance pool, [African Risk Capacity Insurance Company] was launched with much fanfare."

"Bermuda beat out all other domiciles to be the home of this groundbreaking entity which will help African Union member states cope with the impact of extreme weather events and protect food insecure populations."

New companies included seven captives, eight commercial insurers, five long-term (life) insurers, and 16 special purpose insurers (SPIs).

This compares to nine new captives, two commercial insurers, three long-term firms and 20 SPIs registered in H1 2013.

The BMA also registered eight intermediaries, an identical amount to the same period in 2013.

"It is good to see growth in the commercial and long-term sectors," said Weldon.

"It is not surprising to see SPI registration numbers declining slightly. The authority is aware of a number of SPIs that are currently registered but which still have to activate because participants are waiting to enter the market at the right time."

China's first captive gets thumbs up

Moody's Investors Service has assigned a first-time "A1" insurance financial strength (IFS) rating to CNPC Captive Insurance Company.

CNPC Captive Insurance was established in December 2013 as the first captive insurance company in China.

The company is 51 percent owned by China National Petroleum Corporation (CNPC, "Aa3 stable"), and 49 percent owned by PetroChina Company Limited (unrated). PetroChina is 86.51 percent owned by CNPC.

CNPC is the largest oil and gas company in China. It is wholly owned by the Chinese government and is one of the largest state-owned enterprises directly supervised by the central state-owned Assets Supervision and Administration Commission of the State Council.

PetroChina is the main operating arm of CNPC, engaged in exploration and production, refinery and chemical, pipeline and marketing businesses. The company is listed in Hong Kong, New York and Shanghai.

"The A1 IFS rating primarily reflects Moody's view that CNPC Captive Insurance's credit profile is highly correlated to that of CNPC," said Stella Ng, assistant vice president and analyst at Moody's.

In addition to benefiting from operational and financial support from CNPC, the rating reflects the insurer's integration with the risk management function of the group, providing insurance coverage for internal group risks. Currently, CNPC Captive Insurance co-insures affiliated risks with external insurance companies.

CITINBRIEF

"We expect the captive insurer's capitalisation relative to its risk exposures to be strong in the coming 12 to 18 months and for any future increases in its risk retention to be supported by CNPC," added Ng.

The one-notch difference between the ratings of CNPC and CNPC Captive Insurance reflects the very limited track record of the latter and the lack of explicit guarantee from the parent.

Also, partially offsetting CNPC Captive Insurance's strengths are its limited external reinsurance protection and focus on property risk in the oil and gas sector, which Moody's claims is intrinsically volatile.

Merger breeding success for JLT Towner

JLT Tower Re's organic revenue growth was 6 percent in H1 2014, while the enlarged business delivered an unchanged trading profit margin of 30 percent, according to interim results from the JLT Group.

This has been cited as good progress, following the integration of Towers Watson Re, with revenue for the combined JLT Towers Re for the period standing at £110 million.

Historically, approximately 70 percent of the firm's reinsurance revenues have been booked in the first six months of the calendar year and JLT has stated that it expects a similar pattern going forward for the merged business.

In North America, high levels of client and people retention have been noted and, in London, JLT has reported that "both teams are fully merged and operating out of one building".

The focus for the enlarged business is on building new business opportunities for 2015 and beyond and JLT stated that it is "very encouraged both by the support of cedants and the strength of the developing pipeline".

JLT has also claimed that the full year margin is expected to be broadly flat on the prior year. This is due, in part, to the "sharp decline" in the reinsurance rating environment, given that JLT Towers Re earns a much higher proportion of commission income than the rest of the group.

'We are confident that we can deliver year-on-year financial progress, but we are more cautious over the outlook for the remainder of the year given the marked decline in the insurance and reinsurance rating environment over the last quarter," said Dominic Burke, chief executive of JLT Group.

"The strong organic revenue growth we achieved in the period, despite these challenges, demonstrates the success of our strategy of focusing on our areas of specialisation and higher growth economies.'

Strong ratings for Allianz subsidiaries

A.M. Best has upgraded the financial strength rating of Allianz Risk Transfer, Allianz Group's Swiss-based alternative risk transfer specialist, to "A+ (Superior)".

The ratings of Allianz Global Corporate & Specialty and AGCS SE have also been set at "A+ (Superior)" by A.M. Best, with the outlook stable for all three Allianz subsidiaries.

In addition, Standard & Poor's has upgraded the rating of Allianz Global Corporate & Specialty in Japan to "AA" with a stable outlook.

"We are delighted that both rating agencies have again stressed their confidence in AGCS's financial strength", commented Axel Theis, CEO of AGCS SE.

"A.M. Best's upgrade of Allianz Risk Transfer's rating reflects this company's success with our global clients looking for innovative solutions and Allianz Risk Transfer's growing strategic importance within AGCS's portfolio of client services."

FiscalReps
OUTSOURCING | TECHNOLOGY | CONSULTING | TRAINING

A complete tax solution

Let us manage your tax compliance

FiscalReps expertise covers...

US Tax Compliance

- Income tax filing
  - 953(d) elections
  - 831(b) elections
- Self procured tax
- Federal excise tax

Canadian Tax Compliance

- Provincial premium tax
- Federal excise tax

Premium Taxes outside of USA & Canada

If you have insurance exposures in other parts of the world you may have premium tax liabilities in other countries. FiscalReps can provide tax consulting and compliance solutions in all major countries.

Asher Harris
US Principal
e: asher.harris@fiscalreps.com
t: +1 (212) 605 0466

Mike Stalley FCA
Chief Executive
e: mike.stalley@fiscalreps.com
t: +44 (0)20 7036 8070

Karen Jenner ACII
Client Director
e: karen.jenner@fiscalreps.com
t: +44 (0)20 7036 8070

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

@fiscalreps
FiscalReps

London: +44 (0)20 7036 8070 | New York: +1 (212) 605 0466 | www.fiscalreps.com

New York office: 575 Madison Avenue Suite 1006 | New York | NY 10022
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

Recently, Standard & Poor's had already upgraded its rating of Allianz Fire and Marine Insurance Japan, the entity under which Allianz Global Corporate & Specialty operates in Japan, to "AA" with stable outlook.

BTPS selects Heritage

Heritage Insurance Management has been selected by BT Pension Scheme (BTPS) to provide insurance management services for the administration of the scheme's newly established insurance company based in Guernsey.

BT Pension Scheme has established BTPS Insurance Incorporated Cell Company (ICC) to underwrite longevity arrangements, which will protect the scheme against costs associated with potential increases in life expectancy.

The scheme has also transferred longevity risk to the insurer, which has in turn reinsured this longevity risk in the reinsurance market.

By using a wholly owned insurer, BTPS was able to access capacity in the global insurance and reinsurance market directly.

Paul Eaton, the new business director of Heritage, which was recently acquired by Artex Risk, said: "BTPS spent a considerable amount of time planning for this transaction and part of the analysis involved the consideration of where to establish the insurer."

"The selection of the insurance manager was another key decision and Heritage was able to provide expertise, operational capability and willingness and ability to work with BTPS in a bespoke fashion on this project."

Merise Wheatley, director and project leader at Heritage for the establishment of the BTPS insurer, added: "It has been a great experience to work on this transaction which was ground breaking in terms of both size and structure, but also made best use of Guernsey's strengths as a captive domicile."

Insured losses from natural disasters down in 2014

Economic losses from global natural disasters during the six-month period ending 30 June 2014 totalled $54 billion, down from $95 billion in 2013, according to data from Aon Benfield.

This is also around 49 percent lower than the 10-year (2004-2013) average of $106 billion.

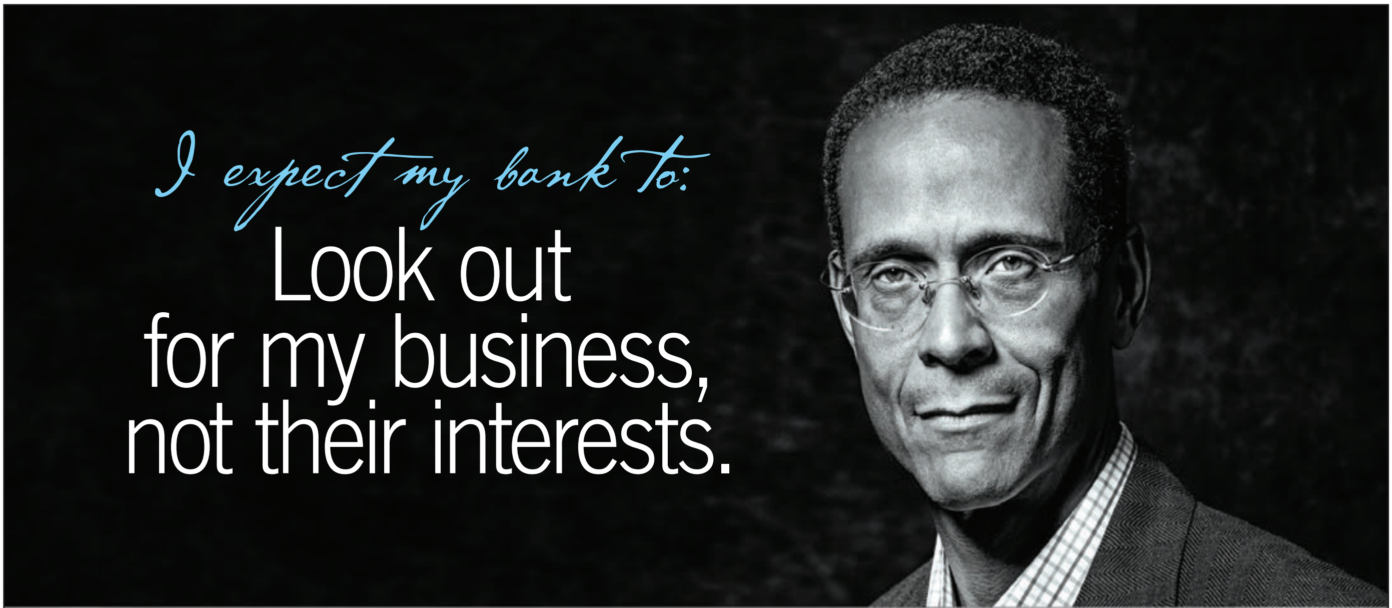
Insured losses for the period reached $22 billion, approximately 19 percent below the 10-year average of $27 billion, with around 55 percent of insured losses occurring in the US, 23 percent in Europe, and 19 percent in Asia.

Around 39 percent of global economic losses sustained during the first half of 2014 were covered by either private or government-sponsored insurance programmes, slightly above the 10-year average of 30 percent, highlighting that a greater proportion of disaster losses occurred in regions with higher insurance penetration.

The severe thunderstorm peril was the costliest disaster type, accounting for 32 percent of the economic loss and 46 percent of the insured loss during the period and comprising mainly hail and wind events in the US and Europe.

In order of size, the five largest economic loss events in H1 2014 were Japan's winter weather in February ($6.25 billion); Southern and Eastern European flooding in May ($4.5 billion); Brazil's drought from January to June ($4.3 billion); US drought from January to June ($4 billion); and severe weather in Europe in June ($3.5 billion).

Looking ahead to the second half of 2014, Steve Bowen, associate director and meteorologist within Aon Benfield's impact forecasting team, said: "The third quarter historically is the costliest for natural disasters and is primarily driven by the peak of the Atlantic Hurricane Season."



When it comes to Captive Insurance, no other bank has more knowledge and know-how than Comerica Bank. More than just banking services, we provide our clients with a dedicated team of experienced Captive Insurance Specialists to help navigate through the challenges of alternative risk management. When it's time, come to Comerica, and discover why we're the leading bank for business.*

To Learn More, Contact the Comerica Global & Captive Insurance Group: 313.222.5550

Comerica Bank®

comerica.com/captive

CBP-4141-01 05/14
MEMBER FDIC. EQUAL OPPORTUNITY LENDER.

*Data provided by Thomson Reuters Bank Insight, December 2013


Building on Trust and Support
Based in Malta, Island Insurance Management satisfies the requirements of captives wanting to set up and operate in Malta.
As an independent and reputable boutique insurance management firm, we believe that trust and support are the values on which to build and nurture our relationships with our Clients.
traditional values
established reputation
a brand new face
ISLAND INSURANCE MANAGEMENT
ISLAND INSURANCE MANAGEMENT LTD.
Insurance House, 239 Psaila Street, Birkirkara BKR9078, Malta
Tel: +356 23 855 555, +356 23 855 702 | Fax: +356 23 855 238
email: info@islandins.com
www.islandins.com

"While [El Nino] is likely to limit the overall number of storms, it would only take one major landfalling event to quickly make 2014 an above average year for losses—and history suggests that it is just a matter of time before the US endures another major hurricane."

MedStar Health captive forced to settle

Greenspring Financial Insurance, the captive insurer of MedStar Health, is liable for defending and settling a lawsuit filed against a staffing agency nurse at the Washington DC Hospital Center, an appeals court has ruled.

In 2003, Greenspring issued an insurance policy providing coverage to employees of Washington Hospital Center for claims arising out of medical incidents within the scope of their employment.

The issue was whether a nurse, hired by a staffing agency and assigned to work at the hospital on a temporary basis, was covered as an 'employee' under the policy.

The appeals court concluded that the nurse qualified as an employee of Washington Hospital for purposes of the Greenspring policy and therefore ordered Greenspring to pay the cost of defending and settling medical malpractice claims against the nurse.

In regards to the ruling, the appeals court stated: "We agree with the district court's construction of the Greenspring policy, and we see no grounds for excusing Greenspring from its obligations under the insurance contract."

Fitch weighs in on NAIC proposals

Fitch Ratings believes new requirements proposed by the National Association of Insurance Commissioners (NAIC) to subject corporate captive insurers to full accreditation standards could materially increase costs for these captives, according to a new report.

Fitch also claims that the proposals could lead to disclosure of information that the captive's parent views as competitively sensitive.

This could lead such captive arrangements to be moved offshore, which could have the unintended consequence of weakening, rather than strengthening, captive regulation and disclosure.

Fitch believes that the recent proposal stems from an ongoing controversy over the use of captive life reinsurers for life insurance reserve financing.

The NAIC recently proposed new accreditation standards, which would require certain captives to comply with the accounting and disclosure rules for traditional insurance companies. This addresses a core concern voiced by critics, which is lack of transparency and consistency in the regulation of captives.

However, read literally, the NAIC proposal would apply not only to captive life reinsurers, but also potentially to other captives including traditional corporate-sponsored captives.

The report stated: "Fitch has found it difficult to ascertain if the regulatory intent is truly to include traditional corporate-sponsored captives, or if the current wording in the regulation simply needs to be tightened up. Therefore, Fitch would urge the NAIC to clarify its position."

It is likely the proposed standards were primarily intended to cover life captives used for reserve financing, since the proposal focuses on captives acting as multistate reinsurers and excludes captives owned by non-insurance entities for the management of their own risk.

The report continues: "Life captives are typically reinsurers, are owned by an insurance company, and are often domiciled in a different state than the parent insurer. Thus, Fitch believes they are to be subject to the proposed regulation."

MARSH
marshcaptivesolutions.com

Success does not come from eliminating risk.

SUCCESS COMES FROM MANAGING RISK FOR GROWTH.

When the path is unclear — Marsh Captive Solutions will help your company navigate through the world of risk.

Partnering for impact℠
Marsh is one of the Marsh & McLennan Companies, together with Guy Carpenter, Mercer, and Oliver Wyman.

MARSH & McLENNAN COMPANIES

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

A grand slam

Despite securing its thousandth captive and retaining its position at the forefront of the US captive industry, Richard Smith explains why Vermont is determined to keep its eye on the ball

STEPHEN DURHAM REPORTS

Firstly, what is the overarching theme of this year's conference and what can we expect from the sessions?

This year we at the Vermont Captive Insurance Association (VCIA) are going for a baseball theme—major league captive education. Every year we try to increase the quantity and quality of the educational sessions in particular and this year is no different. It is a great mix of the types of educational sessions on offer, with some focused on newcomers to the captive industry and a number of sessions on board governance, as well as more advanced taxation and accounting principles-based sessions.

We try to make sure that we have a fair number of captive owners present who can talk about their own specific experiences. The other captive owners and service providers seem to enjoy hearing it straight form the owners themselves, in terms of what they are seeing and doing in the industry.

Where is the focus for Vermont's regulators, and what impact have you seen from the changes made in the state this year?

From our perspective there are two regulatory centres. Montpelier, Vermont, is where our state-based system promulgates its rules and regulations, and there is also a lot of focus on what is happening down in Washington DC. This could be actions from the National Association of Insurance Commissioners, laws that are being passed with the specific intention to change insurance regulations or any other laws that could unintentionally impact our industry.

In Vermont, we made a number of technical changes to our captive insurance laws, as we do every year. We work both with the regulators and the industry to see if they have any broad or specific ideas regarding how we can streamline regulations in Vermont.

The big thing for us this year was the creation of the dormant captive status. This means that Vermont captives that are not currently running any business through them can now become dormant, which allows them to report their inactivity and therefore eliminate the tax they have to pay and lesson reporting and oversight. We hope that if these dormant captives decide in the future that they want to put business back through, they continue to do so in Vermont. This is a great tool to keep captives here that are looking to reboot their business, as there is a lot of competition out there.

Despite competition from other states, Vermont still seems to be far ahead with the licensing of its thousandth captive—is there a tendency for the state to take its foot off the gas?

In Vermont, we never take the industry for granted, so every year we look at our regulations and laws to make sure that they are as up to date as possible. We try and work hard to present a very solid regulatory climate for the industry. I would not say that the number of states with new captive laws has altered that perspective. Even when I first came into the industry and there were four or five very active states, it was still good, healthy competition.

It is something of a double-edged sword, however. It keeps us on our toes and gives the industry more choice, but my concern is that the number of states that have captive laws far outnumbers regulators that have experience of the industry. This means that could potentially be states that don't know what they are doing, with the power to license captives that should not have been licensed. This could create a black eye for the entire industry.

Historically, you see states that have passed captive laws and were very energetic to build their industry. Whether new people came in at state level or goals were set out and never fully realised in terms of jobs created or revenues to the state, these states were forced to backtrack a little bit. My guess is that, even with this proliferation of states that have captive licensing laws, you are still going to see three or four states, including Vermont, that are in the lead in terms of captives that are domiciled.

Has the feedback from last year's conference been beneficial in planning this one?

We start planning for our next conference literally three weeks after the previous conference ends. We bring together a conference committee that is made up of industry service providers, owners and so forth and examine what went well and what changes need to be made. In 2013, there were a couple of new things that we are expanding on this year. We started using electronic polling in our sessions to make the education sessions more interactive. We got a lot of great feedback about that so we are going to do more of that this year.

Like a lot of conferences and organisations, we are shifting the information and feedback from paper to smartphones and tablets so people are able to download the materials from the conference app, get updates on what is happening and get involved in the polling all from their devices.

“In Vermont, we never take the industry for granted, so every year we look at our regulations and laws to make sure that they are as up to date as possible. We try and work hard to present a very solid regulatory climate for the industry”

We are also bringing in more of the educational sessions this year than ever before and we are on track to exceed the 1100 delegates that attended in 2013.

We provide one of the largest forums for the captive industry in the world so it is a great opportunity, not only to learn at the sessions, but to benefit from the networking and one-on-one interaction with peers, as well as seeing what is new in the industry. I have not seen the numbers but our hope is that we see many captive owners in attendance again—as they draw the rest of the industry here.

With global trends like cyber risk, catastrophe bonds and insurance-linked securities making the news, what are Vermont's areas of interest?

Cyber risk is one of the newer areas that the captive industry is focused on. We actually conducted a webinar about a month ago on the subject and one of our keynote speakers at VCIA is Theresa Payton, who is a cyber risk specialist and was chief information officer at the White House under the Bush administration. It is definitely high on the agenda of new risks that are being looked at from the captive perspective.

Insurance linked securities are also interesting—although I have not seen any direct connection at this point with in the captive industry—they are mostly involved with the larger catastrophe bond and reinsurance deals.

I think it is probably having an impact on the broader insurance industry, which obviously affects the captive industry as a consequence. It definitely worth watching for us going forward.

When people ask whether we are seeing any major trends in types of companies and types of coverage, it is hard to answer. There is clearly interest in new areas such as cyber risk but our growth area is still in areas such as construction companies that are looking at their property and casualty exposures.

We also get a great deal of companies looking at medical malpractice insurance, which is also an area of good growth. We get financial sectors looking at varieties of different ways to make the most of their captives. They are so flexible and such important tools that it really runs the gamut in terms of who is using them and for what purposes. CIT

Richard Smith
President
Vermont Captive Insurance Association

Wax on, wax off

With more than 30 US domiciles now able to accommodate captive insurance vehicles, what does it take to become the best?

STEPHEN DURHAM REPORTS

During conversations with US captive directors, it soon becomes clear that there is no single, foolproof formula for cultivating a successful captive domicile. A strategy that has served one state well might not work in another, and so on. One certainty is that, in terms of the top four US domiciles, a strong philosophy is quite often at the heart of each state's success.

It's a marathon, not a sprint

South Carolina's captive industry is built on the twin pillars of solid infrastructure and effective regulations. The former is based on the ubiquity of the industry's biggest hitters, with captive managers such as Marsh, Aon, Willis, USA Risk Group, Kane, Strategic Risk Solutions, JLT Towner, Advantage International and Wilmington Trust all settled in the state. In addition to these firms, the state has access to a large pool of highly skilled actuaries, accountants and lawyers.

In terms of regulations, South Carolina is again in possession of a competitive calling card. According to Chris Stormer of Bauknight Pietras & Stormer, who is also president of the South Carolina Captive Insurance Association, one of the stronger initiatives that the regulator has implemented in recent times is the establishment of a captive insurance director that is not politically appointed. This protects director Jay Branum from being affected by a change in state governance as, quite often, a new governor also means new director of insurance.

Stormer explains: "Every change of captive insurance director could be detrimental to the industry, and the fact that we do not have to worry about this gives our state great stability. Our director is more of a long-term appointment than in some other states."

While South Carolina has experience with smaller, 831(b)-type captives, Stormer says that "a great deal of South Carolina's experience was gained" in dealing with "the very complex" Fortune 500-style captives, as well as risk retention groups (RRGs) and special purpose financial captives (SPFCs).

Support from the legislature has also given South Carolina the ability to strengthen its incorporated cell company (ICC) legislation, after new laws came into effect in June. Although there is currently only one ICC application on file, the state has earmarked them as a growth area for the future. While Stormer does not expect some of the "more aggressive" 831(b) captives to call on South Carolina, the state is equipped to deal with the gamut of structures.

"The state has long been focused on quality over quantity, and if you were to look at the amount of premium dollars or capital invested in a state's captive industry rather than the actual number of captives, you would definitely put South Carolina near the top."

A state in its prime

Hawaii has been a captive domicile since 1986 and currently stands as the largest in the Pacific Rim, predominantly attracting owners from the western US and Asia Pacific regions. Hawaii's 188 captives generate $2.9 billion in premiums with assets of $15.6 billion, which indicates average premium volume of more than $15 million per captive.

> "There is no single, foolproof formula for cultivating a successful captive domicile. A strategy that has served one state well might not work in another"

The state also has one of the lowest premium tax structures in the US—with no minimum premium tax, and zero premium tax for fronted programmes, reinsurance and other programmes where the premium is taxed elsewhere. Hawaii's highest premium tax rate is 0.25 percent with a decreasing rate scale once premiums exceed $25 million.

The captive insurance branch of the Hawaii Insurance Division serves the needs of Hawaii's captive owners and their service providers, priding itself on highly experienced personnel in both the public and private sector. Having such an experienced and stable infrastructure makes the state attractive for its consistent regulatory approach and knowledgeable teams to assist captive owners. The Hawaii Captive Insurance Council (HCIC) also actively liaises with the regulators, to continually review captive laws, regulations and processes.

Fay Okamoto, Artex Hawaii's senior vice president of captive management, comments: "Over the years, I've seen Hawaii go through its regulatory growing pains. Captive regulation is like a pendulum—swing it too far one way or the other and you have problems. The challenge for any captive domicile is to find that 'happy medium' between effective regulation and over-regulaton. With its long operating history, Hawaii knows what works for effective captive regulation."

The HCIC and the Hawaii Insurance Division have been allied, along with many others in the captive industry, in their opposition to the National Association of Insurance Commissioners's (NAIC) recent 'multi-state reinsurer' proposal, feeling that it could have a profound impact on the regulation of captives domiciled anywhere in the US, should it move forward. Regardless of the outcome though, those doing business in Hawaii feel there is sufficient groundwork already in place to weather any oncoming storms.

Okamoto says: "In 1991, when I entered this industry, there was only a handful of US captive domiciles, the most frequently cited being Vermont, Hawaii, and Colorado. Now there are more than 30. Competition among US captive domiciles is pretty fierce, but that hasn't stopped Hawaii from attracting captive owners who are looking for that stable and consistent regulatory environment."

Live and let live

A relative latecomer to the captive industry considering its size, Utah passed legislation in 2003 allowing captive insurance companies to be formed. With direction provided by the state's governor and legislators, captive fees in Utah were set at $5000 per year, per captive, without premium tax. In addition, to ensure the security and continued viability of the captive division, the enabling legislation set up a restricted account to insulate the division from economic fluctuations of the state's general fund. The annual captive fee remains at $5000 and the captive division continues to expand to meet the needs of captive companies.

Utah has been ranked as 'America's most pro-business state' for three consecutive years and Forbes has also ranked Utah as the 'Best State for Business' in 2011, 2012 and 2013. It is this supportive mentality that has been heralded as one of driving forces behind Utah's captive industry, allowing it to expand after humble beginnings.

"One of the strategies that helped in Utah's growth is our early focus on the small and mid-size captive market. Our conservative and steady approach paid dividends through our ability to attract and retain educated and experienced staff. As our expertise and number of staff has grown we have continued to expand into more complex structures," says David Snowball, captive division director at the Utah Insurance Department.

Although there is competition between states for the abundance of captive business available in the US, Snowball claims that it is also extremely important to be cooperative. Just as the other, more mature states helped Utah to progress, now Utah is finding ways to help some of the newer domiciles.

Utah has grown significantly over the last several years, at a rate of about 26 percent per year, despite other states developing around it. Snowball states that Utah wants continued growth, but he stresses that this should not be at the expense of providing less effective regulation.

Snowball comments: "Utah expects a good year for 2014 in the number of new captives formed, but it is not expected that the growth will be much different than other domiciles. There is just so much business available that all states will have good growth. Rankings are only as good as the definitions given to them and the ideas that are instituted to change the industry. Utah does not focus on ranking, although it is nice to be ranked, but on providing appropriate regulation to maintain a good industry."

Setting the bar

Since first passing its captive law in 1981, Vermont has been synonymous with captive insurance. Not only are all of the major global captive managers based in the state but, in many cases, their main global office is in Vermont.

Add a full stable of accounting firms, attorneys, actuaries, banks, investment managers and other service providers into the mix and it is clear why Vermont is capable of operating a captive of any size. It is also important to remember that, in terms of premium dollars, population and geography, Vermont is still one of the smallest states in the US.

David Provost, deputy commissioner of captive insurance for Vermont, says: "We have built an insurance industry that is not reliant on any one business segment, line of insurance or type of captive. I'm very pleased that each year when we look at the licences granted during the past 12 months, that we have a mix of single parent captives, group captives and special purpose insurers of all sizes and sponsored by all sorts of different parent companies."

"Because we have such a varied mix, the impact—negative or positive—of changes in regulations or the environment or other, is muted. We will continue to be a domicile of the highest standards to attract like-minded business that need to form a captive as a risk management and risk financing tool."

To further protect Vermont's captive industry, a full time representative has been installed in the state's Economic Development Department to focus on marketing, so attention can be shifted onto solvency regulation. This illustrates Provost's claim that Vermont's best competitive strategy is to maintain the highest standards of regulation.

He comments: "In Vermont, we have always focused on licensing and regulating quality programmes. That strategy has not changed, regardless of competition. If there are 10 quality programmes that come along in any year or 50 quality programmes—we want an opportunity to license them all. If there are not any quality companies, then we are not going to license any." CIT

Montana *Naturally Captivating*

Since 2001, Montana has been a leading captive domicile. We have a dedicated and experienced regulatory team that is responsive to the developing captive landscape and open to new ideas. We work hard to keep our state captive laws current with the latest industry innovations.

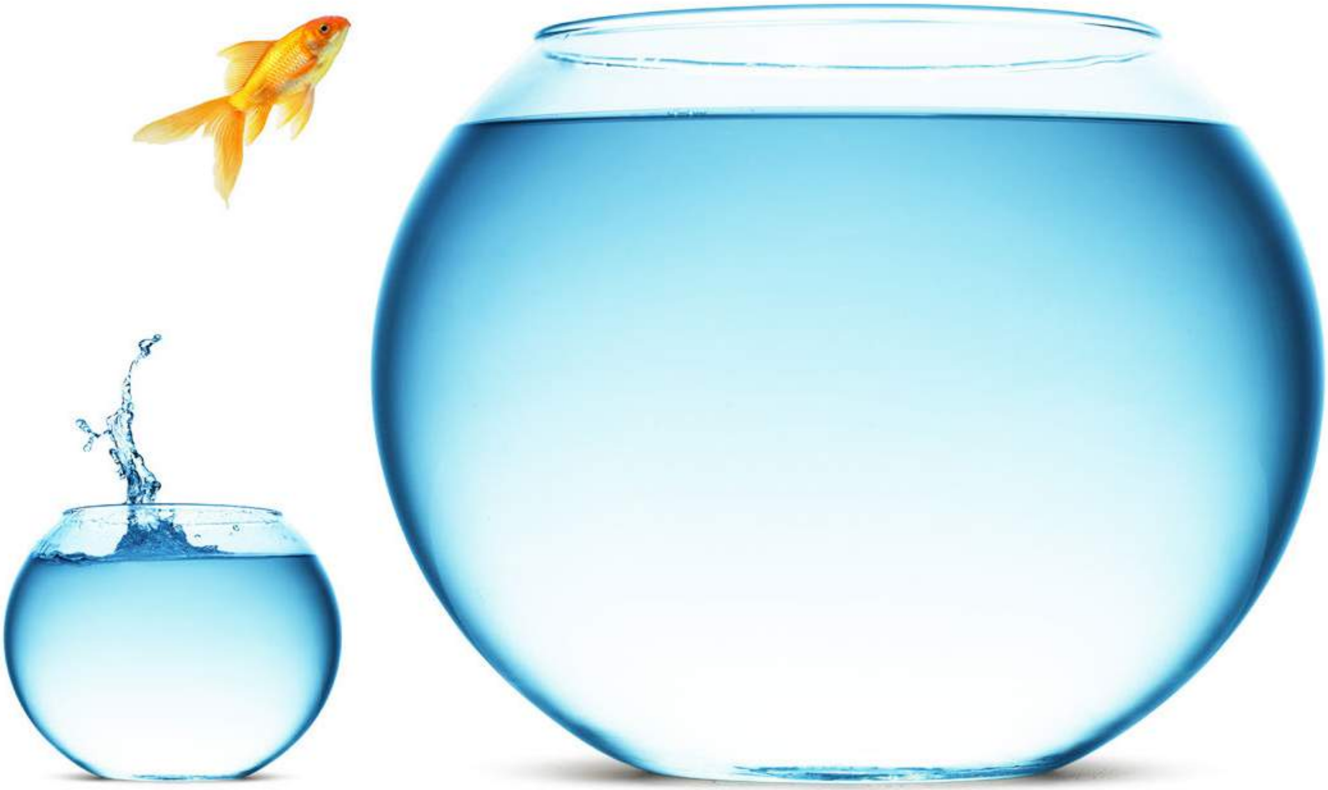
Come see why Montana has the most accessible, innovative and professional captive team around. Visit our website at www.csi.mt.gov or contact Steve Matthews, our captive coordinator, at 406.444.4372.

Monica J. Lindeen

CSI

Montana Commissioner of Securities & Insurance

Office of the Commissioner of Securities & Insurance • Montana State Auditor • 840 Helena Ave. • Helena, MT 59601



Kimberly Bunting
CEO
Ascension Captive

Jason Flaxbeard
Leader of national captive practice
Beecher Carlson

Gary Osborne
President
USA Risk Group

Michael Serricchio
Senior vice president of captive advisory
Marsh USA

Frederick Turner
Founder
Active Captive Management

Mark Dugdale
Editor
Captive Insurance Times

Nothing ventured, nothing gained

As the captive insurance industry grows in the US, so does its wider reputation as the go-to strategic risk-management tool. Why are more and more US companies venturing into the captive arena?

It has been noted that only one third of US captive owners treat their captives as insurance companies for US federal income tax purposes—have you seen this trend?

Gary Osborne: I would note that there are many reasons for forming a captive, and taxes, while always important, are rarely the first reason. Many businesses do not have either enough entities or third party risk to meet the risk distribution tests and are unwilling to enter into pooling arrangements with other parties.

Some of the primary drivers of captive formation include: (i) insurance being expensive or unavailable; (ii) dissatisfaction with the carriers claims process; (iii) internal allocation amongst various sized enterprises; (iv) group purchasing power; (v) need for evidence of insurance; (vi) state regulatory issues; and (vii) tax benefits. Clearly many religious groups, non-profit healthcare and public entities have formed captives where tax was not part of the motivation to form.

The old standard of the 'Three Cs'—cost, control and capacity—are still valid. When you are forming a captive you will firstly address the risk and business issues and then you will look to see if a beneficial tax structuring can be achieved.

Jason Flaxbeard: Captives are being created to allow their parent to control their total cost of risk. Swapping dollars with a carrier does not provide any return on equity to a company. We see captives being used to capture third party business, develop relationships with vendors and clients and to deliver on enterprise risk management (ERM) strategies.

Michael Serricchio: According the Marsh 2014 Captive Benchmarking Report, only 37 percent of US companies with captives actually achieve insurance company federal income tax status, and there are a few ways to look at this trend. Although Marsh manages more than 1240 captives, many of those captives are not 831(b)-sized entities. Therefore, our statistics should be looked at with this limitation in mind, especially relative to federal income tax status of captives generally.

Frederick Turner: While I agree that a captive should only be formed for risk management reasons, I also believe that the tax advantages to a captive foster the risk management benefit. Of course, tax and wealth management benefits should not be the standalone reasons for captive formation. The need for the captive to facilitate better organisational risk management is the key and foundational consideration to the question of whether to form a captive.

Kimberly Bunting: Historically, the trend was to domicile captives offshore and not elect to be taxed as a US corporate taxpayer. The benefits of avoiding US taxation have been viewed as outweighing the risks that the Internal Revenue Service (IRS) would challenge the insurance premium deductions being taken by those companies.

That trend is shifting due to increased scrutiny by the IRS and even IRS undercover investigative efforts to show such companies are illegal tax avoidance or evasion schemes. A business owner considering domiciling a captive insurance company offshore without subjecting the company to US taxation should seek expert advice on the issue before proceeding.

Operational and risk management value seem to be more important to the majority of owners—what is it about the modern captive that allows these to be generated?

Flaxbeard: Companies are looking for capital appropriate vehicles. If an insurer's cost of capital is greater than a captive owner's cost of capital, risk should be retained. When insurance vehicles become a cheaper cost of capital than retention, companies should buy risk transfer policies. In this arbitrage scenario, captives play a major part. They are concertinas that contract and expand based on a number of issues—availability of capital, wording flexibility, access to reinsurance including the Terrorism Risk Insurance Act.

Turner: Operational and risk management value is best generated by and supported through the way the captive can write policy lines. Captives can be very creative and flexible in terms of how they write the risks they cover. Commercial carriers have no such flexibility in their underwriting since their policies often have to be filed and approved by the regulators.

From a commercial underwriting perspective, it can be hard to write the coverage from a standardised perspective, though standardisation of forms is indeed how commercial carriers typically write—it's the way they have to write lines. When you have a standardised, one-size-fits-all policy form, you still need that form to somehow also fit the insurance needs of a diverse population of differing insureds, covering all the various ways risk or loss can manifest itself. But, when you are underwriting say, for a pure captive, all that matters is the risk of the parent, affiliated company or controlled unaffiliated entity (the only types of insureds a pure can have).

Pure captive underwriters need only concern themselves with understanding the risk of insureds that are in the same 'family tree'—they don't need to be mindful of the risk to some larger and unrelated population of insureds that all happen to need the same form of coverage. There is great flexibility then in how the coverage can be tailored to fit the risk when a captive is writing the coverage.

Serricchio: Modern day captives that are being formed tend to be either in the large middle market space, or smaller private company sector. Setting aside small captives, we are seeing a dedicated focus to compliance, discipline, control, and governance. This means that since most Fortune 1000 companies tend to have at least one captive, the growth is in this middle market sector.

Therefore, if we can demonstrate value, keep costs low, with perhaps the ability for a client to enter a protected cell captive (PCC) structure or 'rent-a-captive' to save costs, we make that recommendation. Furthermore, there are far more service providers out there now than there were 20 years ago that focus on market captives from a cost savings and competitive pricing perspective. That all equates to more resources, better service at cheaper rates for captive owners or would-be captive owners.

Osborne: A captive is a licensed and regulated insurance company, it can enter into contracts of insurance and reinsurance, and it can issue certificates of insurance. More often than not, these simple facts are at the core of why captives are a successful risk management tool. The use of a captive usually combined with a rated carrier can mean the companies can manage a more appropriate level of risk but still meet the insurance requirements in their business and government contracts.

In addition, 'dollar trading' with insurance companies is a very inefficient process, so larger companies often use high deductible or self-insurance to retain working layer losses. A captive can be an effective allocation and management tool to monitor, control and allocate these primary losses and access insurance or reinsurance protection for severity losses.

Bunting: A captive provides a unique opportunity for a company and its owners to operate 'on both sides of the fence' as both insured and insurer. This arrangement highlights risk factors embedded in a company's operations and the benefits of developing tools and holding people in the company accountable for failure to minimise such risks. It also provides a direct reward mechanism that is quickly visible to the stakeholders for successful loss reduction and mitigation.

Micro or 831(b) captives buck this trend—how do you see the rise of micro captive, and why?

Osborne: 831(b) captives are not new. What is new is the 'overselling' of the vehicle as a tax planning opportunity. A small captive insurance company still needs to meet all the risk transfer and risk distribution tests and the major trend has been the rise of specialised 'pools' for esoteric risk being written in these new companies. If the captive is set up to address a business risk issue and supplemented by funding for black swan type events then it is probably going to pass muster. If there is $1.1 million of premium with minimal to no losses and 50 percent is ceded to a pool that also has no or minimal losses, I would be concerned if this will meet risk transfer tests.

The boom is because there is a real potential to create entities that make a lot of business sense and are potentially very tax efficient. For companies with unfunded deductibles for high severity, low frequency type covers (such as wind, earthquake and pollution), this can be a very attractive option to prefund in a tax efficient manner for these damaging events. If the claims do not arise then the funds can be taken back or often passed on to the next generation at the capital gains tax level.

Turner: Any captive, no matter the size, evaluates the risks it writes the same as any other insurance company. Captive underwriters evaluate the risk and the risk is appropriately priced, in the form of arms-length premiums. When claims happen, they are evaluated and when covered, they are paid. This process has nothing to do with a tax election. Small captives fit a certain marketplace (ie, small-privately held companies) because they are suited to cover certain levels of risk inherent to this marketplace, such as high frequency/low severity risks.

As long as there continues to be a strong insurance need for these structures, they will continue to flourish. Let's play this out by way of example: all insurance companies are taxed as 'C' corporations under federal income tax law. The Internal Revenue Code 831(b) election allows the captive to exempt premium income if its annual premiums are no more than $1.2 million per year. A client has 12 tax regarded entities each of which owns a building along the gulf coast. None of these entities have coverage for wind damage. The buildings are spread over a wide geographic area. In effect, the client has been self-insuring wind risks for these entities as the total risk.

Each of the entities has significant rental income that is not covered by depreciation. The client then forms a captive that covers first dollar wind coverage for each of these entities and each of the entities gets a tax deduction for these premiums. Let's say the total premiums are $1 million, spread fairly evenly among the entities.

Each year the client can make these premiums payments to the captive. Since the policies run off each year, if there is no wind event the reserves for the policies are eliminated and couple this with an 831(b) election, the captive can steadily increase its capacity unlike a captive that does not make such an election. The client has improved the overall risk management of this economic family.

Serricchio: For many of our clients, a small captive is a stepping-stone, and a simplistic and easy way to test the waters and have the potential to grow the captive in the future. We have formed a few of these 'starter' captives in the last year.

We urge our clients that embark on a small captive to start right from the very beginning with a comprehensive feasibility study, arm's length derived premiums, coverages that are appropriate for the company and industry, require an actuarial study, and adequate and appropriate capital. We turn down many clients that come to our door, because our reputation and their's are on the line.

Where does the pooling approach fit in to US companies' methods, and where do you see these arrangements going in the future?

Bunting: Pooling provides a mechanism for captives to spread and smooth risks and claims costs. It is also making it increasingly possible for the middle market to participate in captives either through group captives with pooling or small captives with pooling which

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

is almost always required to meet the risk distribution requirements for an insurance company set forth by the IRS.

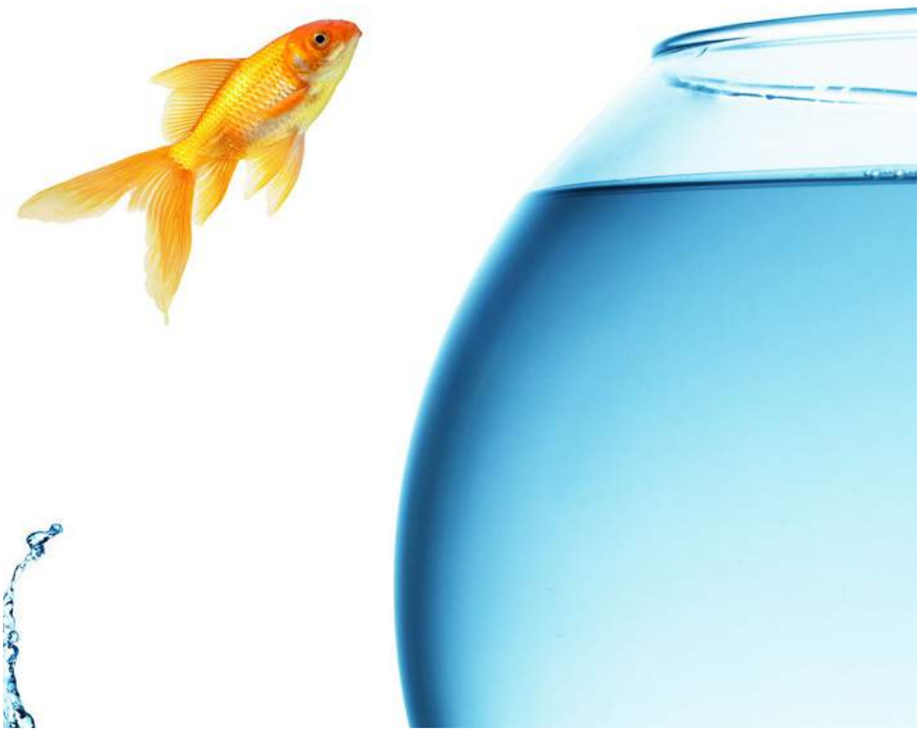
Osborne: Pooling is another example of when everything old becomes new again. It has come to the fore again because of the 'need' to achieve risk distribution for entities that may not be able meet risk distribution tests independently. It is a well-tested concept that should perform as advertised if correctly established to actually share losses and allow for the possibility of losing money. I am not convinced that pools that run for years with zero losses or that advertise stop-loss attachment points below the premium level ceded to the entity will stand up.

I see a more traditional pool model emerging where companies will share more predictable programmes such as self-insured health or warranties. The down side to these types of coverage is that the underwriting profits will be reduced by having losses flow through the captives. It again comes back to why the entity is being formed. If a small captive is being formed to address a risk issue then these types of pooling arrangements to qualify the programme will be more readily accepted. If the 'sale' is to move $1 million of loss-free premium into a captive to lower the taxes, then the current poling will continue to be pushed.

Serricchio: Pooling is a hot topic for discussion in the current captive landscape, both as it relates to small captives and also for traditional captives. Pooling is by definition, third party risk. One way to include third party risk in a captive is through participation in risk pools.

Through a pooling mechanism, participating captives 'share' their loss experience by transferring a portion of their risk in exchange for assuming a percentage share of the risks of other treaty participants. By accepting other participants' risks, captives can diversify their underwriting portfolio by writing third party premium. Pooling may result in a reduction in the variability of expected losses for individual members as each member will be writing a smaller portion of a large pool of losses.

The reduction in loss variability produced by the pool is designed to stabilise cash expenditures on losses assumed by participants. Pooling also provides a source of third party risk, which may assist with US federal income tax treatment. To contrast this, the captive also assumes other participants' risk, which it does not control or have risk management oversight over. We found that the most common lines of coverage found in these pools are workers' compensation, general liability, and auto liability. Marsh's Green Island Reinsurance Treaty (GIRT) is an example of this. With GIRT, participating captives' premium volume has grown over the last 16 years from $59 million of premium in 1997 to $631 million of premium in 2013.



With the growth of pooling over the years and because of the increasing number of small captives, there are also numerous small captive pools that in some cases may allow for proper risk shifting and risk distribution. These small pools typically are not for very predictable primary casualty losses. Rather, they are catastrophic coverage pools, with lines such as excess liability, product liability, product recall, environmental, cyber liability, supply chain, and terrorism, among others. We expect significant growth in small captive pools in the next several years, but as a caveat, owners must examine the pools, review formation and participation documents, audits, actuarial studies and make a determination that risk transfer results from the pool and that the pool actually experiences losses, there may be issues related to tax matters down the road.

Turner: In Active Captive Management's experience, captives with a pooling component are only ever created to facilitate risk distribution. Granted, there are tax concepts underneath the notion of proper risk distribution, but pooling does not in and of itself create any tax advantage. Risk distribution is all about ensuring against the possibility that any single claim will cause catastrophic loss to a captive and exceed the captive's premium/reserves. This isn't a tax concept, it's an insurance concept. Marsh's GIRT is an example of a pooling structure that has been in operation for 17 years. There is a continuing longevity to the need for pooling. I believe that this pooling structure is used by large pooling clients of Marsh, which shows that pooling arrangements are used by both large and small captives in the US.

Real estate investment trusts' use of captives to access the Federal Home Loan Bank system has attracted much attention of late—what is your position on this? Should the regulator be concerned?

Bunting: This is a relatively new development that will no doubt attract regulatory attention due to the funding opportunities and risks. Captives for real estate investment trusts (REITs) make sense to cover the risks associated with their business operations, but it remains to be seen whether regulatory entanglements will permit funding opportunities to continue to be available through a captive mechanism. From a regulatory standpoint, one of the risks is that a captive has more flexibility for customised coverage, which could create risk if high-risk coverages are provided and funding available based upon such coverages.

Osborne: I don't see any issue with captives being used in this fashion if the Federal Home Loan Bank (FHLB) does their job and ensures

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

that the entities involved meet their requirements and will help to support the objectives of FHLB. I think the attention is being driven by the same regulators that think all captives are 'shadow' insurance and a general anti-captive attitude from several large states that don't want to understand their legitimate use as business and risk tools.

There are many strings to the modern captive's bow—what other innovations do they have in store for US owners?

Turner: The most innovative thing about a captive is always how it writes its policies. The policies are the past, present, and future of captives—the centre of any captive's universe. As the commercial market cycles through hard and soft markets in around how the US economy is performing, a captive will of course change how it is writing policies to fill in the gaps created by any commercial market coverage or cycle. Captive innovation follows commercial market cycles and captives take their lead from watching that market.

But there is great freedom on the back end of watching how the commercial market is trending—where captives can innovatively write coverage for trending risk that it is impossible or cost prohibitive for a captive's commercial brethren to write in any particular market cycle.

Bunting: Small captives are emerging as one of the most powerful risk management tools available to the middle market. This market will continue to grow, especially as more legitimate insurance and risk management captive managers begin to enter the market and educate the middle-market business owner. This is already occurring and should help to remove the negative impression for this tool as a tax ploy and not a true risk-management opportunity.

Our company is one of the new breed that are working in this market to elevate the reputation and bring risk management to the forefront as the primary reason for setting up and operating a small captive. There are many legitimate arrangements that can be made with a successful small captive to augment and complement the middle market company that it insures.

Osborne: I think the proliferation of domiciles is going to create more direct writing opportunities for companies to issue polices in their home states and reduce frictional costs, such as state premium taxes and carriers' frictional loads.

Structural innovations such as the series limited liability company are making captive utilisation more accessible for smaller organisations for which captive ownership may not have been financially viable in the past. I also expect the use of captives in the benefits space to continue apace but not necessarily as much health insurance as some anticipate. The short tail nature of that cover means that self-insuring is already efficient and the captive benefit is more nuanced.

Flaxbeard: Captives will be used to access capital markets and securitising balance sheet risk of the parent. These deals will allow for efficient access to capital to assist with corporate enterprise risk management strategies and allow companies to thing outside the traditional market when renewing their business.

Serrichio: The top risk being looked at and asked about at the moment is cyber. The Marsh Cyber Risk Group released the Cyber IDEAL Model, which provides a facility to assess a firm's exposure to the risk, and captive owners may make use of the tool when exploring the feasibility of covering cyber.

Writing cyber through a captive is still relatively rare. In Marsh's Captive Benchmarking Report, only 17 out of 1148 captives reported writing the risk. However, that number will most definitely grow as more and more brokers are talking with more clients of all sizes, since cyber risk affects all companies, all networks, all computing and phone devices, banks, data banks, private identifiable electronic data, and the entire connected world. **CIT**

Captive Design and Management Solutions

CAPTIVE FEASIBILITY ANALYSIS AND IMPLEMENTATION • FULL-SERVICE CAPTIVE MANAGERS

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

Elements of a successful pooling arrangement

Captives of all shapes and sizes should take notice of pooling arrangements

MARK DUGDALE REPORTS

Pooling arrangements, such as Marsh's Green Island Reinsurance Treaty (GIRT), have been around for some time, and interest in them is increasing among captives and their parents.

Marsh's annual captive benchmarking report, The Evolution of Captives: 50 Years Later, found that third party risks were insured in 18 percent of the 664 captives analysed. In the US, the number of captives writing third party risks has been increasing.

Mark Dugdale sat down with Donna Weber, senior vice president, captive solutions at Marsh, to find out more. Nick Parillo, vice president of global insurance at Dutch retail group Ahold, whose Vermont-domiciled captive The MollyAnna Company is a member of GIRT, also provided insight.

Mark Dugdale: What are the benefits of risk pooling?

Donna Weber: Risk pooling arrangements, such as GIRT, provide multiple benefits to participants, relating to both economic and tax issues.

Through participation in a pooling arrangement, captives share their loss experience by transferring a portion of their risk in exchange for a percentage share of the risks of other pool members. This allows members to diversify their underwriting portfolios by assuming third party premiums. Pooling should also reduce expected loss variability, because each captive writes a smaller portion of a large pool of losses. This reduction in variability should create a more stable portfolio, which in turn serves to stabilise captive cash flow.

Further, risk pooling arrangements, such as GIRT, can help captive owners to meet certain risk-distribution requirements, which, in turn, enable them to meet certain US Internal Revenue Service (IRS) safe harbours, allowing a captive to be considered as an insurance company for tax purposes.

Dugdale: In practice, does participation in a pooling arrangement bring multiple benefits?

Nick Parillo: GIRT provides the flexibility to effectively and substantially increase the captive's capacity to underwrite highly desirable third party business and a highly diversified portfolio of well managed risks to the captive.

Dugdale: What should a captive consider before joining an arrangement?

Parillo: They should look for participants with a strong and successful commitment/philosophy to loss control, safety and claim management best practices.

Dugdale: What are the potential risks of participating in a risk pool?

Weber: As with any underwriting or insurance decision, captives considering entering into a pooling arrangement should bear in mind the potential risks that may affect their outcome. Members have no control over the underlying loss control and claims management of other member captives, yet they assume their losses. Prospective members should be comfortable that all counterparties' profiles have been reviewed and vetted to ensure the mitigation of both underwriting and credit risks. A well structured pooling arrangement, such as GIRT, will address such risks and mitigate them to the extent possible.

Prospective members should seek out pooling facilities that offer:

- A proven, long-term track record;
- The facility must be large enough to provide sufficient level of risk diversification and unrelated premium;
- Structure that supports more stable loss results.
- Structure that mitigates credit risk;
- Clear governance based on contractual guidelines and transparency in the pooling structure; and
- Clearly established exit provisions.

Parillo: The management of the facility must not only demonstrate superior management skills and a proven track record of success but must also assemble a strong team of actuarial, legal, and accounting expertise to address the diversified operational and business needs of its participants.

Participants must also be willing to engage in discussions involving best practices and display an ongoing dedication to protocols and processes that contribute to the overall reduction in the cost of risk.

Dugdale: How does GIRT work?

Weber: The calculation of a participant's share of treaty losses is performed by dividing each company's individual premium by the full treaty premium. An independent actuarial firm used by GIRT calculates each participant's premiums prospectively based on the unique loss and exposure data of that individual participant, so that premiums reflect the individual's expected losses.

Using the same, consistent review method for all participants means that subjectivities are kept out of the rating process. Changes in loss experience are answered through the actuarial rating process that takes place each policy period.

Pooling arrangements can be comprised of different lines of coverage. Clearly, those pooling arrangements with relatively high frequency, lower severity risks should have more stable results than facilities offering low frequency, catastrophic lines. For example, GIRT reinsures the first $200,000 per occurrence of US casualty, specifically workers' compensation and Federal Employers Liability Act (FELA), as well as general and auto liability. The treaty, which has 21 captive members, now writes $670 million in premium, up from $59 million in 1997 when GIRT launched with seven founding members.

Generally the more members and premium pooled, the more diversified and stable the underwriting results of the pool will be. GIRT includes a diverse group of companies representing more than seven industries with geographically dispersed risks. While Marsh manages GIRT as a contractual reinsurance agreement between its participants, each participant (regardless of size) has a vote in deciding the overall direction of the program. New members are carefully considered and to be accepted, they must garner a 75 percent or greater approval from member participants.

The interactive nature of GIRT participation allows the structure to address the unique situations encountered by its members.

Dugdale: What are some of the recent trends in risk pooling?

Weber: There would appear to be an increasing number of captives being formed that elect to be taxed under Internal Revenue Code (IRC) §831(b) (which allows the captive to write up to $1.2 million per year in premiums without paying income tax on underwriting profits). Many of these captives participate in smaller pooling facilities.

These smaller pooling facilities more typically target higher-severity, lower-frequency risks instead of more predictable long-tail lines. Coverages often exchanged in these facilities include excess liability, product liability, environmental, cyber liability, supply chain, terrorism, etc.

The IRS has apparently taken an interest in some of these arrangements. In December 2013, it made known that it was not willing to rule on certain pooling arrangements involving what appear to be a group of IRC §831(b) captives. Further, in 2014, an IRS representative indicated that taxpayers should not rely on certain favourable private letter rulings issued in 2012 in connection with certain pools in which IRC §831(b) companies had participated.

The IRS has not been specific in connection with its concerns relating to these various situations, but it would appear that these concerns relate to the adequacy of the risk distribution and the nature of the risks assumed by the electing companies and exchanged in the smaller pools.

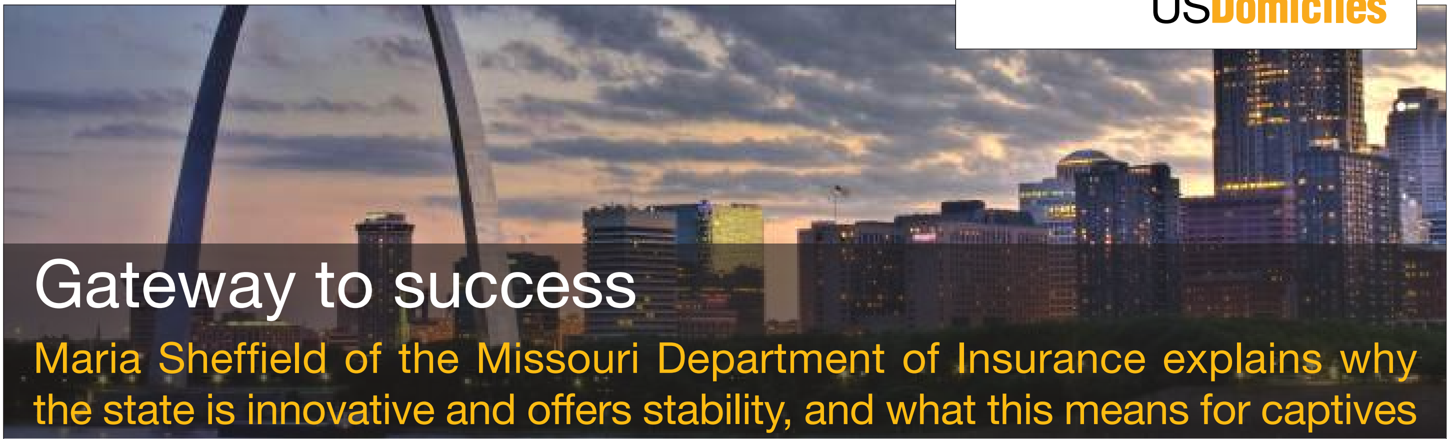
Dugdale: What do you see as the future of pooling arrangements?

Weber: We see continued growth in the popularity of well-structured pooling arrangements for captives of all sizes given the inherent benefits of risk diversification and underwriting stabilisation.

Before utilisation of a pooling arrangement, it's crucial that captive owners perform due diligence to ensure that the pooling facility under consideration is truly providing the insurance risk transfer and diversification elements promised, makes sense from an overall economic standpoint, and is operationally transparent. CIT

> "Risk pooling arrangements, such as GIRT, provide multiple benefits to participants. They diversify their underwriting portfolios, by assuming third party premiums, and reduce expected loss variability. They also help captive owners to meet risk-distribution requirements, which, in turn, enable them to meet certain IRS safe harbours"

Donna Weber, senior vice president, captive solutions, Marsh



Gateway to success

Maria Sheffield of the Missouri Department of Insurance explains why the state is innovative and offers stability, and what this means for captives

The Gateway Arch is a 630-foot-high monument in the State of Missouri. Clad in stainless steel and built in the form of a flattened catenary arch, it is the tallest man-made monument in the US, Missouri's tallest accessible building, and the world's tallest arch. This famous Missouri symbol is a great representation of Missouri's captive insurance programme—stable, innovative and reaching new heights.

Missouri's captive insurance programme offers real opportunities for business success to companies interested in maximising efficiency and controlling expenses. Located in the heartland of America, bordered by eight states and with 20 states close enough to be called neighbours, Missouri is conveniently located. In fact 40 percent of the largest publically traded companies are located within a 500 mile radius of Missouri, and nearly half of the manufacturing plants in our country and more than 50 percent of the US population are both within a 600 mile radius.

A competitive economy helps spur company innovation. Missouri continues to remain in the Pollina Corporate Real Estate's top 10 pro-business states and has the third most diversified economy in the US with a GDP exceeding $258 billion. Further, Missouri ranks in the top 10 states for regulatory environment (Forbes, 2013). Given these advantages, more business owners are seeking the peace of mind that comes from locating their captive in an established, business-friendly mid-west domicile.

Missouri is a leader in the alternative risk transfer market, dedicated to a regulatory environment where businesses can grow and prosper. Captive laws in Missouri are similar to most active domiciles and were enacted to benefit the state and those companies that would prefer to keep their captive closer to their base of operations. Missouri captives currently include Fortune 500 companies as well as small-business owners writing compensation deductibles, property and casualty lines, professional and general liability, life reinsurance, and much more.

Stability

Steady growth and sustainability are the keys to a successful captive programme. In Missouri, the focus is on the overall health of the state's captive industry rather than the number of captives licensed each year. As a result, Missouri has a diverse mix of captives seeking licensure.

The goal of Missouri's captive insurance programme is to be the domicile of choice for businesses large and small, a goal the state is well on its way to achieving. During the past 12 months, 13 captives have been licensed, increasing total licences issued to 41. This is an all-time high since the inception of the programme in 2007, and interest continues to grow. Missouri's law, coupled with its experience in working with companies that use a variety of different methods to manage risk, benefits captives of all shapes and sizes. Missouri captives are subsidiaries of some very noteworthy industry leaders and generate billions of dollars of premium volume and write anywhere from one to 20 lines of coverage.

Missouri captives are formed to mitigate exposure to a wide range of risks. Practically every risk underwritten by a commercial insurer can be provided by a Missouri captive. The majority of the state's captives provide mainstream property/casualty insurance coverage such as general liability, product liability, workers' compensation deductible, director and officer liability, errors and omissions liability, auto liability and professional liability. Some of our captives also provide specialised coverage for unusual or hard-to-insure risks.

The captive programme in Missouri is structured in such a way to strictly avoid focusing on, or favouring, any specific type of captive structure or lines of business. Every captive applicant is reviewed on the merits of its application. This ensures a strong environment capable of being tailored to a company's specific needs. Further, the Missouri captive programme is designed to be a pro-business platform that includes a simplified and efficient application review process with review costs stated up front.

Missouri is strategically focused on creating a sound and solid captive regulatory environment that serves as an asset to companies doing business in Missouri. You will find that the captive programme is both responsible and responsive to the needs of the business community and the captive industry. In Missouri, the focus is not on the number of captives, but rather the quality of the captives doing business in the state. The state's laws are competitive with other captive domiciles, however, it is not the law that makes Missouri a top domicile, but the way in which the law is administered by an experienced team that is both knowledgeable and accessible. The goal is to provide prudent and balanced regulatory oversight of each Missouri licensed captive for the most favourable long-term effect on the captive industry.

Innovation

As the popularity of captives grows, so have the complexities of the transactions. It remains incumbent upon Missouri to continue to evolve its captive programme to keep pace with the ever-changing risks, something the state demonstrates in its commitment to offer a highly competitive captive programme.

In 2013, the Missouri Captive Insurance Association (MOCIA) led a successful effort to amend the captive law to add sponsored captive insurance companies with incorporated cells and reduce minimum capital and surplus requirements for association captives. These new laws took effect on 28 August 2013 and seamlessly worked into the licensing and regulatory process.

One of the unique features of Missouri's captive law is the credit allowed each year, which reduces premium taxes by the full amount of renewal fees. In essence, small captives that write less than $2 million per year in premium would only pay a fee and not be subject to additional premium taxes. Large captives also benefit from a reduction in the premium tax and cap of $200,000 on taxes and fees. This feature is a hybrid between pure fee states and tax-and-fee states, and it makes Missouri an attractive domicile to captives of all sizes.

Additionally, the actuarial review fee paid to the Missouri Department of Insurance's consulting firm cannot exceed the maximum stated cost, no matter how complex. Exams are conducted efficiently and via experienced in-house examiners, minimising cost and time. Missouri is a fee-based state, so the fees paid by captives pay for their regulation, and all fees collected remain in the Missouri Department of Insurance to ensure that adequate staff provides responsive and effective regulation.

Missouri continues significant outreach to the captive community and the state is always interested in hearing proposals and ideas as it works with those in the captive industry to develop new solutions. Missouri also continues to focus on solvency modernisation initiatives important to both the captive insurance industry and the insurance industry at large

The regulatory knowledge and experience of Missouri's captive staff and the state's commitment to a strong and sustainable captive programme provide the state with the ability to grow and prosper as a domicile. Missouri insurance regulators are among the best in the country, with a reputation of being professional, flexible and fair.

The Missouri Department of Insurance has a solid programme to license quality captives with sound business plans and good corporate governance, and, as a result, Missouri is now a thriving midium-sized domicile based on the number of captives that it regulates.

Missouri committed to maintaining high standards in the captive community nationwide. The reputation of Missouri and the state's service providers is exemplary and keeps Missouri on the competitive edge of the global captive insurance stage.

Gateway to success

This is an exciting time in the captive insurance industry, and Missouri welcomes the opportunity to work with both current and prospective captive owners, service providers and industry leaders as it grows the captive industry within its state. The state encourages readers to consider attending two upcoming events this year: the MOCIA's Captive Insurance Forum in St Louis on 17 and 18 September, and the Director's Regulatory Summit on 15 October, also in St Louis. Missouri will also host the Western Region Captive Insurance Conference in May 2015.

The department has offices in St Louis, Kansas City and Jefferson City, and uses those offices to ease the burden for out-of-state travelers. Department staff will meet you in the location most convenient for you.

These cities also have the benefit of offering easy access to some of the state's best amenities, as well as a multitude of insurance and captive insurance experts. The captive service providers necessary to operate captive insurance companies in Missouri are also readily available.

Missouri recognises that choosing the right captive insurance domicile is important for the on-going success of a captive insurance company and is confident its efficient and effective programme will continue to make Missouri a domicile of choice. The state's full-time team, dedicated solely to the captive industry, is ready to assist you with all of your captive insurance needs. Missouri appreciates the opportunities for economic development within the captive industry and dedicates the resources necessary to support its success. CIT

Maria Sheffield
Captive programme manager
Missouri Department of Insurance

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

Strategic risk management: an opportunity to link and leverage your captive

John Thomson, Fenhua Liu and Christopher Gallo of the Connecticut Insurance Department's captive division reveal why captives are more than just an alternative to the commercial insurance market

For decades, captive insurance entities have been used as risk bearing entities, but the motivation for their formation and utilisation has evolved. What was once an alternative to the commercial insurance market has now evolved into strategic financial vehicles applied in many different settings, such as manufacturing, healthcare systems and life and health insurance companies.

Once formed to address commercial insurance market gaps or failures, captives now facilitate corporate financial and operational strategies. We have arrived at a new and enhanced place where the captive insurance company provides a significant part of the risk financing needs for its owner(s), and is an integral part of their strategic risk management programs and activities.

The financial capital of the captive entity should be effectively managed through prudent management, maintaining appropriate assets to back contractual commitments, balanced investment strategies, redeployment of assets for increased risk assumption, potential reinvestment in the owner/parent or related entities, or the return of accumulated cash in the form of dividends to owners. The captive vehicle has arrived as not only an effective and efficient capital vehicle for its owners, but also as a strategic vehicle.

We see this as both a linkage and leverage opportunity. Companies with a defined and understood business strategy always outperform others. Linking the captive's operational and financial management to a defined business strategy of its corporate ownership creates alignment and significantly increases the value (or leverage) that the captive entity will deliver to its owners. This alignment is a fundamental aspect of strategic risk management, leading to the key question: how does the captive, or alternative risk management programme, support the owner companies' or members' broader business strategies, including revenue growth, expense reduction, cost containment and market opportunities?

Our work at the captive division of the Connecticut Insurance Department has revealed several examples of this linkage and leverage. This in turn has enlightened our understanding and improved our responsiveness to captive owners and service providers in Connecticut.

Operational risk management: patient safety and quality of care

Embedding the strategic risk management process throughout the enterprise and using it as the basis for informing and directing decisions is illustrated by the following example:

A healthcare system learned this lesson the hard way. A patient, suffering from stomach pain, was taken to a healthcare system's emergency department, where he received X-rays of the chest and stomach areas. Upon review, the attending doctor observed no stomach abnormalities, and after a few hours of observation and dissipating pain, the patient was discharged. Fast-forward two years and this same patient dies of lung cancer. The healthcare system is successfully sued because it was proven that the patient's X-ray, from two years prior, clearly revealed a lung mass.

This demonstrates how risk management, when limited in scope, may not fully address and support operational or strategic risk management initiatives. In this example, there was a missed opportunity for early diagnosis of a patient's adverse medical condition.

Alternatively, when entrenched throughout the enterprise, operational risk management facilitates its business strategies. This enhanced operational scenario could be described as follows:

The healthcare system now embeds operational and strategic risk management processes throughout the enterprise. The use of the strategic risk management process as a basis for informing and directing decisions now calls for the attending physician to review the entire X-ray, and all other aspects of the patient's health. If this comprehensive review of the patient indicates any abnormalities, such a lung mass, it now automatically generates letters recommending follow-ups to the patient's physician and to the patient's home address. Extending risk management, along with corresponding accountability, to the organisation's furthermost tentacles should mitigate losses, thereby improving its profitability and capitalisation.

An optimal approach to embed the operational and strategic risk management process throughout an organisation such as a healthcare system is the formation/utilisation of a captive insurer as a facilitator or 'transformer'. A captive insurance entity can create a specialised and focused risk entity that can provide functional capabilities that strategically support the organisation as it navigates a rapidly changing operating environment such as healthcare reform. Functional capabilities could include:

- Development and implementation of risk best practices;
- Conducting continuing education and simulation of best clinical practices;
- Development and implementation of risk mitigation strategies; and
- Establishment of a multidisciplinary claim committee to support incident reporting and claim management.

The above components should provide enhanced operational outcomes and efficiencies. They could lead to improved onsite risk assessment, risk mitigation and loss control corrective actions, which in turn, lead to improved contribution margins, ultimately strengthening the balance sheet and increasing capitalisation.

Enterprise risk management: embedding risk/reward and cost/benefit analysis

Strategic risk management decisions should follow an integrated model that embraces cost/benefit and risk/reward analysis and assessment. A contemporary example of the adverse outcomes associated with ignoring this process can be observed in General Motors's ignition switch cost cutting decision, which led to the following:

Cost savings or cost avoidance decision:
The cost of each replacement switch for the 2.6 million cars was 57 cents. This would translate into an estimated cost benefit of approximately $1.5 million.

Adverse impact of a sub-optimal business decision:

- GM said 13 people died in crashes related to ignition switch problems in small cars.
- Thirty-two wrongful death and injury lawsuits are pending against GM as of 23 July 2014. The suits allege faulty ignition switches caused wrecks or air bag failures.
- GM now estimates the cost of compensating victims of crashes caused by faulty small-car ignition switches at $400 million. GM said there's no cap on the fund, and it could rise to $600 million.
- GM also estimates that it will spend $3.48 billion on recalls, loaner cars and additional warranty coverage in North America.

In this case, the cost savings decision led to personal tragedy for some customers and ultimately, unanticipated financial consequences for the enterprise. Successful companies can expand the cost/benefit or risk/reward system to all of their operations by establishing sound financial metrics for strategically managing their solvency, financial ratings and earnings. Comprehensive corporate governance and strategic risk management programmes can lessen the probability of adverse losses, the corresponding capital strains and reputational risk.

As with most risk bearing entities, the formation and utilisation of a captive in facilitating strategic risk management could prove beneficial. Rather than commercially or self-insuring such risks, a dedicated captive can facilitate the performance of both cost/benefit and risk/ reward analyses. The captive can also establish risk tolerance levels that are clearly understood and articulated throughout the enterprise, consistent with its goals, resources and board of directors' expectations. Using a captive, for the purpose of elevating the enterprises' strategic risk management, can lead to enhanced financial sustainability.

Human capital management: retiree medical benefits funding

According to benefit advisor Towers Watson & Co, Fortune 1000 companies reported $285 billion in retiree medical plan liabilities at the end of 2013. Many of those companies do not fund those obligations as prefunding for post retirement medical benefits is not mandatory.

These obligations stem from employer promises made to employees—both union and non-union employees over time. Companies that now have accrued significant, underfunded liabilities may experience adverse financial impacts as their employees retire.

On 18 May 2014, an Internal Revenue Service ruling stated that an employer's wholly owned captive insurance subsidiary could reinsure the employer's retiree medical benefit risks and may be entitled to favourable tax treatment.

Prefunding retiree medical benefit risks in the captive arrangement may provide a number of potential advantages for the employer.

These include a reduction of the volatility of the captive's financial results, reducing the enterprise's long-term benefit costs, potential savings on insurance premiums for the employer, and better alignment of employee benefit risks with the employer's overall strategic risk management strategies. In addition, the captive funding may have certain taxation advantages.

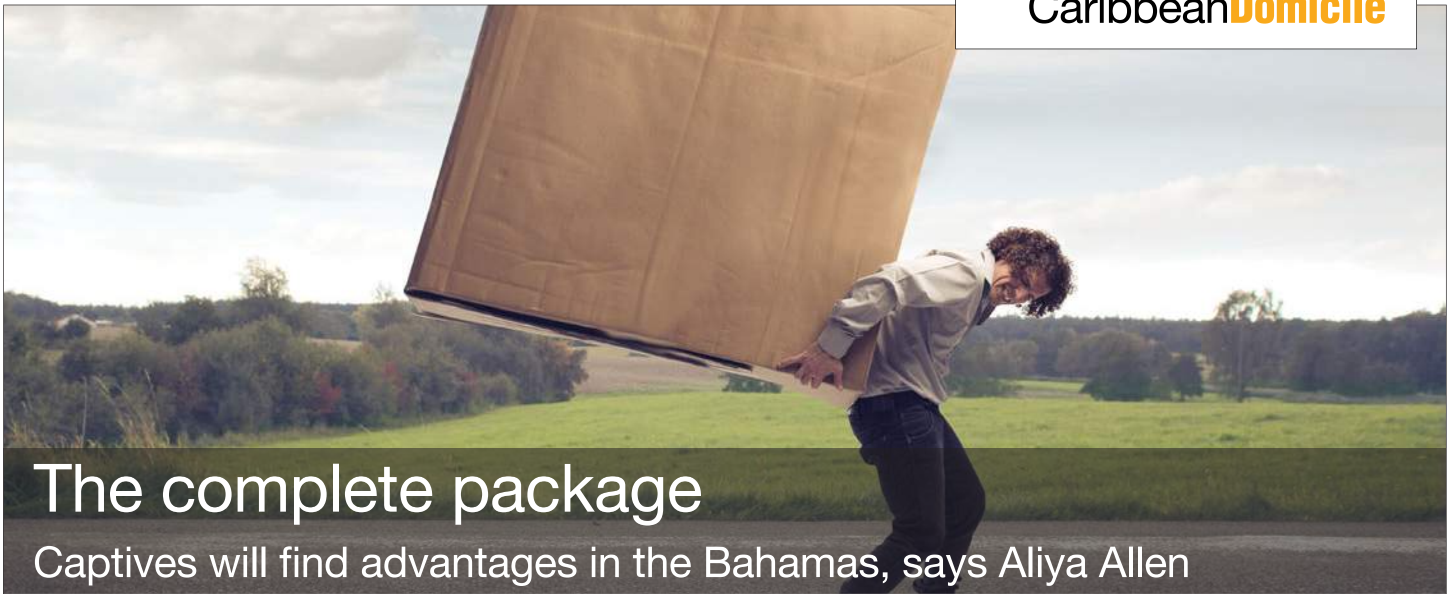
Control your destiny

The value of a captive insurance company extends beyond its original intent or design. The captive owners should measure the value of the captive by how well it meets or supports the operation goals and strategic objectives of its owners. Obviously in this situation, the ultimate return on the captive's capital and its contributions corporate success will greatly exceed the traditional financial measures.

The organisation that manages its various forms of capital controls its destiny.

Captives are a powerful tool for enterprises of all sizes and orientations, to shape the future of their owners. Captives not only help manage costs, but can also optimise operating returns and improve decision making processes. Even more importantly, captives are a vehicle for leading transformational change.

Properly managed, there is no better set of eyes watching out for you, your employees and your bottom line than those of your own captive insurer. CIT



The complete package

Captives will find advantages in the Bahamas, says Aliya Allen

With a wealth management pedigree unmatched in the region, the Bahamas is strategically nurturing captive insurance as an important addition to its growing and impressive array of financial services. The Bahamas, which marked 40 years of independence in 2013, offers a number of advantages as a jurisdiction of choice to captive insurance companies, including:

- More than 280 years of political and economic stability;
- An established and sophisticated financial services industry infrastructure;
- A commitment to grow captive business by both the public and private sectors, based on close consultation that ensures regulatory flexibility and a business friendly environment;
- Strong asset protection provisions;
- A favourable immigration and work permit policy regime;
- Luxury lifestyle for those looking to relocate or for a second home locations; and
- A tax-neutral environment for business.

With an internationally lauded regulatory and legal framework, an exacting yet supportive regulator, and a world-class talent pool of professional service providers, including auditors, bankers and lawyers, the Bahamas is a jurisdiction that is second-to-none when it comes to captives.

Given today's unpredictable insurance market, historically low interest rates and increased regulations, it is not surprising that captives are coming into their own as an attractive risk financing option. Fortunately, starting and operating a captive in the Bahamas has never been more straightforward.

Refocused efforts by the Bahamas on captives is seeing industry growth that can be attributed to a confluence of factors, including:

- More small and medium enterprises in the US looking to manage the cost of premiums;
- The ability of many of those companies to utilise election 831(b) of the Internal Revenue Code, which allows up to $1.2 million to be funded into a captive, tax-free;
- A more business friendly and proactive regulator in the Insurance Commission of the Bahamas (ICB);
- Sustained commitment by the government and private sector to develop the domicile;
- Just 30 minutes off the coast of Florida, US preclearance and idyllic surroundings for board meetings, the Bahamas is an ideal location for an offshore captive; and
- A competitive pricing structure for the cost of formation and ongoing regulation, which encourages growth.

The statistics speak for themselves. Since 2011, following the enactment of the External Insurance Act 2009, and the External Insurance Regulations 2010, which govern the establishment, licensing and business operations of captive insurance companies, the Bahamas experienced a 60 percent growth in the number of captive cells and standalone captives in both 2012 and 2013.

Captive advantages

When the Bahamas became a destination for capital investment, it was based on the needs of winter residents of colder northern climates. Since that time, the depth and expertise of the country's financial services has created an industry that is no longer just a destination for capital but a place for real and substantive businesses. Indeed, it became a location from which one can invest and manage ones businesses all around the world.

The captive insurance market is a case in point. A dedicated effort has been made to ensure that the legislative and regulatory environment awaiting new arrivals is proactive and recognises the real business needs of entities.

Minimum capital requirements that are competitive with other jurisdictions are in place. While potential licensees are encouraged to work through an insurance manager that is familiar with the Bahamas, this is not mandatory. At the same time, the ICB carries out due diligence on risk managers and directors of the companies interested in coming here to ascertain that policyholders have adequate protection. From the Bahamas's perspective, its effective regulatory regime is very much a competitive advantage.

The captive environment in the Bahamas is supported by a highly experienced and diversified asset and wealth management industry. The jurisdiction has developed a reputation as a leader in these areas, which has enabled it to facilitate synergies with the insurance market.

There are any number of jurisdictions that have similar positive attributes, but few of them will have all of the combined advantages of the Bahamas as a long-established international financial services centre.

Segregated accounts (cell) legislation is a prime example of the jurisdiction applying its wealth management experience to the captive market. The Bahamas's cell legislation provides robust statutory protection to ensure that the assets and liabilities of each account are truly separate and distinct. Cell captives benefit from the natural economies of scale created within such structures, and the regulatory regime in the Bahamas is a clear response to the demand for cost effective means of entering into the captive markets.

Business advantages

The country's mature financial services industry, established infrastructure, progressive government, tax neutral environment, political and economic stability, progressive regulations, work permit and immigration policy, and luxury lifestyle have all been carefully cultivated to create advantages for doing business in the Bahamas.

Location

Location is an asset that weighs heavily in the Bahamas's favour as a hub for insurance business. Located just off the coast of Florida, the country, comprised of 700 islands, cays and islets in the Atlantic Ocean, is accessible from almost every city in the US and Canada. There is also direct flight access into Latin America, as well as across the Atlantic towards European destinations.

Professional services

Corporate registry and legal and accounting services are at the core of the multitude of services available in the Bahamas. All of the top global accounting firms have significant operations in the Bahamas and there is also a wide range of mid-size and boutique firms.

Like the Bahamas Institute of Chartered Accountants, the Bahamas Bar Association has seen its membership expand. In the case of the bar association, its membership has expanded to approximately 1000 members who work in a wide range of law firms based in New Providence and other parts of the Bahamas.

Major banking institutions

With more than 260 banks and trust companies located in the Bahamas, many of the world's largest and most prestigious financial institutions have branches or subsidiary operations in the jurisdiction, taking advantage of its stable political and economic system. Likewise, the role of niche banking and trust operations to grow new business areas such as international insurance is recognised and encouraged.

Highly developed workforce

With personnel committed to the local community, continuity of service is more predictable and secure in the Bahamas, and is the basis of its many longstanding institutional and client relationships.

A work permit policy that is cognisant of the needs of financial institutions and their clients has been the mainstay of the jurisdiction. This policy is refined through a collaborative approach between the public and private sectors.

Capacity

The jurisdiction has a high capacity to meet the needs of institutions through the existing financial institutions and professional service firms, and availability of qualified professionals and infrastructure. Office premises and land remain available. Fibre optic and last mile infrastructure provide for competitive delivery of telephone and data communications.

The Bahamas's location, just 50 miles off of the coast of Florida, also makes it ideally situated for access to North America. With international airports throughout the country, served by international airlines and more than 60 flights into the capital city each day, there is easy access to the US, Europe and other parts of the world.

Lifestyle

The Bahamas's tropical environment offers lifestyle benefits that more and more individuals are finding attractive as they increasingly choose to 'follow their money' and acquire second homes, or relocate permanently in the country. Residential development has been simplified by expediting the processing of applications for the development of second homes, townhouses, condos and resort development.

As a result, second home and condominium development is noticeable throughout all areas of the country, especially the Lyford Cay and Cable Beach areas in Nassau, Paradise Island, Grand Bahama, the Abacos, Eleuthera and Exuma. It has also become easier for non-Bahamian investors and homeowners to obtain residency permits.

Captive insurance requirements

Principal features of the external insurance regulatory requirements are:

- Captives must be registered as external insurers under the act—registration is renewable annually;
- Company name subject to approval of the ICB;
- Minimum of two directors;
- Captives must appoint an insurance manager;
- Annual audit of all captives to be submitted to the ICB;
- Actuarial valuation of life insurers at least every three years;
- Every insurer must appoint and appoint a resident representative in the Bahamas. This person must be able to represent the insurer; and
- Financial statements must be submitted to the ICB four months after the fiscal year end.

Capital, solvency and fees

A restricted external insurers' licence (single parent captive) may be issued where that company has capital as approved by the ICB.

The ICB applies the minimums applicable to unrestricted insurers: (i) insurers carrying on long-term insurance business—US $200,000; (ii) insurers carrying on general insurance business—US $100,000; and (iii) insurers carrying on both long-term and general insurance—$300,000.

There may be additional regulatory capital requirements depending on the business plan submitted. Insurers must maintain a positive net worth (assets in excess of liabilities). General insurers are required to maintain a net worth based on net premium income (see Figures 1 and 2).

Net premium income	Minimum net worth
Up to US $5 million	20 percent of net premium income
More than US $5 million	US $1 million plus 10 percent of net premium in excess of US $10 million in the preceding year

Figure 1

Application fee (non-refundable): US $100

Annual registration fee (including registrar general department fees):

Restricted insurer (captive): US $2500	External insurance manager: US $1000
Unrestricted insurer: US $3500	External insurance broker: US $1000

Figure 2

Application

Applicants should allow approximately 30 days for a restricted (captive) licence or 60 days for an unrestricted licence after a complete application package (including business plan and projections) has been received by the ICB. For complete details of application requirements, visit www.icb.gov.bs. CIT

Aliya Allen
CEO and executive director
The Bahamas Financial Services Board

The opportunity of regulatory innovations

The MFSA will continue to be proactive in further developing the financial sector, while keeping in mind its duty to do so in a prudent and sustainable way, says Angele Grech

We are living in a world where change has become the norm. Consumer needs change, financial products are developed and financial markets continuously evolve and innovate. As financial markets adjust, so too must the regulatory systems which oversee them. Regulation must interface with innovation in a mutual and dynamic relationship in order to enhance the positive regulatory effects on innovation.

This is reflective of the approach of the Malta Financial Services Authority (MFSA), which has been progressively developing as a single financial services regulator since before Malta joined the EU in 2004 and adopted the euro as a currency in 2008.

Malta's regulatory framework is known internationally to be both robust and adaptable, allowing promoters to innovate and develop new products in a stable, proactive and transparent environment. The regulatory regime is built on an internationally recognised secure and stable regulatory framework for prudential supervision, consumer protection and market surveillance.

Malta's business environment is characterised by a product-driven jurisdiction, access to decision makers and a recognised ability to adapt to change. All of this is underpinned by a focus on good governance, good risk management and good business practice.

The financial services sector, which represents more than one tenth of Malta's economy, includes more than 50 banking and payment institutions, a well-established insurance market and a thriving asset management and investment servicing industry.

The capital market infrastructure has also recently been expanded by the addition of a new specialised market for debt securities—the European Wholesale Securities Market (EWSM)—set up as a joint venture between the Irish and Matla Stock Exchanges. Activity in these core areas and in other business sectors such as trust management and pensions has resulted in a convergence in products and distribution systems that is fuelling further synergies and potential for growth.

The insurance market, which in Malta has been regulated since 1981, is no exception. The market has evolved from eight domestically-oriented insurance providers at the time of Malta's accession to the EU to a complement of more than 60 international life and non-life insurers and reinsurers as well as an expanding captive market over the last 10 years. The sector has an asset base of more than €10 billion and an annual premium income of close to €3 billion.

Malta's insurance regulatory framework transposes EU directives and is based on two enabling pieces of legislation—the Insurance Business Act (Chapter 403 of the laws of Malta) and the Insurance Intermediaries Act (Chapter 487 of the laws of Malta), which are separate but complimentary pieces of legislation establishing the legal and prudential framework for the regulation of insurance business and insurance intermediaries activities in Malta.

The two laws are reinforced by regulations and rules that strengthen the regulatory and supervisory process.

The framework benefits from related financial services legislation and is further supported by standards and principles established by international organisations.

In the development of its insurance sector, Malta has been dynamic and proactive in being sensitive to market needs in new landscapes through sound and innovative regulation.

As regulators, we appreciate and value the importance of communication and dialogue with stakeholders and this has consistently underpinned our approach in adapting new regulation to keep pace with market developments. Throughout, we have sought to balance innovation with sound institutional development through sustainable regulation. The process is ongoing.

Over the years we have always strived to open up new areas of business while restructuring and updating traditional ones. The legislative framework specifically tailored for captives, whose legal term is affiliated insurance companies, is one such example.

Captive insurance business is regulated under a set of tailor-made rules that take into consideration the current state of the market and possible future developments. The framework carves out and exempts captives from certain requirements under the Insurance Business Act, including reduced timeframes for the application process and reduced regulatory fees.

The establishment of a regulatory regime for protected cell companies (PCCs) is another milestone in the development of Malta's insurance sector. Indeed, Malta is the only full EU member state to offer PCC legislation. The PCC model can be adopted and is currently used by insurance and reinsurance companies including captives, insurance brokers and insurance managers.

Currently, there are 16 PCCs established in Malta, with more than 20 protected cells being created over recent years.

Key features of PCCs include the segregation of cellular assets and liabilities from core and other cells, lower capital requirements for cells as they share capital with the core since the minimum guarantee fund applies to the PCC as a whole and secondary recourse to core capital by cell creditors in case of insolvency of the cell.

The core and its cells constitute a single legal entity and the cells do not have separate legal personality but constitute distinct and segregated patrimonies, which are ring-fenced from each other.

Through enabling different owners with varying interests to participate in one insurance company through the establishment of cells, the PCC structure is regarded as a risk management tool that provides businesses with a cost-effective alternative to setting up a standalone insurance company.

The PCC model is a classic case of innovative regulation that provides further opportunity for insurers, even more so under the three pillars of Solvency II once this is implemented.

Incorporated cell companies (ICCs) build on the cellular model but unlike cells in PCCs, cells of ICCs have their own legal identity. Accordingly, each incorporated cell set up within an ICC is individually incorporated and assets and liabilities are attributed either to the cell company itself, or to a particular separate cell of the cell company.

This provides the flexibility of incorporated cells being allowed to enter into binding agreements with one another and with the ICC, thereby facilitating the possibility of financial guarantees or reinsurance arrangements between cells as well as between the cells and the ICC, where the core may act as the reinsurer to the fronting cell.

The current challenging economic environment, together with the need to maximise return on capital, has recently triggered a specific market need for an innovative product in a sound regulatory environment to enable the efficient management of risk. Against this background, consultations held with various industry stakeholders, including a number of international experts in the field, led the MFSA to initiate an exercise aimed at evaluating the possibility of introducing appropriate provisions within the legal and regulatory infrastructure.

The outcome of all this was a framework for the establishment and regulation of reinsurance special purpose vehicles (RSPVs) based on the interaction between Malta's highly developed insurance legislation, the specific provisions of the Securitisation Act and EU regulatory standards. RSPVs, which are a form of insurance securitisation, add to the realm of opportunities that insurers and reinsurers have at their disposal to obtain access to capital resources, in a broader sense than their own shareholders' funds.

The RSPV Regulations are aligned to the European Insurance and Occupational Pensions Authority's draft Solvency II advice on level II implementing measures.

The RSPV Regulations continue to complement and expand Malta's regulatory framework.

Furthermore, the MFSA is also considering the use of PCCs as securitisation vehicles and is currently working on drafting legislation to cater for such structures. Malta's regulatory framework incorporates re-domiciliation legislation applicable to all types of companies including securitisation vehicles under the Continuance of Companies Regulations and offers a legal framework for domestic and cross-border securitisations under the Securitisation Act (Chapter 484 of the laws of Malta).

Furthermore, Malta offers the possibility for the listing of wholesale securities issued by the RSPV.

A new regulated market, the EWSM, jointly owned by the Irish Stock Exchange and the Malta Stock Exchange, for wholesale fixed income securities was set up, registered and domiciled in Malta in 2012.

The EWSM is approved as an EU regulated market under the Markets in Financial Instruments Directive and is a "Recognised Stock Exchange" within the meaning of the UK Income Tax Act 2007.

The regulatory requirements are available in the Guidelines for Listing and Trading on the EWSM website at www.ewsm.eu.

Regulation is complex, multifaceted and dynamic. Financial markets today are characterised by rapid innovation and an evolving business environment, together with changes in customer needs and profiles. Implementing change in this environment is challenging and the process is ongoing.

Going forward, we will continue to be proactive in further developing the financial sector bearing in mind our duty to continue to ensure that this is done in a prudent and sustainable way.

We will continue to find an appropriate balance between preserving safety and soundness of the system and allowing financial institutions and markets the flexibility to perform their intended functions through fostering sustainable business growth. This is the opportunity of regulatory innovation. CIT

Angele Grech
Director
MFSA authorisation unit

The insurance domicile of your choice

Island Insurance Brokers was formed in April 1989 to provide professional, efficient and cost effective insurance broking and risk management services to Malta's industrial and commercial community

Over the last decade Malta has developed a financial services legal infrastructure, extending into insurance and reinsurance activities, including captive companies, which has placed it among Europe's foremost players in this sector.

Malta possesses a competitive tax regime supported by a broad network of double taxation treaties and it remains a comparatively low cost jurisdiction; in addition to other factors such as its strategic location, a high calibre human resources pool and an excellent IT and communications infrastructure. Besides these attractions, other factors improve the island's competitiveness, inlcuding the fact that 95 percent of the population is English speaking; legislation including insurance law is based on the English legal system; the local regulator is accessible (firm but flexible); and global audit and advisory firms are present on the island.

However, the most striking element that has made the island an 'attraction' to multinational operators and household names in the insurance and insurance management industry is undoubtedly the advantages that the country has been able to reap from being small, namely flexibility, accessibility, responsiveness and being customer focused. At Island Insurance Management (IIM), we witness the interplay of such advantages primarily during a company's feasibility, pre-licensing and licensing process and as well throughout an entity's ongoing operation.

As insurance managers, we place tremendous value on the relationship we build with our captive clients. We believe that, by basing a relationship on trust, we can give our clients the best service possible. We believe that this is the only way we can provide the support in the successful management and operation of the captive company, whether it's day-to-day activities, strategic management decisions or regulatory requirements.

IIM was formed in 2007 as a subsidiary of a larger local insurance and financial services group, with the intention of participating in Malta's development as a domicile of choice within a respected financial services jurisdiction for captive insurance operations.

The group was established in 1989 as an insurance broking operation to handle commercial and industrial clients. The directors and officers of IIM possess more than 30 years of industry experience and use this to guide their clients through the captive formation process, from feasibility studies to licensing and operation. In view of the diverse experience held, IIM as an insurance manager, can support the typical insurance company functions that a captive requires.

Such functions include underwriting, premium and rate determination, premium invoicing, policy development and issuance, claims handling, cash and investment management, company secretary services, financial reporting and all the regulatory reporting including communication.

As insurance managers, we are committed to:

- Developing and maintaining a high quality book of business using skilled, qualified and professional staff;
- Understanding the client's needs and problems to offer solutions;
- Creating and maintaining a team spirit within our own organisation and good communication with our clients and markets;
- Offering creative and imaginative solutions to keep pace with the rapidly changing world;
- Maintain our independence from insurance suppliers in order to act in our clients' best interests;
- Negotiate and act on behalf of the client fairly, promptly and efficiently; and
- Be pragmatic and create the drive within our own skilled personnel to provide a superior service all round.

Our insurance management services practice areas comprise of:

Consulting services

Our consulting services are a key part of insurance management offering wherein we provide planning stage feasibility consulting and post incorporation consultancy to support our clients. Such services include:

- Pre-feasibility assessment;
- Cost benefit analysis;
- Development of pro-forma financial statements;
- Business plan development; and
- Identification and selection of service providers.

Licensing and company registration

- Preparation of licence application to the authorities;
- Preparation of memorandum and articles

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

of association;

- Incorporation of the captive;
- Provision of a registered office; and
- Appointment of auditors, bankers and legal advisors.

Corporate services

- Appoint IIM representatives to serve as company secretary, directors and officers when required;
- Preparation of management reports;
- Submission of regulatory information to the local regulatory authorities;
- Compliance with the laws of Malta;
- Provision of secretarial support including all matters related to preparation for board meetings;
- Coordination of board meetings and provision of facilities; and
- Coordinate the provision of other services required in the conduct of business such as auditors, legal and tax advisors and investment managers.

Accounting and finance

- Maintenance of prime books of accounts;
- Preparation of periodic management accounts;
- Liaison with clients' auditors for preparation of annual financial statements;
- All books of accounts and presentation statements in line with International Financial Reporting Standards;
- Prepare and make arrangements for the filing of premium tax returns where necessary; and
- If empowered to, maintain bank accounts, handle cash receipts and disbursements, and perform such other cash handling functions as may be required by the client,

Insurance

- Maintenance of underwriting and claims records;
- Arrangement and service of reinsurance programmes;
- Preparation and review of policy documentation;
- Issuance of policies and/or certificates of insurance; and
- Liaison with insurance brokers.

Regulatory compliance

- Make available our close relations with the insurance regulator at the service of the client;
- Prepare and file all reports and returns required under local insurance law;
- Prepare and maintain any other documentation required for compliance purposes;
- Represent the client during regulatory visits by the Insurance regulator and/or any other;
- Applicable regulatory authorities; and
- Respond to all inquiries and correspondence from regulatory authorities after prompt notification to the client.

Our clients are entities that may benefit from captive insurance services such as multinationals with worldwide operations, particularly those with EU locations; companies paying significant employers' liability and motor third party premiums; companies susceptible to product and general liability; companies already using captives to provide insurance to their customer base, eg, travel, warranty, credit protection; and existing insurance companies hoping to exploit the possibility offered by the Malta domicile for the setting up of their own reinsurance function.

IIM is committed to be an independent provider of insurance management services, so we are free of any restrictive ties to larger corporate interests.

We are large enough to meet and service our clients' needs, however, our smaller size makes us more flexible and dynamic.

We are quick to respond to the needs and circumstances of our clients. We can confidently say that the smaller size of IIM holds very similar advantages that make the island an attractive domicile.

For more information, please contact us via email: info@islandins.com or visit our website: www.islandins.com

Gibraltar embraced captive insurance in the 1980's and in 2001 became the first EU jurisdiction to offer Protected Cell Company (PCC) legislation – widely used within insurance company structures writing both general and life insurance business.

In 2012, captive insurers achieved total gross premium income of nearly £800m. Three are PCCs managing over 30 cell companiwes. One insurance manager has created 50 cells with its PCC being the largest in the EU providing solutions for cell captives and fronting cells.

Gibraltar's vibrant insurance sector has almost 60 insurance companies currently writing new business and in 2012 wrote over £3.8bn of gross premium income – with Gibraltar motor insurers accounting for 16% of the UK market.

Gibraltar offers bespoke insurance solutions for companies not currently domiciled with the European Union.

For more information visit the Gibraltar Finance website::
gibraltarfinance.gi

GIBRALTAR FINANCE
HM Government of Gibraltar

Within the European Union Single Market

Choosing carefully: who is right for you?

An effective relationship with your custodian is critical to the operations of your captive, says Xina Stewart of Comerica Bank

Selecting an entity to act as custodian, trustee or letter of credit issuer is often left as the last step when setting up a captive insurance company. After months of feasibility studies, negotiations with captive managers, fronting companies, actuaries and investment managers, you are finally ready to fund your captive and start writing policies, but there is no custody account to fund.

While it may be tempting to make a quick selection, finding the right custodian can significantly affect ease of operation and profitability and should not be made without proper due diligence. The following has been compiled to help you become familiar with key details that may help you save precious time, money, and energy.

What is a custodian?

A custodian is a financial institution that performs the following tasks:

- Holds securities in safekeeping utilising an appropriate location—most often the Federal Reserve System, the Depository Trust Company, Euroclear, or its own vault;
- Receives and sends (as directed) transfers of cash and deliveries of securities;
- Interfaces with investment managers;
- Accepts instructions for security purchases and sales;
- Processes capital actions such as bond calls, puts, conversions, stock splits and spinoffs;
- Accomplishes delivery versus payment settlement of security transactions;
- Collects income payable on securities;
- Ensures all uninvested cash is swept into a short-term investment vehicle at least daily;
- Handles principal pay downs on asset-backed securities;
- Collects and sweeps redemption proceeds, pending further direction; and
- Provides a periodic statement of transactions and assets as of period-end.

Most custodians also have established electronic links with reconcilement services and regulatory reporting services. Such links facilitate the creation of quarterly Schedule D reports (also known as the Yellow Book) required by the National Association of Insurance Commissioners (NAIC) and most state insurance regulatory departments. Without such an electronic interface, creation of the report requires manual data entry (I'm assuming a captive with a US parent or beneficial owners and the use of a bank as custodian—in some circumstances, a stock brokerage firm may fill this role).

Custody accounts versus trust accounts

Custody accounts and trust accounts utilise all of the services noted above. In a trust account, the bank takes on an additional level of fiduciary responsibility. This is usually in the form of a trustee for a reinsurance trust where the trustee is the gatekeeper on behalf of the beneficiary limiting the grantor's access to the account. Only US banks may act as trustee for a New York State (NYS) Regulation 114 trust.

Impact of FATCA

Much has been written about this new regulatory hurdle, the Foreign Account Tax Compliance Act (FATCA), and the industry in general is in learning mode. In summary, if a captive holds US securities of any kind, regardless of which custodian is used, new W-8 forms are required. Many other countries have passed similar regulations and have reciprocal agreements with the US.

Depositories

The Federal Reserve Bank and the Depository Trust Company are the largest US depositories. The Depository Trust Company was formed in the late 1960s in an effort to streamline settlement and reduce the number of failing trades. It has worked very well, reducing the standard settlement time from T+5 to T+3. There are continuing efforts to reduce the time even further.

The Depository Trust Company holds master certificates of the securities traded on US exchanges in its vault. US banks and stock brokerage firms are either direct participants or access the system through a correspondent relationship with a clearing firm.

Either way, as trades settle, the Depository Trust Company debits and credits the appropriate participant accounts for shares and dollars. No certificates move.

Shares and cash are allocated electronically with each participant responsible for one net cash settlement with the Depository Trust Company each day. The US Federal Reserve system works in much the same way.

Armed with some knowledge of the role and responsibilities of a custodian, the next step is to compare and evaluate custodians to make the best choice for your captive insurance programme.

What should go into your choice of custodian?

Onshore versus offshore

When selecting a custodian, you may first want to determine where the custodian is based, onshore or offshore. Offshore captives usually use offshore banks or offshore branches of US banks. Keep in mind that no matter where the custodian is based or how many layers there are, US assets are held in the US on the books of US depositories. Time zones are also an important consideration.

Experience and commitment

You may want to consider a bank's experience in working with captives as well as their commitment to the captive industry. It can be a long and costly exercise to establish reinsurance trusts if the bank's attorney is learning about NYS Insurance Regulation 114 by reviewing your agreement.

A bank with a staff dedicated to working with captive insurance accounts will speak your language and understand why accounts are established the way they are. Find out if the bank's staff attends captive conferences for the opportunity to learn and better service captive accounts.

Reporting needs

Insurance companies have particular reporting needs. Before you can determine if a custodian is able to meet your reporting requirements, you need to understand what those requirements are. Here are some things to consider:

- Is a monthly bank statement sufficient or is daily monitoring required? How soon after month end is a statement needed?
- Will you have a segregated cell or separate portfolio arrangement? Does the bank understand the need to maintain separate accounts or provide "plan accounting" so that assets, earnings and claims may be allocated and reported on a cell by cell basis?
- Do you want online access for the captive manager and investment manager?
- Will you require amortisation/accretion reporting? Impairment reporting?
- If your captive uses more than one investment manager, will you need the bank's reporting system able to pull all of the accounts together in one consolidated statement, or will the captive manager aggregate the numbers?

Target market relative to your size

A bank/custodian's target market has a definite correlation to service and products, and therefore, it is important to know where you fit with a potential provider's client base. For example, a bank with a minimum account size of $50 million or more will likely not provide a captive in that range with special attention.

The captive service providers may have to contact a call centre when there are questions or problems, rather than have access to a specific team with captive expertise. In this case, you may want to consider selecting a bank with a middle-market target market, where a $50 million account is worthy of an experienced account officer who knows your name.

On the other end of the spectrum, a smaller bank with limited technology capabilities may not be the best custody provider for a large, complex programme with extensive reporting needs.

Investment management

Custody has become a low priced commodity, and investment management is very profitable. Be sure that you know the custody providers' stance on third party investment managers. Will the bank provide the services your programme needs and also accept a third party investment manager? Or does the bank insist on being hired as investment manager before other services such as letters of credit are provided?

This arrangement may be beneficial as long as the investment management results are satisfactory. When they are not, the search for a custodian may begin anew.

Global custody

If there is any chance of the captive investing in foreign securities, it is vital that the custodian have access to global settlement. This can be done via a proprietary in-house network of foreign banks or through a contracted global custodian.

Expect to pay additional fees for this service. Be sure you understand the custodian's reporting capabilities. Not all have multi-currency accounting systems and may therefore do all reporting in its local currency.

Fees

Once the field of custody providers is somewhat narrowed, it is time to evaluate fees. Banks are usually paid on a market value-based fee schedule, which may also include transaction fees and an overall minimum. Their fees are in addition to those paid to other service providers.

It is worth the time to run the numbers comparing fee schedules, as they vary widely and directly affect the profitability of the programme, especially if transaction fees apply. Pay attention to minimums, what is included in the base fees and what is considered to be additional services for additional fees. That being said, the least costly is not always the best value.

Selecting a custodian

An effective relationship with your custodian is critical to the operations of your captive. The field of custody banks has consolidated in the recent past and banks continue to exit the captive space.

This adds to the challenge of finding the right custodian for your programme. Custodians come in many shapes and sizes, and you want to find one which works for your programme, now and as it grows. CIT

Xina Stewart
Vice president
Comerica Bank

Rent-A-Center: the good, the bad and the ugly

Tom Stokes of JLT Insurance Management revisits the Rent-A-Center case and asks what it means for captive insurance companies

In January, the US Tax Court ruled in favour of Rent-A-Center, allowing its captive insurance company subsidiary Legacy Insurance to currently deduct 'premiums' when paid (for tax years 2003 through 2007). The general consensus seems to be that the Internal Revenue Service (IRS) and, in particular, the commissioner of internal revenue, suffered a defeat. This decision should further empower captive owners and those that are considering captives as a risk management tool, particularly as the IRS has encountered a less than stellar record of success in challenging captive structures through the courts.

While we at JLT Insurance Management applaud the ruling that Rent-A-Center's captive was not a sham, as the IRS claimed, we also believe that this was just one more round of many challenges to come for captives.

The good

If we look at the case without taking into account the dissent, it reads like a typical captive's wish list of best possible results:

- The court, once again paying homage to Humana, Moline Properties and other cases, confirmed that a captive could achieve risk shifting and risk distribution in a multiple subsidiary taxpayer setting. Captives can rely on independent actuarial analysis to determine 'arm's-length' premiums.
- Applying a sound, consistent formula for allocating total premium, instead of determining premium by entity, is an acceptable methodology for charging out premiums;
- Bookkeeping entries in lieu of individual cash transfers between entities is sufficient to support transactional status and to demonstrate risk transfer.
- Providing a parental guarantee to maintain minimum capital and surplus requirements of the domicile (Bermuda in this case) does not necessarily neutralise risk transfer.
- Investing premiums and accumulated surplus in lockstep with commercial insurers is not required.

The bad

Although the case offered positive takeaways, Rent-A-Center had technical issues relating to its operation of Legacy. Any of these technicalities could have been fatal to Rent-A-Center's contention:

- For a very short period of time, Legacy violated Bermuda law by writing insurance without the benefit of its certificate of registration. Either the commissioner did not take issue with this or it was considered a minor issue.
- Legacy failed to maintain adequate levels of capital and surplus (2003 to 2005) to meet the minimum requirements of Bermuda law. Bermuda does not normally permit recognition of deferred tax assets (DTAs) in considering surplus adequacy, but accepted them from Rent-A-Center along with a parental guarantee.
- Legacy kept minimal funds, only enough to pay yearly claims. All other funds were used to purchase non-dividend-paying Rent-A-Center treasury stock. Purchases of treasury stock returned cash directly to Rent-A-Center, but experts declared that there was no circular cash flow.

The ugly

In addition to technicalities, the dissenting judges chose to focus more on equating the business of captive insurance with that of commercial insurance companies. These judges lamented and then reluctantly moved on from the failed 'single economic family' theory espoused (and subsequently discarded) by the IRS some years ago. Dissenting judges cited these points:

- In totality, transactions involving Legacy amount to nothing more than an elaborate strategy devised by insurance and tax advisers to circumvent the prohibition on deducting contributions to a self-insured reserve.
- The principles of judicial restraint counsel that courts should decide cases on the narrowest possible ground, yet the technicalities previously noted didn't trip up Rent-A-Center.
- Parental guarantees neutralise risk shifting. Dissenting judges cited Internal Revenue Ruling 2002-90, 2002-2 CB at 985, which states in part that "(t)here are no parental (or other related party) guarantees of any kind made in favour of" the captive. Indeed, multiple courts have all held that the existence of a parental guarantee may negate the existence of insurance within an affiliated group. While the $25 million guarantee allowed Legacy to meet minimum capitalisation and surplus requirements, the guarantee could (and would) be called upon to satisfy shortfalls in surplus if adverse losses developed. That the guarantee was never actually needed is irrelevant.
- While Legacy technically met the solvency rules under the Bermuda Act, when compared with commercial insurers there would be no way that surpluses could absorb the impact of significantly worse than expected loss development.
- Legacy's investment in Rent-A-Center treasury stock was counterintuitive. If Legacy had severe losses, the value of

company treasury stock would have fallen in lockstep. Not only would worsening losses worsen the economic stability of the captive, but the drop in value of its investment portfolio would compound the situation.

Documentation is crucial

The Rent-A-Center case identified the need for a vehicle to help manage enterprise risk in a more efficient way than simply taking what the market had to offer, and took the initiative to engage qualified risk management experts and proper tax counsel.

Nowhere is it written that any business strategy has to be tax inefficient. Rent-A-Center made the right decision to take more active control of its risk management costs.

The extra step Rent-A-Center took by carefully documenting its pre- and post-captive creation by way of a feasibility study provides conclusive (and we believe persuasive) evidence against the IRS contention that the captive was a sham perpetrated simply to accelerate deductions for loss reserves.

Intent matters

The court obviously looked at the overall intent of Rent-A-Center when establishing Legacy and gave specific weight to those facts that supported a positive outcome. We wonder about the possible alternative outcome if Rent-A-Center had not taken the right steps from the start.

Despite technical glitches, it appears that the overall intent of the utilisation of Legacy carried the day.

This, to us, means the IRS may not find playing 'gotcha' with captives for minor filing mistakes very useful, as long as captives can prove intent in written documentation.

Operating your captive by following the rules, making decisions at arm's length and paying attention to details is essential. After the fact, however, the only way to prove intent is by adequate documentation.

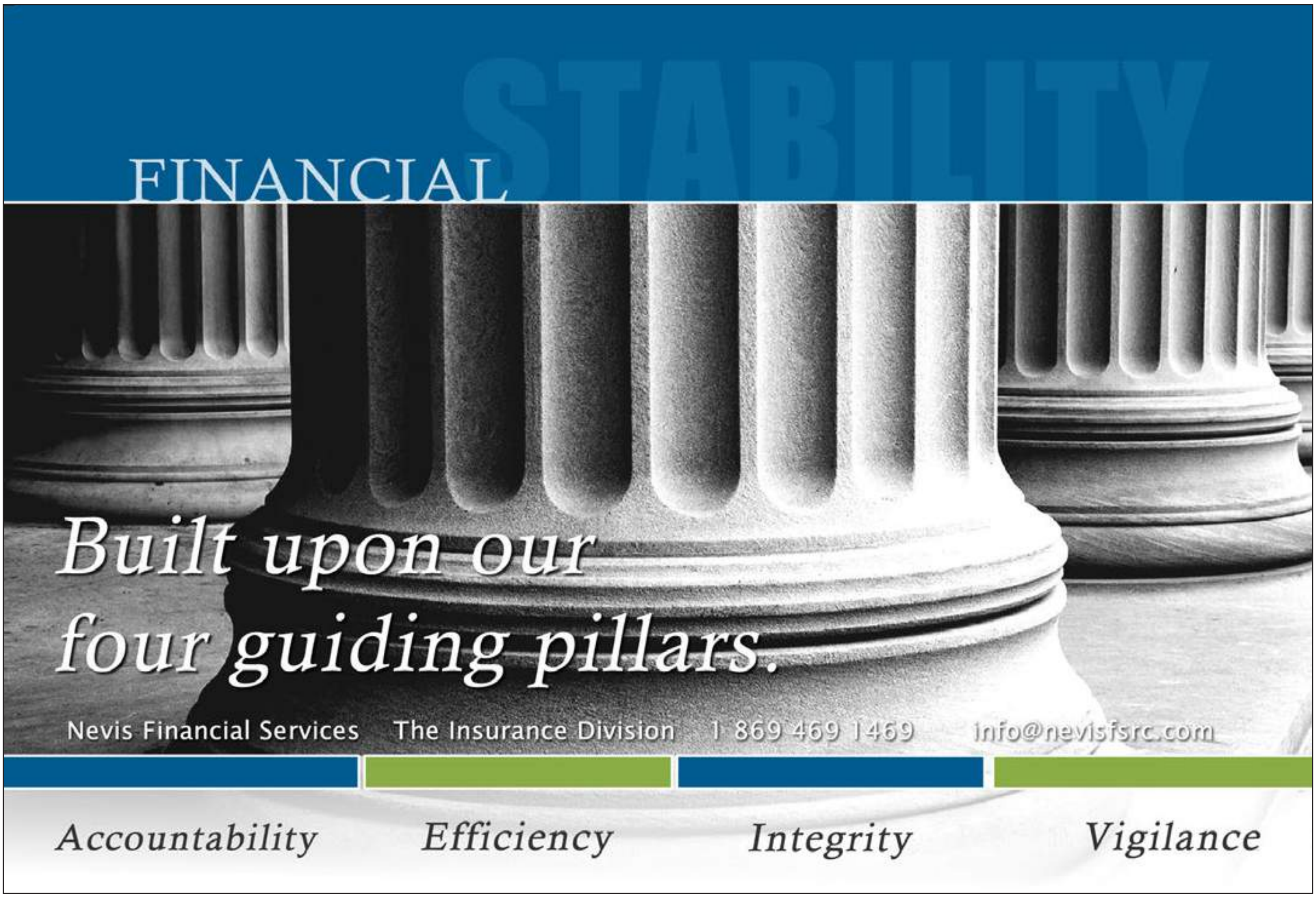
This is often neglected by captive owners, which can be caught short should a situation like this arise. This case illustrates the importance of proper documentation of purpose, structure and procedures in supporting the overall intent of a captive.

A final word

It will be a long time before we have any kind of textbook definition of what constitutes a captive insurance company in the eyes of the IRS. Because captives are flexible, adaptable risk management structures, it will always be difficult to shoehorn them into any set definition. In the meantime, captive owners and those considering captives should do what is right for their businesses.

Use captives to reduce the cost of managing enterprise risk to help stay competitive in an increasingly competitive world. Plan for the good, be prepared for the bad and minimise the ugly. CIT

Tom Stokes
US consulting practice leader
JLT Insurance Management US



Different strokes for different folks

Three non-traditional insurance arrangements are, in principle, the same, yet they operate very differently, says Stuart King of FR Global Advisors

For US-based corporations and organisations, there are numerous options available when considering the purchase of insurance, namely: buy traditional direct from an insurance company, access insurance via an association, join a group or establish ones own insurance company to access international markets.

Ultimately, the strategic drivers of insurance purchase are the same. However, making the decision on which alternative option is not easy.

The modern day US alternative insurance market emanated from the US liability insurance crisis during the mid-1980s. General liability insurance prices increased to an amount where it became uneconomic and began to affect business.

US Congress intervened by developing alternative insurance law. The Liability Risk Retention Act (LRRA) of 1986 is one specific piece of federal law that was drafted. LRRA specifically applies to general liability risk.

Below is a brief summary of alternative options available to US insurance buyers and differences in regulation, tax, governance and operations.

US alternative arrangements

Risk purchasing groups

There are approximately 900 risk risk purchasing groups (RPGs) in the US, the vast majority of which are registered in Illinois or Delaware. They are typically established as a not-for-profit, non-stock entity. Once registered in one US state, an RPG is free to offer insurance to its members across all states when registered in the state—an application largely standardised by the National Association of Insurance Commissioners (NAIC). Most states require an annual renewal update.

An RPG is typically established by an agent who establishes the RPG and pre-arranges a panel of insurance carriers to provide group discounted liability insurances to corporates or charitable organisations with common activities (one of the pre-requisites of the LRRA).

The relationship between the policyholder and the insurer is no different to purchasing insurance direct, ie, issuance of certificates and management of claims. The main benefit is a bulk discount on premiums plus a better understanding by the insurer of the specific RPG's industry underwriting profile.

Risk retention groups

There are approximately 250 risk retention groups (RRGs) with reported gross premiums of around $2.5 billion. Vermont is the most popular domicile to establish these entities, and the largest industry users of RRGs are healthcare and professional services.

Unlike an RPG, an RRG retains a portion of insurance risk and reinsures with international markets, often the Lloyd's of London market. An RRG is more likened to a captive from a federal and state regulatory perspective, ie, requirement to submit a business plan, be sufficiently capitalised and make annual financial statistical filings to the authorities. The main difference is that an RRG is only permitted to offer liability insurance and only within the US.

Similar to RPGs, an RRG is only validly formed when its members emanate from the same industry. An RRG is considered a mutual insurance arrangement.

Similar industry participants can be beneficial, as niche insurers understand the complex long-tail nature of the risk to competitively price premium, however, there is often a lack of product and geographical diversification. Evidently resulting in a larger capital charge.

Captive insurance companies

A captive is broadly defined as an insurer that only insures the interests of its group and subsidiaries. There are certain domiciles that allow a nominal percentage of a captives business to be unrelated. This exception is predominately in place for ease to overcome minor technicalities, such as joint venture arrangements or where a divestiture results in third party liability remaining with the captive.

In addition to a large number of captives being set up onshore in the US the LRRA also resulted in many insurance companies (and captives) establishing offshore, where lower capital and ease of doing business was a contributory driver. With continued scrutiny of corporate tax planning arrangements offshore tax benefit is a minor consideration when designing a captive insurance programme.

The main difference between captives, RPGs and RRGs is that a captive is permitted to provide insurance for different insurance classes, not just general liability. Although a captive can be capital intense, it offers greater control.

There is no federal law governing a captive's treatment, unlike RRGs. This can often make it challenging for captive owners to navigate individual state disputes. For RRGs, disputes are often supported by associations, such as the National Risk Retention Association that represents its members (RRGs and RPGs) by acting as an amicus (or friend) to the courts to ensure that legal decisions in a state do not contradict federal law intentions of the LRRA.

Micro captives

In more recent times, there has been a significant rise in the use of 831(b) captives or micro captives. These are self-insurance arrangements that qualify for US tax exemption under an IRS code of 1986—this structure has been around a while, however, as smaller business' demand more efficient ways to fund risk, they are increasing in popularity.

Notwithstanding their challenges to ensure the insurance arrangements are bona fide and pass risk transfer testing (ie, an insured event has to have a chance of occurring) to qualify, 831(b)s often prove efficient to fund short term risks, such as property, particularly in states where natural catastrophe insurance premium is uncompetitive.

Other arrangements

Protected cell companies, incorporated cell companies and segregated account companies are variances of micro captive where an insured is allocated a part ownership in the arrangement. These arrangements are typically used for very niche risks.

For US owners, the amount of collateral and security required and the appetite and cost of capital of the entity sponsor (as the cell owner is not necessarily the owner of the entity) often results in establishing a captive.

Regulatory

State insurance departments generally have a prescribed regulatory approach for each alternative. As a result of the LRRA, RPGs and RRGs are well defined in each state.

However, for captives there are still a number of states that do not have captive regulation and default to general insurer rules.

RPGs first form a legal entity in their domicile of choice. An application (generally following standard NAIC structure) is filed in the home state. Information included in this application includes: the type of liability insurance proposed, the name and NAIC number of the insurance company, a list of the RPG's officers, confirmation of the insurance agent's, and incorporation documents of the RPG.

An application form is then required in each state that the RPG wishes to provide insurance. The majority of states require the RPG to make an annual renewal filing so that the insurance department is informed of RPGs operating in their state.

RRGs differ from RPGs in both complexity and regulatory requirements as an RRG assumes risk. Many that form RRGs appoint an external manager to support initial registration and ongoing quarterly financial and regulatory reporting.

In addition to similar registration information required for RPGs, an RRG is also required to submit a plan of operation or feasibility study, the nature and amount of capitalisation and audited financial information on the RRG's participants.

Unlike RPGs, an RRGs financial position is audited and insurance provisions certified by an actuary. An RRG is required to register in each state it will operate in and make annual renewal filings (similar to RPGs).

In the majority of cases, captives appoint an approved management firm in the home state unless self-managed. It is often more cost effective to appoint a captive manager as it has the infrastructure and qualified staff to ensure continued compliance, unlike RRGs, which often maintain a staff that not only manage insurances but also support administration services to the members of the RRG. State insurance department reporting requirements for captives is similar to that of RRGs.

Premium tax

There are significant variances in the treatment of state premium taxes. In general, an RPG's premium tax liability is the responsibility of the insurer (typically surplus lines). There are instances where the agent or the RPG is jointly responsible to the state.

The Dodd-Frank Act included the Non-Admitted and Reinsurance Reform Act (NRRA) of 2010. This act improved the reporting and settlement process for surplus lines broker premium tax obligations (applicable to RPGs). The home state is determined and one tax filing made, however, the methodology for the home state to reallocate the portion of taxes due to other states is currently being agreed upon.

RRGs are authorised insurers under the LRRA and therefore pay premium taxes directly to the state based on premiums collected. This was an important clarification and exclusion in the NRRA.

The intention of the NRRA as it applies to captive insurers has caused differing views. There is generally an inconsistency in the treatment of premium tax.

Some believe that the NRRA was not meant to apply to captives, so one would assume that a captive should remit taxes in each state that the risk is located, whereas others consider that the NRRA does apply, in which case only one filing to the home state is required, similar to surplus lines brokers.

I suspect, either way, many states will welcome improved tax collection methodologies. After all, premium taxes contribute to local disaster recovery funds.

Corporate taxes

There is often a conflict between federal and state, and corporate, insurance and tax law for alternative insurance arrangements. Numerous clarifications have been sought over the years to harmonise this position, and over time over time, it has become a little clearer.

The LRRA clearly outlines the treatment of RPGs and RRGs. For RPGs, state business tax is less clear. Most RPGs are formed as non-profit, non-stock entities, which, by default, would indicate exemption from federal and state income tax requirements. However, looking further in to the underlying activities of the RPG, the vast majority may not necessarily fall within the exempt activities as defined in IRS code 501(c)(3).

This raises an interesting anomaly that may require RPGs to apply for a business ID and file income taxes in each state that they operate. It is clearer for RRGs that retain risk, as they fall within the definition of insurance and therefore file federal tax returns and are exempt from state tax requirements.

> “RRGs are authorised insurers under the LRRA and therefore pay premium taxes directly to the state based on premiums collected. This was an important clarification and exclusion in the NRRA”

RRGs differ slightly to captive insurers that have challenges with passing IRS risk shifting/distribution tests to have premiums paid to a captive deductible as an expense. For RRGs, the position is simpler as members of an RRG (albeit part owners of the entity) share their risk with others therefore achieve tax deductibility.

Many captive owners consolidate the captive tax return with its parent, which allows the offsetting of any captive losses against group income.

Governance

There is real advantage to deploying a governance and management framework in any organisation. The framework should optimise the achievement of the strategy and protect the organisation from the adverse happenings. These principles apply to RPGs, RRGs and captives.

Governance rules imposed by state regulators can often alienate those to whom the rules apply. I believe that adopting a robust framework creates value for stakeholders by improving business operations.

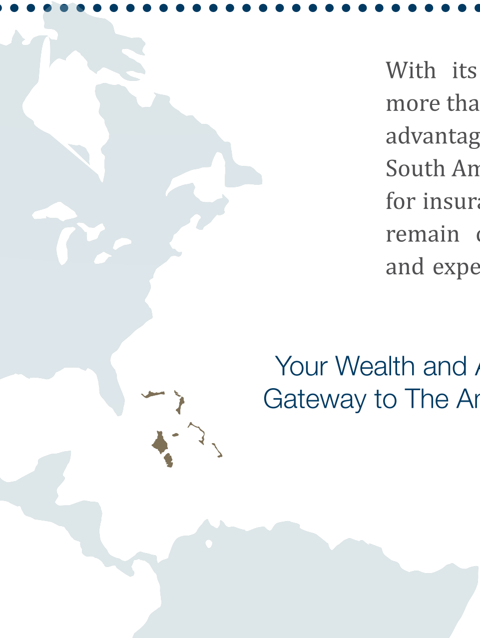
By default, it is also likely to cover the requirements of many state regulators.

Many may wish to consider the following governance elements:

- **Organisation:** clear articulation of roles and responsibilities between board, management and operations.
- **Management cycle:** development of a cycle of activities that ensures that all aspects of an organisation are addressed. Continual business plan forecasting and variance checks.
- **Risk management:** articulation of a boards risk appetite and development of a framework that fosters a positive approach towards risk management.
- **Internal controls:** written policies that are periodically reviewed. Early warning systems in place for identifying deviations from planned operations.
- **Assurance:** development of a methodology to monitor activities and ensure that regular checks are carried out.
- **Outsourcing:** many functions in alternatives are outsourced. A framework may consider clearly drafted service levels agreed that are monitored. **CIT**

Stuart King
Managing director
FR Global Advisors

FINANCIAL CENTRE | WEALTH & ASSET MANAGEMENT | INSURANCE



With its vibrant financial sector cultivated for more than 80 years The Bahamas is a strategic and advantageous business gateway between North and South America and provides the ideal environment for insurance business. Our financial professionals remain committed to providing trusted advice and expertise to clients around the world and are a testament to the maturity of our industry. Our historic financial services culture, our location, our modern and compliant regulatory regime, and our market responsible insurance legislation are integral parts of The Bahamas Advantage. We invite you to choose The Bahamas as the destination for your next captive.

Your Wealth and Asset Management
Gateway to The Americas since 1930

THE Bahamas Advantage

Call the Insurance Commission of The Bahamas to learn more about establishing your captive
(242) 397.4100 or e-mail info@icb.gov.bs | www.icb.gov.bs

Call The Bahamas Financial Services Board to learn more about The Bahamas Advantage
(242) 393.7001 or email info@bfsb-bahamas.com | www.bfsb-bahamas.com

Policy language: what's not in there could cost you

A picture paints a thousand words, but what about an insurance policy? Milliman's Michael Meehan takes a look

When it comes to the language in insurance policies, it can pay to be fluent. Fluency in this case means not only understanding the language contained in a policy, but also recognising when key details may be missing. If an insured entity just 'gets by' in the arcane language of the insurance policy, or only understands 'broken insurance', the unexpected (and unfortunate) may happen.

The general premise of any insurance policy is, 'in the event of X, we will pay up to Y', but insureds can find themselves responsible for losses they originally thought were covered under the terms of the policy. This often occurs when the insured simply assumed it was covered and didn't take the time to read the policy, or misinterpreted the policy language, perhaps because something was not clearly spelled out.

Examples of this have been prevalent in personal lines since insurance was first conceived. Insureds might incur losses to personal property such as their homes, and then learn their claims were denied because of an exclusion indicating the cause of loss was not actually a covered peril. In these cases it is often not the language in the policy that is the problem, but rather, the insured either wasn't aware of the exclusion, or didn't understand it because it lacked clarity or details to explain what was actually intended by the insurer.

The same sorts of situations can be found in commercial policies, too. Today, insurers as well as insureds are getting more and more creative and sophisticated about how they craft policy language. The result is that it can sometimes be difficult to determine responsibility for who pays, when they pay, and how much they pay. In fact, there are situations where the order in which claims are paid can have a direct impact.

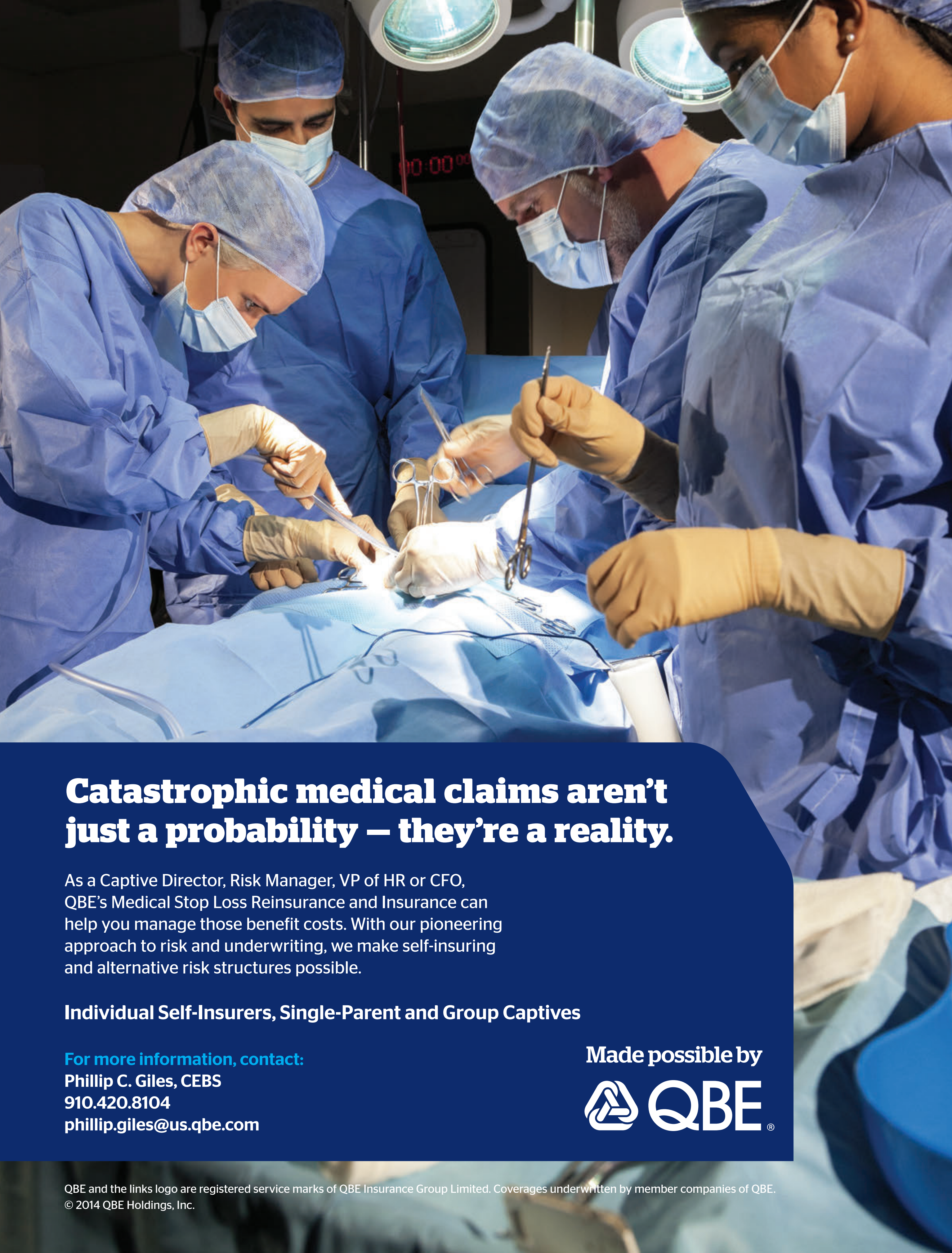
For instance, let's assume that the company ABC is the parent company of a wholly owned captive insurance company. The captive insures the excess professional liability exposures of ABC on a claims-made basis. Under the terms of the policies, ABC has a per occurrence and an aggregate deductible of $1 million.

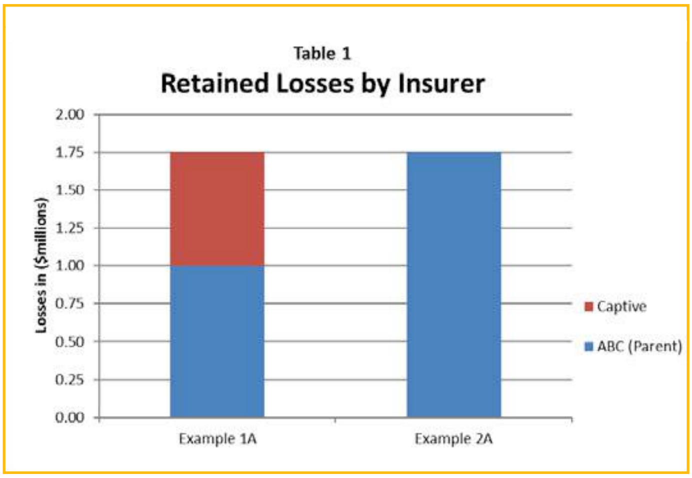
The captive provides coverage of up to $3 million per claim, attaching at $1 million per occurrence, with an aggregate limit of $3 million. So, for example, if there was a $5 million claim, ABC would pay the first $1 million, and the captive would pay the next $3 million—its aggregate limit above the $1 million attachment point. Think of the attachment point as a deductible, so unless a claim exceeds that amount, the captive is not exposed.

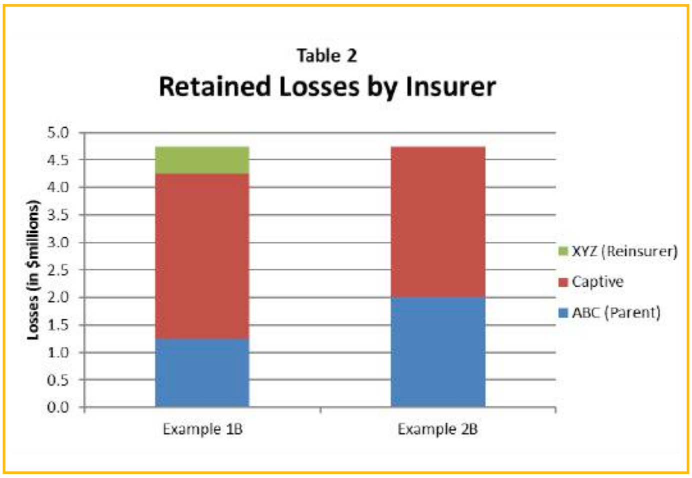
This is a fairly common situation in today's world. However, the increasing creativity of the language detailing the terms of policies is presenting insureds with new complexities. Some policies are now endorsed to include a maintenance self-insured deductible (MSID). An MSID essentially acts as a modified self-insured layer once an aggregate limit has been reached. The result is that the attachment point of the insurer(s) is modified as well.

Let's assume that ABC has an MSID of $250,000, would retain the first $250,000 for each claim, once its $1 million aggregate deductible is exhausted. Under the terms of the insurance agreement with the captive, the captive would now attach at $250,000 for each claim and provide coverage up to its per occurrence and aggregate limits. In arrangements such as these, the order in which claims are paid can affect which entity is responsible for payment of a claim and how much it is responsible for.

For instance, if there were three claims, each with a value of $250,000, ABC would pay each claim, thus exhausting $750,000 of its $1 million aggregate deductible. If there were then a fourth claim with an incurred value of $1 million, ABC would pay the first $250,000 (thus exhausting the $1 million aggregate deductible)


Catastrophic medical claims aren't just a probability — they're a reality.
As a Captive Director, Risk Manager, VP of HR or CFO, QBE's Medical Stop Loss Reinsurance and Insurance can help you manage those benefit costs. With our pioneering approach to risk and underwriting, we make self-insuring and alternative risk structures possible.
Individual Self-Insurers, Single-Parent and Group Captives
For more information, contact:
Phillip C. Giles, CEBS
910.420.8104
phillip.giles@us.qbe.com
Made possible by
QBE®
QBE and the links logo are registered service marks of QBE Insurance Group Limited. Coverages underwritten by member companies of QBE.
© 2014 QBE Holdings, Inc.





and the captive would attach at $250,000 and pay the remaining $750,000. For any additional claims in the policy year, the captive would attach at ABC's MSID of $250,000 and pay up to its aggregate limit of $3 million. In this scenario, ABC has paid a total of $1 million—its $1 million aggregate deductible, and the captive has paid $750,000. We will call this Example 1A.

Now, in Example 2A, we simply switch the order in which these claims are paid—the $1 million claim gets paid first, followed by the three $250,000 claims. In this case, ABC would pay the entire $1 million claim, exhausting the $1 million aggregate deductible, and bringing the MSID of $250,000 into play for any subsequent claims. The next three claims would also be paid by ABC as each one would fall within the $250,000 MSID. As a result, ABC would end up paying the entire $1.75 million, while the captive would pay $0.

The retained losses by entity from Examples 1A and 2A are illustrated in Table 1.

One might argue that, in these examples, the dollars are simply being shifted between two affiliates and that it has a net effect of $0 to the entities on a combined basis. If we ignore all the other impacts of dollars being paid by one entity versus the other (such as taxes, investment income, etc), that is essentially true. In this situation, the only one that may be concerned would be the captive insurance regulator.

Typically these types of arrangements include a third party: a reinsurance company. Let's look at the situation again, assuming that reinsurance company XYZ provides reinsurance coverage to the captive, which attaches once the captive's aggregate limits of $3 million have been reached. Under the terms of the policy, XYZ's exposure to loss could vary depending on the order in which claims are paid, and could thus affect how much it would pay for claims.

Returning to Example 1A from above, let's consider a fifth claim with an incurred value of $3 million, which is to be paid last. Under this scenario, which we will call Example 1B, ABC would pay the first $250,000 of this new claim, the captive would then attach at $250,000 and pay the next $2.25 million, thus exhausting the entire $3 million aggregate limit.

At this point, XYZ would attach at $2.5 million on the particular claim (as opposed to the original attachment point of $4 million, assuming no other claims), and pay the remaining $500,000. As a result, ABC will have paid a total of $1.25 million, the captive their entire $3 million aggregate limit, and XYZ $500,000. Further, XYZ would now attach at $250,000 on any additional claims in this year (now a much lower attachment point than the original $4 million).

We will now introduce this same new claim to Example 2A from above, and again assume it is to be paid last. Under this scenario, which we will call Example 2B, ABC would pay the first $250,000 (the MSID), and the captive would attach at $250,000 and pay the next $2.75 million. As a result, ABC will have paid a total of $2 million, the captive $2.75 million, and XYZ $0. Further, XYZ would now attach at $500,000 on the next claim (after the $250,000 MSID of ABC and the remaining $250,000 of the captive's aggregate) and at $250,000 on any additional claims.

The retained losses by entity from Examples 1B and 2B are illustrated in Table 2.

Using the same block of claims, the result is that the amount paid by each entity varies based solely on the order in which the claims are paid. In the examples with the XYZ reinsurance company, this becomes particularly important as it is no longer limited to the shifting of dollars between two affiliated companies. Rather, the interests of multiple entities that have no affiliation beyond the captive insurer/insured relationship are affected.

The policy language in these situations is often unclear, introducing the sort of uncertainty that could ultimately lead to manipulation, where the interests of one party are favoured over those of another. For example, if the policy doesn't specify how claims should be ordered, such as report date, accident date, date of first payment, or settlement date, this may lead to disputes between the reinsurer and the insurer.

Using the settlement date as the method for ordering the claims as an example, who handles claims becomes a significant issue, particularly if they are handled by one of the entities that would be affected by the order in which they are paid. When even one party involved disagrees on the interpretation of its responsibilities, the whole thing can wind up in court. Interpretation of the applicable language in policies should be what dictates any decision.

When there is no clear language or guidance on how a particular feature of the policy is to be interpreted, it would likely fall on the courts to make reasonable determinations. Perhaps report date, accident date, date of first payment, or settlement date are to be used. Regardless, it's better for all parties that participate in the kinds of insurance and reinsurance agreements described here to make sure that who pays what, and when, is spelled out clearly up front. CIT

Mike Meehan
Consultant
Milliman

Connecticut ranks #1 in the U.S. for insurance jobs per capita. The state offers a robust infrastructure of captive managers, actuaries, auditors, fronting carriers, investment managers and reinsurers. Combined with a convenient U.S. location, vast intellectual capital, history rooted in insurance and a vibrant culture of innovation, Connecticut is the world's Insurance Capital and a prime location for your captive business.

CCIA CONNECTICUT Captive Insurance Association

Connecticut still revolutionary
Department of Economic and Community Development

Insurance Department State of Connecticut

IFS | CT Connecticut Insurance & Financial Services

Save the Date: 2014 Symposium on Captive Insurance in Connecticut • September 17 • www.conncaptives.org

Industry appointments

Fiona Le Poidevin has resigned as chief executive of Guernsey Finance.

She will leave in early 2015 to become chief executive at the Channel Islands Securities Exchange.

Jim Gilligan, chairman of Guernsey Finance, said: "The board is disappointed that Le Poidevin has tendered her resignation but we would like to thank her for the invaluable contribution she has made to Guernsey Finance."

"Since Le Poidevin joined us nearly four years ago, her commitment and professionalism have been exemplary and she has been instrumental in helping drive the agency forward during the last two years in the role of chief executive."

The board has already commenced the recruitment process to identify Le Poidevin's successor and her work for the second half of the year is already planned, including visits to Asia and the Americas in the final few months of 2014.

Le Poidevin joined Guernsey Finance as technical director and deputy chief executive in early 2011 and succeeded Peter Niven as chief executive in July 2012.

Aon has appointed **John Bruno** as executive vice president of enterprise innovation and chief information officer.

Bruno joins Aon from NCR Corporation, where he worked since 2008. At NCR Bruno held several positions with increased responsibility, most recently as executive vice president, industry and field operations, and corporate development.

From 2007 to 2008, Bruno served as managing director and vice president of information technology at Goldman Sachs Group.

He also has served in senior technology leadership roles at Merrill Lynch & Co, Symbol Technologies, Cisco Systems, Bristol Myers Squibb and United Parcel Service.

Bruno will begin his new role on 1 September 2014 and will be a member of the executive committee, reporting to Greg Case.

Willis Group Holdings has also named two regional leaders. Both will based in Singapore.

Chia Woon Ping has been recruited as the risk services regional director for North Asia.

Ping joins from Mark Risk Consulting, where he served as the North Asia property practice leader.

Sirikit Oh joins the firm as managing director, Asia head of technology, media and telecommunications (TMT). She previously led the technology practice for Asia, and was the Asia head of market relationship management.

She commented on joining the firm: "I was attracted by Willis's enthusiasm for the TMT segment. I am excited by the opportunity to build a new team, and provide clients with cutting-edge risk analysis and insurance solutions."

Simon Smith will be working for Guy Carpenter & Company from 1 September.

Smith will be responsible for all of the global marine and energy team's activities in Europe, the Middle East and Africa, and will also oversee all international protection and indemnity business.

He will be based in London and will report to James Summers, head of global marine and energy.

Smith has 30 years of experience in the marine market and was previously executive vice president at Skuld Services Limited responsible for business development, as well as being a member of the firm's management board.

Prior to this, Smith was a senior broker in the marine reinsurance sector for over 20 years.

Hawaii insurance commissioner Gordon Ito has named **Sanford Saito** as deputy commissioner and captive insurance administrator for the Department of Commerce and Consumer Affairs (DCCA) Insurance Division.

He previously held the position in an acting capacity.

Ito commented: "Saito is a dedicated team member who has played an integral role in the success of our captive insurance industry."

"The insurance division will benefit from Saito's continued leadership in maintaining our prudent regulatory and business-friendly environment, which makes us one of the top domiciles in the world."

Saito is a certified financial examiner and has been with the insurance division since 2004 as a captive insurance examiner.

Prior to that, he worked in the DCCA as a public utilities auditor.

Hawaii is ranked fourth in the US for largest captive domiciles. In fiscal year 2013, the Captive Insurance Branch brought in $2.13 million in premium taxes and fees for the state.

In addition, $18.4 million in economic benefit is attributed to Hawaii's captive insurance industry through various professional services, annual conferences and visitor industry businesses.

Integro Insurance Brokers has recruited **Ruth Kilduff** as chairman, and Anne Anderson as president of its US operations, Integro USA.

Kilduff will lead the firm's healthcare practice and its Boston operations, while Anderson will lead the firm's New York operations. Both are also members of the firm's operations committee.

The Kilduff and Anderson appointments follow a recently announced management reordering to better accommodate the firm's rapid growth, improve segmentation and enhance collaboration.

Marc Kunney, formerly president of Integro USA, had been named president of Integro's North America operations.

Kilduff brings more than 30 years of experience in healthcare, as well as healthcare insurance, to her new role and has specific expertise in professional liability, alternative risk financing and risk consulting.

Prior to joining Integro in 2006, Kilduff served as a managing director at Marsh. **CIT**

CIT CAPTIVEINSURANCETIMES

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

Reporter: Stephen Durham
stephendurham@captiveinsurancetimes.com
Tel: +44 (0) 208 663 9622

Editorial assistant: Tammy Facey
tammyfacey@blackknightmedialtd.com
Tel: +44 (0) 208 663 9649

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

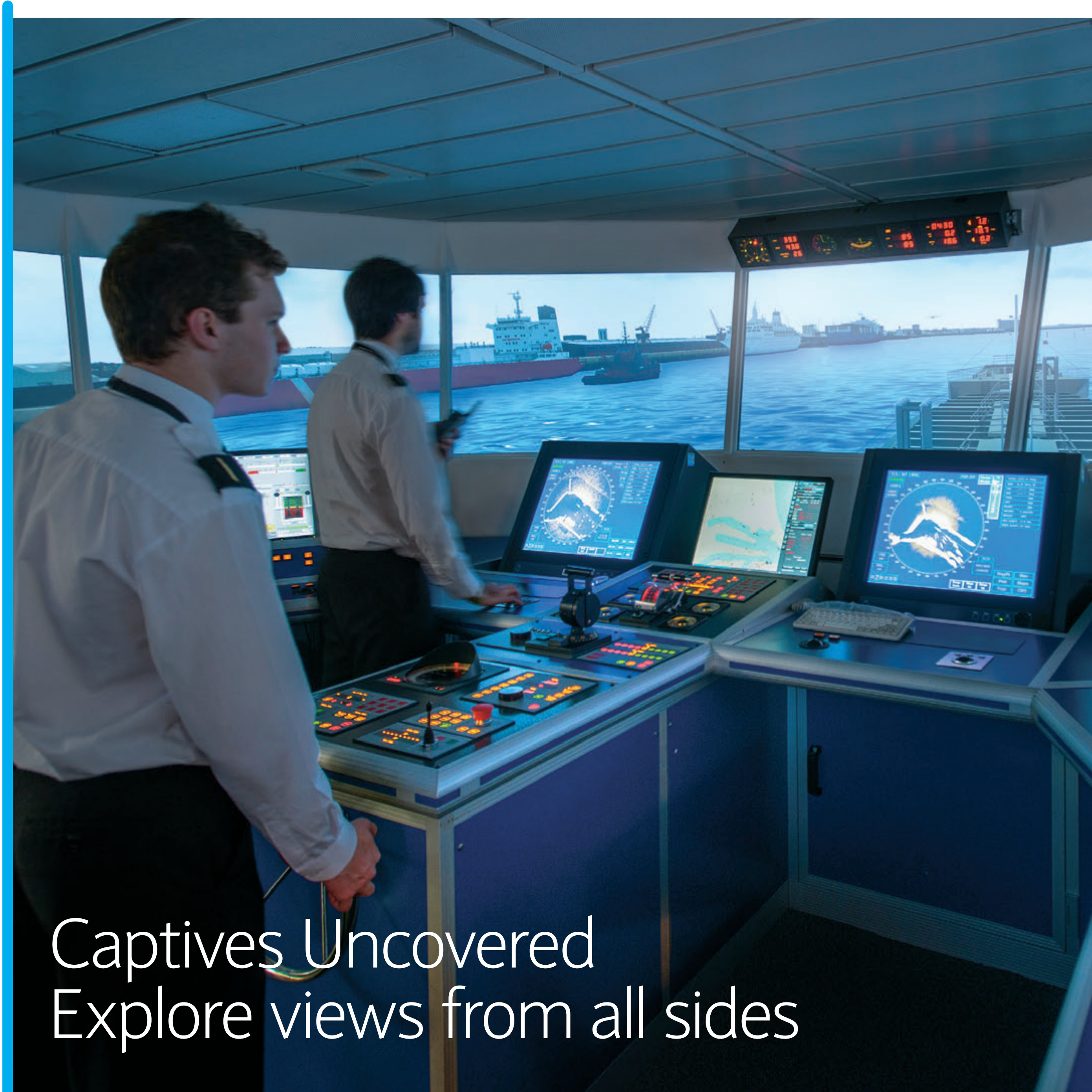
Publisher: Justin Lawson
justinlawson@captiveinsurancetimes.com
Tel: +44 (0)20 863 9628

Marketing director: Steven Lafferty

Designer: John Savage
design@captiveinsurancetimes.com
Tel: +44 (0)20 8663 9648

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

Company reg: 0719464
Copyright © 2014 Black Knight Media Ltd.
All rights reserved.



Captive insurance is continually evolving. As the global economy continues to throw up challenges, understanding the captive industry today can help shape the future for you and your business. We've spoken to leading figures in the industry to reveal key insights into captives now and in the years to come. Get involved today. Captives Uncovered. Releasing the expertise of the captive industry.

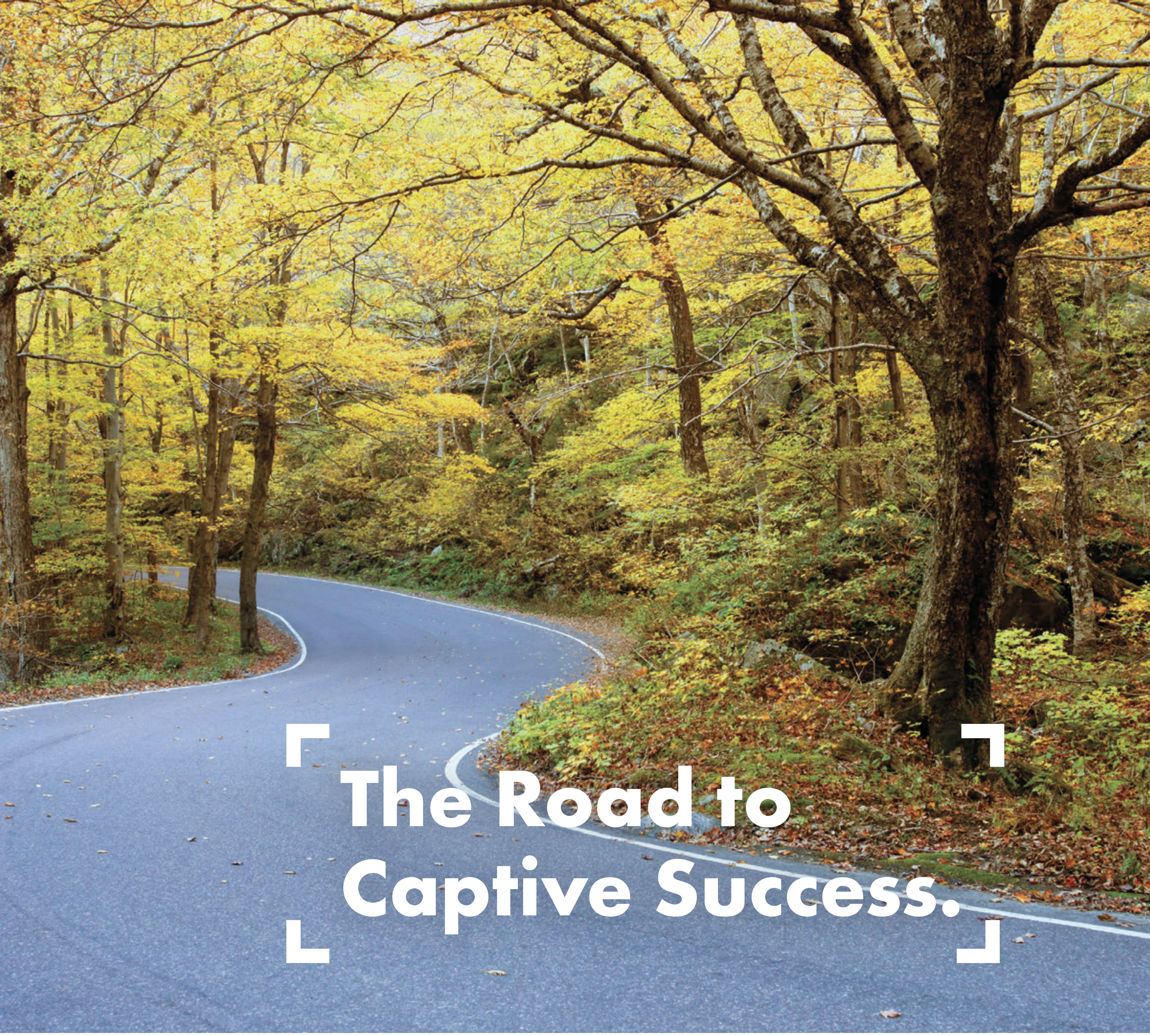
Search 'captives uncovered' on LinkedIn to join the conversation

captivesuncovered.com

Wealth and Investment Management

BARCLAYS

Barclays offers banking wealth and investment management products and services to its clients through Barclays Bank PLC and its subsidiary companies. Barclays Bank PLC is registered in England and authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Registered No. 1026167. Registered Office: 1 Churchill Place, London E14 5HP.



Look to AIG for efficient, cost effective captive solutions.

Our Vermont-based sponsored captive makes it easy for businesses to reap the benefits of a captive structure — such as profit sharing and enhanced investment income without the level of capital commitment, management resources, or other costs of setting up their own captive insurer. Our solutions allow for faster set-up and lower capital and operational costs, and also provide access to the network of AIG companies for fronting and reinsurance. For more information, contact captives@aig.com or visit www.aig.com/captives.

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.