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Follow the regulatory road

How to be a whiz of the biz

Captive 101
What is a captive?

Domicile Departments
New laws in the spotlight

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Taking a keen interest in captives

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Coming to terms with the business

Can't hold Vermont down

Vermont remains optimistic for 2015 despite a slow 2014 for captive formations.

In 2014, the state signed up 16 new captives, including 10 pure captives, two sponsored, two special purpose financial insurers, one association and one risk retention group. Two new captives were redomesticated from Bermuda and Delaware.

But it also lost 17 captives in 2014, thanks to a soft market and competition from other domiciles.

It wasn't all bad news for Vermont in 2014. The state is projecting a $2 billion increase in gross written premium to almost $30 billion.

"As always, Vermont added quality captives to its portfolio," commented Len Crouse, a partner at JLT Towner Insurance Management.

"The legislature understands the value of Vermont's captive business, and legislators and state regulators are always working to improve regulations."

Following the Vermont Captive Insurance Association-sponsored annual Legislative Day, Crouse said the state is considering halving the capital requirement for sponsored captives to $250,000, and reducing the number of incorporators needed for captive formation from three to one.

Vermont's lawmakers may also look at risk retention group governance standards promulgated by the National Association of Insurance Commissioners to identify exemption thresholds, added Crouse.

Cayman introduces new PIC laws

The Cayman Islands has published new insurance regulations affecting portfolio insurance companies (PICs) that are designed to provide more flexibility to insurance companies incorporated as segregated portfolio companies (SPCs) and to enhance the prospect of favourable US tax treatment.

As of 16 January, a SPC may incorporate one or more of its segregated portfolios by establishing them as PICs under the SPC.

Each PIC, although separately incorporated, may then engage in its own insurance business without acquiring a separate license.

The Insurance Managers Association of Cayman (IMAC) has touted numerous advantages to the new rules, namely that a PIC will now have the ability to contract with other segregated portfolios or PICs within the same SPC.

A PIC will also be able to have its own governing board, separate from the boards of other PICs within the same SPC.

As a separation corporation, the new PICs will also have easier acceptance by parties unfamiliar with segregated portfolios and can more easily transition to standalone captive status.

IMAC also said that, while there remains uncertainty over how the US Internal Revenue Service treats an unincorporated SPC of an offshore insurer, a separately incorporated PIC with its own taxpayer identification number should stand "a much better chance of being permitted to make its own tax elections".

Earlier in 2015, IMAC put the count of Cayman-domiciled captives at 759, of which 34 percent are health care captives, making Cayman second only to Bermuda in the rankings.

Productive 2014 for South Carolina

South Carolina licensed 20 new captives in 2014, bringing the domicile's total number to 158.

This is a significant improvement from 2013, in which South Carolina licensed only three new captives.

"The state made significant improvements to attract new captives last year, including streamlining the application process," commented Megan Ogden, director of operations for JLT Towner Insurance Management's South Carolina office.

"The willingness to fine-tune regulations and the insurance department's continued dedication will, I believe, continue to attract captives in the coming year."

The introduction of incorporated cell structures was also among the changes South Carolina adopted in 2014.

According to JLT Insurance Management, this legislation was designed to give South Carolina equal footing with the top domiciles in the middle market sector.

Marsh offers TRIPRA tips to captives

Key benefits of the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) of 2015 for US captives include premium savings and broader coverage, according to a new report from Marsh.

The terrorism backstop was renewed for another six years after President Barack Obama signed it into law in January.

TRIPRA, which does not expire until 31 December 2020, includes a gradual rise in the backstop trigger to $200 million in losses, increasing from the current $100 million by 20 percent per year.

The trigger for nuclear, chemical, biological and radiological (NCBR) losses, however, will remain at $100 million. The extension also

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includes a 20 percent copayment (up from 15 percent in the expired bill).

The report from Marsh said that US captives could enjoy premium savings under TRIPRA if there is no terrorism loss, as premiums paid to a related party are retained on a consolidated basis.

Captives can also offer coverages that are often restricted by or unavailable from commercial insurers, including for NBCR attacks, cyber risks and contingent time element losses.

US captives wishing to access TRIPRA must consider, among others, the coverage limitations created by the backstop's trigger, loss certification requirements, and $100 billion programme cap, and be aware of terrorism risks that are not covered by the act, such as terrorism losses occurring outside of the US.

They should also remember that the Department of the Treasury has cautioned captive owners about the inherent conflict of interest and unusual level of control a policyholder has over an insurer in a captive insurance transaction.

"The warning emphasises that captive owners should not take actions that would improperly reduce an organisation's overall share; for example, captive insurers should not deliberately underprice the premium in order to reduce the captive's TRIPRA deductible," explained the report.

FHFA receives 1,300 comments to captive ban proposal

The Federal Housing Finance Agency (FHFA) has received 1,300 comments to a proposed rule that would ban captives from becoming members of Federal Home Loan Banks (FHLBs).

FHFA director Melvin Watt said in a statement before a Congress financial services committee in January that the agency is reviewing and considering the comments.

"Getting input and feedback from stakeholders is a crucial part of FHFA's policymaking process, and we will carefully consider comments made by members of this committee as well as the public in determining our final rule," he explained.

"A captive insurance company provides benefits only for its parent company, which itself is often not eligible for FHLB membership. While captive insurers may in some cases be involved in housing finance, allowing them to have access to the FHLB system raises a number of policy issues that are discussed in the proposed rule."

The proposed rule change, if adopted, will effectively exclude captive insurers from membership to any one of the 12 FHLBs.

The definition of 'insurance company', under the proposed rule, would mean a company that has as its primary business the underwriting of insurance for non-affiliated persons.

This would continue to include traditional insurance companies but not captive insurers. As a result, existing membership of captive insurers would be 'sunset' over five years with defined limits on advances.

The last captive to join an FHLB was Redwood Trust's special purpose captive insurance subsidiary, RWT Financial, in June 2014.

The real estate investment trust's captive joined the Federal Home Loan Bank of Chicago, to add to its financing and distribution options for residential mortgage loans.

A temporary ban was placed on captives' FHLB membership following Redwood's approval in Chicago.

Micro captives among 'Dirty Dozen' tax dodges

Captive insurance has been included in the Internal Revenue Service's (IRS) 'Dirty Dozen' list of tax scams.

The Dirty Dozen list, which is compiled every year to warn US taxpayers about scams that the agency is planning to crack down on, included captive insurance under abusive tax shelters, the ninth "illegal scam" on the list.

The IRS said that legitimate 831(b) election structures, or "small or micro" captives, are used by "unscrupulous promoters", who help with drafting

documents and preparing initial filings to state insurance authorities.

"The promoters assist with creating and 'selling' to the entities often times poorly drafted 'insurance' binders and policies to cover ordinary business risks or esoteric, implausible risks for exorbitant 'premiums', while maintaining their economical commercial coverage with traditional insurers," explained the IRS.

"Total amounts of annual premiums often equal the amount of deductions business entities need to reduce income for the year; or, for a wealthy entity, total premiums amount to $1.2 million annually to take full advantage of the code provision."

Underwriting and actuarial substantiation for the insurance premiums paid "are either missing or insufficient", said the IRS. "The promoters manage the entities' captive insurance companies year after year for hefty fees, assisting taxpayers unsophisticated in insurance to continue the charade."

Commenting on the inclusion of abusive tax shelters in the 2015 Dirty Dozen list, IRS commissioner John Koskinen said: "The IRS is committed to stopping complex tax avoidance schemes and the people who create and sell them."

"The vast majority of taxpayers pay their fair share, and we are warning everyone to watch out for people peddling tax shelters that sound too good to be true."

Kane SAC launches new ILS note programme

Kane SAC, a subsidiary of Kane, has announced the listing of its new Kane SAC – ILS note programme on the Bermuda Stock Exchange.

The note programme has been set up with the addition of the EuroClear Settlement System.

It will facilitate secondary trading for catastrophe bonds by allowing investors to conduct over-the-counter trading using a recognisable system.

The first issuance to use the programme was the ¢20,695,000 Dodeka I-2015 At-Risk Notes.

Robert Eastham, managing director of Kane, said: "We are pleased to introduce the EuroClear Settlement System to the new Kane SAC – ILS note programme."

"This is an important evolution in Kane's Cat Bond Lite offering and will enhance both the tradability and liquidity of Kane Note issuances, ultimately increasing the attractiveness of the structure to investors."

SGSS secures Solvency II mandate

Societe Generale Securities Services (SGSS) has been selected by French reinsurance company Caisse Centrale de Réassurance (CCR) for its Solvency II Directive solution.

SGSS will provide look-through reporting, data enrichment, market risk solvency capital requirement (SCR) calculations and financial risk monitoring reports to help CCR comply with Solvency II.

The mandate was based on SGSS's experience as a custodian and valuer of financial assets, while its solution meets CCR's other qualitative and quantitative requirements.

Solvency II could lead to a significant increase in the level of data that has to be reported to regulators, and in the frequency of reporting. It is due to come in to effect at the beginning of 2016.

The SGSS service for institutional investors and asset managers includes solutions for funds and structured products as well as for assets and associated reporting.

It also includes an advisory team to help clientele through procedures, ensuring that they are fully compliant with traceability, transparency and auditability requirements under the Solvency II directive.

Artex launches ICC for £250 million+ pension funds

Artex Risk Solutions has created a new facility to allow pension funds to transfer their longevity risk cost effectively and directly to the reinsurance market.

It has launched Iccaria, an incorporated cell company (ICC) domiciled in Guernsey, with the help of audit firm PricewaterhouseCoopers.

Pension schemes with liabilities as low as £250 million will be able to use Iccaria.

No facilities currently exist to service funds of this size, according to Artex.

Paul Eaton, who is new business director at Artex, said: “This is an exciting time for Artex and the captive industry as we move into an era where we are able to help pension fund clients hedge their longevity risk on a cost effective basis.”

“For many years the captive industry has been providing clients with alternative risk transfer facilities, and this is another example of innovation being used to develop a bespoke solution to meet market demand.”

Artex also helped the BT Pension Scheme to launch its ICC last year.

Heddington withdrawn from A.M Best ratings

Heddington Insurance has requested to no longer participate in A.M. Best’s interactive rating process, despite the agency affirming its financial strength rating of “A (Excellent)” and the issuer credit rating of “a+”.

The ratings reflect what A.M. Best has called Heddington’s “superior capitalisation”, consistently positive operating results and the role it plays as a captive insurance company of Chevron Corporation.

The agency stated: “These positive rating factors are partially offset by Heddington’s high net loss exposures, as the coverages provided tend to result in claims that are characterised as low frequency but high severity.”

These offsetting factors are somewhat mitigated by the captive’s good loss history supported by steady investment income.

Chevron did not respond to a request for comment on why they asked to be removed from A.M Best’s rating process.

No downgrade for Europe despite ‘pressure points’

A.M. Best has issued a warning in its newest briefing regarding “pressure points” building in Europe that could potentially affect insurers and reinsurers’ balance sheets.

Quantitative easing and weak economic growth across the EU in particular have unsettled the ratings agency, while foreign exchange developments, tensions with Russia, anti-austerity measures in Greece and separatist movements in Spain have also been cited as causes for concern.

The European Central Bank (ECB) unveiled a large-scale sovereign bond-buying programme on 22 January in an effort to combat stagnation and ultra low inflation in the eurozone.

The ECB will begin its stimulus programme in March 2015 and buy $70 billion of public and private sector assets each month until September 2016.

It is hoped that additional liquidity will spur an increase in credit to the real economy, maintain historically low interest rates and help to bring the inflation rate back toward the ECB’s target of just below 2 percent. Inflation is estimated to have been -0.6 percent in January for the eurozone area.

On the back of the ECB’s quantitative easing announcement, the euro declined 2.2 percent to an exchange rate of €1.14 to the US dollar, down 17 percent year-over-year.

The Swiss franc has also seen considerable volatility, according to A.M Best, initially climbing following the Swiss National Bank’s

surprise decision on 15 January to remove its Swiss franc 1.20 cap versus the euro.

Most European insurers and reinsurers currently match their assets and liabilities. As a result, A.M. Best has stated that it does not expect a material move in rated entities' credit quality.

In terms of reporting consolidated results for insurance groups headquartered in the EU that have business outside the eurozone, A.M Best has claimed that they may actually benefit from the euro's decline.

The agency claimed that they could see improved revenues and earnings as they convert stronger currencies to the euro for financial reporting purposes.

The briefing stated: "A.M. Best does not expect a weakened euro to affect revenues for non-life insurers substantially, as the demand for general insurance products is unlikely to change in a meaningful way."

"The financial health and spending power of policyholders will continue to drive insurance buying decisions."

"Low currency values in the eurozone could make exports from these countries more attractive, and as increased exports contribute to growing businesses, insurance revenues may benefit."

In 2011 and 2012, A.M. Best conducted specific tests to stress the balance sheets of insurers for a possible further deterioration in the investment environment in Europe.

The agency took negative rating actions on several European insurers, with downgrades attributed primarily to companies' exposure to Italian and Spanish sovereign debt and eurozone financial institutions.

Despite A.M. Best's feeling that Solvency II will continue to add to the expense ratios of insurers and reinsurers operating in a soft market, it has stated that the general rating environment remains stable.

The agency claimed that insurers within its ratings framework are "well prepared" for the new regulatory regime, and current market conditions are "unlikely" to lead to an increased number of downgrades or negative rating outlooks across the EU.

Texas to boost captive laws

Texas is planning to expand the provisions of its captive insurance law.

The new bill will add reinsurance pooling as an option for risk sharing to allow captives to introduce third-party risk to insure deductibility of premiums.

It will also provide discretion to insurance regulators, such as the Texas Department of Insurance (TDI), in determining when credit for reinsurance will be granted.

Finally, the bill will require notice be given to TDI when a captive declares stockholder dividends.

The state's captive law currently allows for policyholder dividends and, while in many cases the policyholders and shareholders are the same entity, amending the law to recognise shareholder dividends also recognises the ownership rights and expectations of shareholder's return on investment, according to the Texas Captive Insurance Association (TxCIA).

The TxCIA is also writing bill language on two other issues of interest in Texas.

The first would authorise the TDI to "incorporate" captive insurers as it does other insurers.

The process currently involves both the TDI and the Texas secretary of state.

The TxCIA stated: "Given current statutes, this consolidation would be lengthy and more complex than the three initiatives outlined in the bill."

"Amending the original bill to include this provision will depend on whether acceptable language can be written and the approval of the two agencies."

The other issue would authorise a captive to be formed as a reciprocal insurer.

These issues will likely be introduced as committee amendments to the filed bill, assuming consensus from regulators and stakeholders.

The Texas legislative session began in Austin on 13 January and will adjourn on 1 June.

Representative John Smithee, the sponsor of SB 734 in 2013, has introduced the bill into the House. Senator Kevin Eltife has introduced a companion bill into the Senate.

Banner inaugural year for North Carolina

The North Carolina Department of Insurance has approved 53 domestic captives, as of 1 February this year.

With 49 of those approved during 2014, the department surpassed its earlier estimate that 40 captives would be licensed by the end of the year.

It also approved 31 captive managers to manage North Carolina captives.

North Carolina insurance commissioner Wayne Goodwin said that the state's captive insurance programme "exceeded expectations" in what was only its first full year in operation.

The 11 licensed protected cell captive insurers that were approved during 2014 currently house more than 120 protected cells.

"When captive insurance companies form in or relocate to North Carolina, they create jobs, generate premium tax revenue and bring business to the hospitality industry in our state," said Goodwin.

"I am proud of our progress toward becoming a leading captive domicile and look forward to what I'm confident will be another successful year."

Goodwin credited the early success of the programme to North Carolina's "well-crafted" captive insurance law, the department's pro-business approach to regulation, and the participation of captive managers and the North Carolina Captive Insurance Association.

'Excellent' ratings for Grupo ASSA captives

A.M. Best has affirmed the financial strength rating (FSR) of "A (Excellent)" and the issuer credit rating (ICR) of "a" of ASSA Compañía de Seguros in Panama.

The agency has also affirmed the FSR of "A- (Excellent)" and ICRs of "a-" of Lion Reinsurance Company of Bermuda and Reaseguradora America SPC (RAM Re) of the Cayman Islands.

All of the captives are ultimately owned by Grupo ASSA, a financial services holding company publicly traded on the Panama Stock Exchange.

A.M. Best has stated that the ratings reflect ASSA's consistent "excellent operating results, strong capitalisation and a defined business profile". ASSA maintains a diversified book of business that includes both property and casualty, and life and health products.

In conjunction with captive affiliates Lion Re and RAM Re, ASSA and Grupo ASSA are able to maintain financial flexibility for their operations and strengthen relations with key clients, according to A.M. Best.

The performance of Lion Re has continued to improve during the past two years showing adequate combined ratios, increased positive bottom line results, and good prospects for growth, which are linked to the underwriting performance of its affiliates.

A.M. Best said it expects Lion Re to maintain its good capital position and to improve its operating performance as the business it takes on becomes of "better quality".

According to the agency, ASSA, Lion Re and RAM Re have demonstrated a solid business strategy, adequate operating performance and strong capitalisation levels.

The ratings do take into account limiting factors such as ASSA's risk concentration in a geographically limited insurance market, along with operating in a country that A.M.

Best considers to have an elevated level of country risk, implementation risk for RAM Re's strategy, maintenance of current trend in operating performance of Lion Re, and competition within Panama's market.

Negative rating triggers could include a significant decline in the company's risk-based capitalisation, sustained adverse operating performance, or a downgrade in Panama's country risk tier.

Drivers that could lead to an upgrade of the ratings and/or a positive outlook for Lion Re and RAM Re are stable underwriting performances, as well as reduced overall net exposure over the next few years and successful implementation of their business plans.

Swiss Re gets go-ahead in South Africa

Swiss Re Corporate Solutions Advisors has been licensed to operate in South Africa as a financial services provider.

Under its financial services provider licence, Swiss Re Corporate Solutions will originate, advise on and bind direct commercial insurance business in South Africa through an intermediary agreement with Guardrisk Insurance Company.

Guardrisk Insurance is a South African-licensed non-life insurer, known in the local market for its reputation and solid financial standing with a Fitch rating of "AA+".

It is a subsidiary of Guardrisk Group, a specialist cell captive insurance group and an alternative risk transfer provider in South Africa.

Swiss Re Corporate Solutions expects to begin operations during Q2 2015. It plans to set up an office in Johannesburg.

The company will provide commercial insurance services to mid- and large-sized corporate clients, focusing on property, mining and engineering risks, as well as customised solutions for the agriculture and energy sectors.

Tony Buckle, Swiss Re Corporate Solutions's head of Europe, the Middle East and Africa, said: "South Africa is a key high growth market for us, based on the scale and sophistication of its commercial insurance sector."

"The Johannesburg office will be our first local representation in Africa, and it will be a cornerstone of our strategy to provide locally relevant solutions to clients."

Herman Schoeman, managing director of Guardrisk Insurance, added: "We are excited about the relationship with Swiss Re Corporate Solutions and the opportunity to collaborate on delivering customised solutions for clients in South Africa."

RRGs remain strong despite drop in numbers

A decrease in the number of risk retention groups (RRGs) in 2014 has not affected the financial strength of the segment, according to financial analysis firm Demotech.

Despite reports of 19 RRG retirements in 2014, dropping the total number to 238, Demotech's analysis of reported financial information showed that policyholders' surplus increased 72.5 percent, or more than $2 billion, while liabilities increased about 60 percent over a five-year period.

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Hope for the best (but plan for the worst)

Despite ongoing and future regulatory hindrances, the Vermont Captive Insurance Association's Richard Smith says the captive insurance industry will persevere and evolve, as it has many times before

STEPHEN DURHAM REPORTS

Many in the US have said that there is nothing coming up to worry about in terms of regulation. Is this true and, if not, what is on the horizon?

I am surprised to hear that. At the Vermont Captive Insurance Association (VCIA) we continue to see the multi-fronted challenges to the captive industry, including a number of threats developing over the next few years: (i) excessive regulation resulting from insufficient knowledge; (ii) the weakening of sound regulatory structures based on a desire to attract business; and (iii) efforts to impose new or increased taxes.

One example of this is the Federal Housing Finance Agency (FHFA), which has proposed a rule that would revise the requirements, thereby excluding captive insurers from membership to the Federal Home Loan Bank (FHLB) system. The VCIA is very concerned about this proposed definition as it, for no legitimate reason, categorically excludes captives that might otherwise qualify to participate in the FHLB programme.

On the flip side of that argument is the potential to weaken regulatory oversight in some domiciles in order to try to lure more business to their states. One of the prime examples is the proliferation of micro captives seeking the 831(b) tax election. The potential for growth in this segment is large, given the number of mid-sized businesses.

However, some abusive practices developed around this growth, including the use of this category of captives for wealth-transfer purposes rather than for insurance. 831(b)s, unto themselves, are perfectly appropriate when created for legitimate insurance purposes, but wealth transfer mechanisms are bad business and bad for the industry.

The captive industry had a very interesting fire drill recently when, unbeknown to almost everyone, the US Senate committee on finance scheduled a hearing to walk through a few tax proposals, including proposed modifications to the 831(b) tax election for small insurances companies. The Senate finance committee was about to proceed on what they deemed non-controversial tax bills.

This provision would have increased the premium ceiling from $1.2 million to $2.2 million and indexed for inflation; disallowed the election if direct net written premium from a single policyholder exceeds 20 percent (single policyholder to include all members of the same controlled group); and disallowed assumption reinsurance. This proposal would have all but killed the programme for the captive insurance industry. Once the chair of the committee, senator Orrin Hatch of Utah, was made aware that this was especially galling to his home state's captive industry, a new document came out on the day of the hearing removing the requirement that no more than 20 percent of its net written premiums be attributable to any one policyholder (along with the associated reporting requirement) and the prohibition on reinsurance.

Finally, with the continued weakened economy as a whole, many states are seeking to find new revenue sources to bolster depleting treasuries. We have seen examples of a few states imposing new taxes on captives or their parent organisations, even when the business transactions happen in the captive domiciles.

Has the increase in regulation closed the gap between onshore and offshore domiciles?

I don't think there has been the kind of increased regulation that would necessarily close the gap between onshore and offshore. I think that any tax advantage that may have created an offshore advantage has for the most part vanished, leaving a relatively level playing field depending on the experience and expertise of the regulators and service providers in each domicile. I believe that some offshore domiciles that try to strike a balance between an increasing regulatory framework coming from European regulators and an appropriate regulatory environment coming from most US domiciles is challenging, but, as I mentioned, the real advantage comes from the expertise in each domicile.

From a national point of view, do you think many of the states' regulators are catering their legislation to embrace certain niches such as 831(b)s and, if so, how much of an advantage does this give them?

There is the potential to weaken regulatory oversight in some domiciles in order to try to lure more business to their state, and attracting 831(b)s, or micro captives, is one prime example. By trying to grow their captive industry too quickly, these domiciles run the risk of causing a backlash against the captive industry as whole.

Unfortunately, it is not so much an example of regulators catering their legislation to attract a niche market in the captive insurance industry, as licensing captives that would not otherwise clear the regulatory hurdles in more experienced captive domiciles. The only near-term advantage it might give them is showing a raw captive count that belies what could be serious problems down the road.

In Vermont, what is the state doing to update its captive laws in 2015? Is it too big to require a niche of its own?

Vermont is not interested in creating specific niches in the captive industry. We have the luxury of being a well-seasoned domicile with a broad array of captives. If it is a good business and makes good insurance sense, then Vermont will want a chance to license the captive.

That being said, Vermont always seeks ways to update our captive statutes to take advantage of new opportunities or make it easier to business in Vermont without jeopardising good regulation, which has given Vermont the moniker of the 'gold standard'. A number of years ago, Vermont updated its statutes to allow for the licensing of special purpose financial insurers (SPFIs), which are insurance companies formed specifically to reinsure the risk of an affiliate or parent, often a life insurance company, to facilitate the securitisation of the risk as a means of accessing alternate sources of capital, addressing the burden of a reserving requirement. Due to the experience and expertise of Vermont's regulators, the number of these entities have grown over the years.

While Vermont has some of the largest captive companies in the world, more than half of Vermont's captive insurance industry writes less than $5 million annually in premiums. This makes Vermont one of the best places for smaller and mid-cap businesses to form captive insurance companies.

This year the state is considering halving the capital requirement for sponsored captives to $250,000, reducing the number of incorporators needed for captive formation from three to one, and allowing marketable securities, along with cash and letters of credit, for the capital requirements of captives.

Do you think US bodies such as the IRS and NAIC have become less suspicious of captives in recent years?

I think it has been a mixed bag. The National Association of Insurance Commissioners's (NAIC) obsession with risk retention groups (RRGs) over the past few years appears to have waned a bit, from a combination of updated model laws and regulations for RRGs, along with more familiarity with them. But clearly, the Internal Revenue Service (IRS) has set its sights on the abuse of 831(b)s with the recent press release about its 'Dirty Dozen' tax schemes that highlighted this abuse.

Captive insurance is no longer an 'exotic' risk transfer mechanism limited to large Fortune 500 companies. With more states and countries establishing captive legislation, there is more awareness of the industry, and more regulators and policymakers who look to protect this vital part of risk management in their respective domiciles.

However, the captive insurance industry will need to constantly fight the overreach of regulators and others, who either still have little understanding of the captive insurance industry, or just don't care in trying to score political points.

Do you feel that some of the big events last year, such as the FHLB situation and court wins for RRGs, have shaped regulations in the US for years to come? Which in particular has most defining for you?

Not to be lost in all these new concerns are developments associated with the Non-admitted and Reinsurance Reform Act (NRRA). This national legislation sought to simplify the complex web of taxation associated with the procurement of insurance from non-admitted insurers across the nation. However, the legislation has led to confusion as to whether the NRRA applies to captive owners. Companies have been forced to devote additional time and resources researching the effects of the NRRA, if any, only to remain in a cloud of uncertainty.

Seeking clarification as to whether captives are subject to the NRRA, the Coalition for Captive Insurance Clarity was established under the leadership of VCIA. We are hopeful that 2015 will provide much needed clarification—ideally legislation that will exempt captives from the reach of act.

With two major court decisions favouring the taxpayer in Rent-A-Center and Securitas, the captive insurance industry was able to breathe a sigh of relief and press forward with confidence that captives done right can withstand the challenge of an IRS audit.

Another challenge from the IRS resides in the court's hands with the potential to materially affect the captive industry. The RVI Guarantee Company's case will be the first to challenge the IRS's most recent views relating to business risk versus insurance risk. Over the past several years, the IRS has taken the position that captives writing a substantial portion of 'business risks' will not qualify as insurance for federal income tax purposes. The IRS, however, has yet to provide any insight as to what actually constitutes a 'business risk'.

The NAIC's proposed revisions to the definition of 'multi-state reinsurer' has also been an important factor. The proposed changes are extremely broad and would include many captive reinsurers.

The effect of the revisions would be to impose NAIC accreditation standards on most captive reinsurers. The proposed definition was published for public consultation and received 34 comments, most of which were in opposition.

In light of the comments received, the financial regulation standards and accreditation committee directed its staff to create a new definition, which would focus on life insurance, variable annuities and long-term care reinsurance. A draft is yet to be released.

Despite the above issues, there is much to be look forward to in 2015. Captives continue to become more mainstream. Mid-market companies will continue to be a driving force behind many new formations and as captives continue their evolution, regulation will need to evolve as well. Essential to the ever changing face of the captive industry is the framework needed to implement such innovative ideas.

The captive insurance industry is continuing to grow and evolve, as enterprises large and small understand the benefits captives bring to their organisations. With this growth there will continue to be hurdles: misguided taxation, regulations and standards will be potential difficulties to be overcome.

However, as in the past, the captive insurance industry will be able to move beyond these hindrances to meet the needs of risk managers on a worldwide basis. **CIT**

Richard Smith
President
Vermont Captive Insurance Association

The legislating line

It is the turn of captive insurance to be worried about what regulators will do next

STEPHEN DURHAM REPORTS

What kind of picture have end-of-year statistics painted in terms of your state's progress over the past 12 months? Have they shaped your plans for 2015?

Paul Newton: 2014 was a great year for South Carolina as a captive domicile. It grew quickly as a domicile between 2000 and 2008, and became one of the major players in the industry. For the next five years, while not adding a significant amount of new captives, South Carolina made a conscious and determined effort to strengthen its oversight and regulatory processes. This included improvements in the business plan review and approval process, as well as consistent and cost-effective examination and regulation of existing captives. They have also made great strides in making South Carolina a more business friendly environment, without relaxing its vigilance in its regulatory duties.

The domicile also brought in Jay Branum as director of captives, and along with the regulatory staff that were already in place, they have succeeded in getting the word out that South Carolina is a great place to do business. They licensed 20 new captives in 2014, and are looking to do substantially more in 2015.

Matthew Robinson: The year-end results indicated that Vermont remained relatively flat for total active captives. The 16 captives that were formed appear to indicate that growth has slowed to some extent for the domicile due to competition. As I understand it though, the quality of the captives approved in 2014 was very strong.

From our perspective, our plans are not necessarily shaped or reshaped based on the results a domicile has in any one year. We use the feasibility study process to evaluate the domiciles based on the needs of the parent organisation and the captive. There are many issues that factor into the decision surrounding which domicile is most appropriate for the company, such as the regulatory environment, cost of operations (such as, minimum capital, premium taxes and other regulator fees and self-procurement taxes), logistics and the political environment and reputation.

Since Vermont has a strong regulatory body with a strong reputation, significant political support at the state level and continues to have a competitive fee structure, we will continue to look to form captives here.

Jason Flaxbeard: The picture has developed focus in some areas but remains blurred in others. Positive developments through the year included TC Memo 2014-225 issued in late October 2014, offering some clarity over the federal tax treatment of captives and the renewal of the government sponsored backstop at the beginning of the year.

Other positive notes include the 2015 protected insurance company (PIC) law in the Cayman Islands, which was a long time coming. Uncertainty over the direction of the National Association of Insurance Commissioners (NAIC) towards captives and some states' moves towards legislation including taxation of self-procured insurance offers some clouds to the horizon. The market's reaction to cyber events may also provide an opportunity for captives.

Captives remain as popular as ever and continue to offer a number of benefits to their sponsors—we are seeing many companies explore medical stop-loss coverages in captives as a source of cheaper capital. Mature captives are reviewing asset portfolios to deliver the best return on capital for owners.

In discussions with CFOs during the year, we've found that cost of capital and creating return arbitrage is paramount within captive operations. If the reinsurance market provides a lower cost of capital to an entity, it must be explored. Captives are insurance vehicles but are seen more widely as capital vehicles directed towards: (i) driving profit; (ii) reinsurance access; and (iii) cost efficiencies.

Beecher Carlson will shape its plans around the opportunities for captives. We have always been a company that looks to provide value to its clients through continual consulting and ideas.

Is there a shift occurring in the US, and your state in particular, in terms of what captive vehicles are being used by new clients?

Flaxbeard: The captive business is solutions based. As states develop new vehicles (single parent captives, segregated cell entities, branch captive laws) amend laws to attract captive investment, the market will respond. New clients are looking for capital appropriate solutions.

They look for structures that allow: (i) parental risk assumption; (ii) attraction of risk from contractual affiliates; and (iii) minimal use of parental capital. Capital will always migrate to entities and states that offer the best return on that capital.

TC Memo 2014-225 in its commentary on parental guarantees may allow captives to utilise capital that doesn't provide its parent with an opportunity cost.

Access to new markets through captives may offer access not seen since the days of finite insurance. Finding the capital and structuring the capital access will become a focus of the industry in the next 12 months.

There has been a fundamental shift in the way that the reinsurance market is operating from a capital perspective.

Captives have the ability to access this capital and over the next year, we'll see how aggressive some become.

I believe that this systemic change will give rise to the expansion of segregated cells within the industry.

Newton: There has been a growth in the number of small captive insurance companies, or 831(b)s, being formed in the US. While South Carolina has licensed some of these captives, they have stayed with their business plan, and have not opened their arms to large numbers of these micro captives. They are looking at the same types of programmes, and have not changed their model.

With the growing proliferation of US captive domiciles, do you feel as though something has got to give, or will business remain as usual for your state?

Newton: I think South Carolina's mix of solid reputation and consistent regulation should allow the state to continue to attract good, well-funded captive programmes. Judging from the first two months of the year, 2015 should be a banner year for South Carolina.

> "There has been a growth in the number of small captive insurance companies, or 831(b)s, being formed in the US. While South Carolina has licensed some of these captives, they have stayed with their business plan, and have not opened their arms to large numbers of these micro captives"
>
> ***Paul Newton, Senior vice president, USA Risk***

> There will always be a flight to quality. Companies will be attracted to Bermuda, Vermont, Cayman and Hawaii not just because they are the biggest domiciles, but because they offer opportunities

Jason Flaxbeard, Senior managing director, Beecher Carlson

Robinson: For the time being, I don't think that Vermont will change the way it goes about business. It is possible that the state may continue to see some decrease in captive growth and it might experience some captives re-domiciling to the parent company's home state, but Vermont is considered the gold standard due to the excellence that it exudes.

The regulator's experience and quality is tough to match. I would not be surprised to see captives coming back to Vermont over time. It may cost more in self-procurement taxes and such, but the quality of the regulators and the lower costs for examinations could outweigh any of those increases in self-procurement taxes.

I don't think that the total number of US domiciles is sustainable. There is a long-term commitment necessary for domiciles to succeed similar to what Vermont has experienced. Vermont not only has the quality of the regulators, it also has support from the state government, regardless of the party that holds office. Being a smaller state has been an advantage in that regard. Larger states may not be as supportive of the industry as they realise that the jobs, premium taxes and such generated from the industry is not significant for the state.

I am not convinced that every current US domicile will have that same commitment to the captive industry 20 years down the road.

Flaxbeard: There will always be a flight to quality. Companies will be attracted to Bermuda, Vermont, Cayman and Hawaii not just because they are the biggest domiciles, but because they offer opportunities for: (i) socialising ideas (ii) insourced regulation; and (iii) commitment to the industry long-term. Newer domiciles need to offer not just quick fix enticements to companies, but also long term, fair, efficient and client-focused regulation.

Most domiciles will spend much of their time looking inward at the risks of regulation and the NAIC rather than towards risks faced by clients and potential clients and their solution. Administration is very important and clients expect domiciles to promote their interests at the NAIC, but what clients need most is a domicile that adds value by allowing access to thoughtful process.

Those domiciles that continue to work with clients and invest in client-focused infrastructure will grow and those that are building their platform would do well to emulate them.

What are the regulatory concerns for you in the next 12 months?

Newton: The industry is watching with interest to see what happens on the legislative front. On a regulatory front, South Carolina has stayed consistent in its regulation and its approach, so hopefully there are no significant changes that will affect the industry here.

Robinson: I am concerned about the perception of the captive industry from a regulatory perspective. There is significant scrutiny over small captives that take the 831(b) election. I think that something needs to be done to rid the industry of the abusers of the election. However, I believe that process will take more than the next 12 months. Legislation to limit the abusers is likely going to result in some negative impact on companies that are not abusing the election, which I think such companies would gladly accept for the improved perception of the industry as a whole.

Do you think that organisations such as the IRS and NAIC are becoming more accepting of (onshore) captive insurance and alternative risk transfer as a whole?

Newton: The Internal Revenue Service (IRS) has recently come out with pronouncements on its concerns about 831(b) captives and possible abuses, and indicated that these are on the list of things they are looking closely at.

I would not say the agencies mentioned have become more accepting of captive insurance, and they are certainly on the lookout for abusive tax arrangements.

The NAIC does not appear to be more accepting of captives, or in particular of risk retention groups. There have been a steady stream of accreditation model rules being distributed to states, so it does not appear that they have become more accepting.

Robinson: I believe that agencies such as the IRS and NAIC are not as accepting of the captive primarily due to a lack of understanding.

I am confident that the NAIC will become more accepting over time as the captive industry has an increasingly respected presence/voice with in the NAIC from domiciles such as Vermont and Delaware. I think the same is true of other agencies such as the IRS and US Treasury.

However, for those organisations to become more accepting, it will require industry leaders to continue to step up and educate the groups. The industry is going to have develop/maintain constraints and regulation to continue to improve the industry's perception to the public. As the industry continues to grow, I would expect the industry's collective voice would grow stronger as well. CIT

> I am confident that the NAIC will become more accepting over time as the captive industry has an increasingly respected presence/voice with in the NAIC from domiciles such as Vermont and Delaware

Matthew Robinson, Managing director of captive management services, Wilmington Trust

A matter of opinion

Derek Lloyd of AMS Insurance Management Services discusses regulatory initiatives, the onshore versus offshore argument, and more

STEPHEN DURHAM REPORTS

What regulatory hurdles are on the horizon for the BVI and offshore domiciles in general?

The offshore jurisdictions generally seem to have become political pawns in the 'brave new world' that followed the global economic meltdown of 2008. Indeed, if you would believe certain political opinions vehemently expressed on either side of the Atlantic, these are seemingly the root cause of the world's collective financial woes during the intervening period. All a little harsh and I would dare say hypocritical, maybe, when you consider that in all probability none of those jurisdictions will have affected the sub-prime mortgage crisis whatsoever.

The reality is that each jurisdiction has to strive consistently harder than their onshore counterparts to justify their existence in the face of an increasingly aggressive stance from individual countries, the media and collective bodies such as the International Monetary Fund, Organization for Economic Co-operation and Development and the G20.

We are still to see the full effects of the Foreign Account Tax Compliance Act and its UK equivalent in operation, but these are likely to have less of an impact on captives than on some of the other sectors of the financial services industry, such as company formation and trusts—particularly for a jurisdiction such as the British Virgin Islands (BVI), with its captive business of US parentage typically registered with the US Internal Revenue Service (IRS).

As far as the captive sector is concerned, and going back to the enactment of the 1994 original insurance legislation in the BVI, there has always been total transparency and disclosure within the industry pertaining to the ultimate beneficial owning and the directors and officers of any such licensed and regulated insurance entity.

The BVI Financial Services Commission has continued to advance the regulatory and compliance requirements since 1994 through amendments to the insurance legislation enacted in 2008 and 2009, respectively, plus further legislative amendments scheduled for 2015 to ensure that the jurisdiction stays well on track with all current and anticipated compliance requirements.

Has the overall increase in regulation closed the gap between onshore and offshore captive domiciles?

We have not really noticed any specific trend either way over the last few years within our portfolio of clients. I believe that this is also the predominant view across the profession that has been formed based on the circumstantial evidence to hand.

I can confirm, however, that one longstanding AMS connection did elect to re-domicile its entities onshore during the course of 2014, but that has been more than offset with a volume of new formations coming the other way to those jurisdictions in which we operate, thus continuing the previous trend of consolidated growth witnessed by the AMS insurance division in recent years.

I would suggest that different jurisdictions have their own specific appeal, whether that is industry group, niche product, custom and practice, or patriotism. I must therefore conclude that the 'onshore or offshore debate' is more of a media concept than a reality for the discerning captive owner, which will make an informed decision as to its domicile selection based on a combination of factors.

Do you think that those offshore domiciles whose legislation cater for certain niches such as 831(b)s and ILS have found in those an advantage?

Not necessarily. One must be realistic and accept the fact that historically, there has been a degree of plagiarism with one domicile or another replicating and improving on the legislation and structures of its counterparts. Ultimately, this contributes to the needs of an ever evolving marketplace that delivers a broader choice for the end user.

Consumer demand will be a key driver overall and as new opportunities arise, jurisdictions must remain flexible and responsive to cater for ever changing demands and opportunities. An example of this assertion can be found in the permutations of the protected cell company concept that has greatly evolved since originating in Guernsey in 1997. Delaware has created its own 'series LLC' model as a possible alternative, while other jurisdictions such as the BVI have implemented segregated portfolio company legislation. Domiciles such as St Lucia have, in turn, enacted incorporated cell company legislation, while the Cayman Islands has done so recently with the introduction of portfolio insurance companies.

> "The BVI Financial Services Commission has already been canvassing private sector feedback this year on proposed legislative amendments designed to maintain the domicile's position as a premier and long-standing captive jurisdiction of choice"

The development of insurance-linked securities (ILS) has opened a door to an innovative financial instrument. It has been rather fascinating to follow the push of several jurisdictions across the Caribbean, Middle Atlantic and Europe that are actively seeking to put in place suitable legislation and infrastructure to secure of proportion of this growing market.

What is BVI doing to update its captive laws in 2015?

The BVI Financial Services Commission has already been canvassing private sector feedback this year on proposed legislative amendments designed to maintain the domicile's position as a premier and long-standing captive jurisdiction of choice. It is anticipated that such legislation will become law later in the year.

Do you think the attitudes of US government agencies such as the IRS have become less suspicious of captives in recent years?

I do not believe that statement to be true. Recent industry headlines have the IRS advising that 831(b) captive formations have now made the "top dozen dirty tax scams" and seemingly in direct conflict with the announcement that US Congress has passed a bill to potentially increase the premium threshold for such entities from $1.2 million to $2.2 million.

The IRS has not really changed its position at all on micro captives as they are alternatively called. If an entity, onshore or offshore, is established with a valid business reason as an insurance company conducting its affairs as such then I would infer that the IRS is quite comfortable and willing to support the respective 953D and 831(b) elections being made by such US-owned entities.

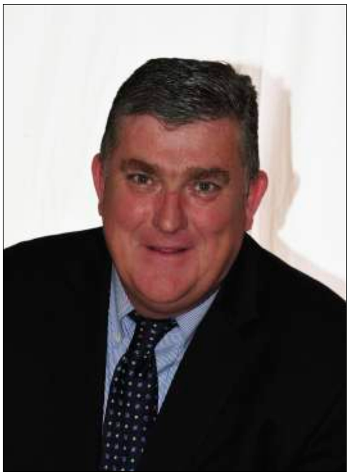
Should these entities fail to conduct their affairs in an appropriate manner and in contradiction with the rationale underpinning the establishment of a fit and proper underwriting activity, then such companies are potentially inviting trouble for themselves and they should correctly be held accountable for that.

Do you feel that some of the big events last year have shaped regulations for years to come?

Not really. I would agree that certain rulings in the US tax courts through 2014 appear to have clarified previous 'grey areas' with regards to the revenue service interpretation of what they believe ultimately constitutes an insurance company.

Certain events such as the Rent-a-Center ruling undoubtedly assist in providing further clarity and definition for US captive owners wherever they may be domiciled.

However, that is only a part of the overall captive insurance industry and I am sure that we will continue to see a changing landscape of regulatory and compliance oversight from different perspectives going forward. CIT



Derek Lloyd
Director
AMS Insurance Management Services

The evolution of the captive manager

Roundstone's Michael Schroeder explains how and why the company first entered the captive market, and what shaped it into the established industry name it is today

The beginning

Like many owners of captive insurance companies, our parent company formed its captive facility because we were not finding what we needed from the standard insurance market. It was 2000 and we were repeatedly confronted with "no" or "cannot do that" when a submission was made for our nursing home professional liability programme. Despite acting as a full-service managing general agency and having an innovative game plan to avoid the staggering losses that were rocking the market, there were no takers for our book of nursing home risk. So we did what many others have done: we formed our own reinsurance facility.

If no one wants the risk, then we will take it. We needed a risk-bearing entity to put our money where our mouth was. We felt comfortable our captive idea would pay off at the price the market was getting for this type of coverage. We were right, but never knew where the captive idea would take us.

Our company included several experienced insurance professionals, but the idea of forming an insurance entity was new to all of us. Questions about where, when, how much and will it work were pondered every day. We looked at all the name brand domiciles: Vermont, the Cayman Islands, Bermuda and others. We spoke to actuaries, regulators, managers, attorneys, banks, reinsurance intermediaries, auditors and underwriters. We prioritised our objectives and laid them against what we were hearing from those who already travelled this road. In hindsight, flexibility, professionalism, security, quality of provider and stability became our primary objectives. Surprisingly, time, cost and location did not override our commitment to them.

In reviewing each of our goals, we chose Bermuda as the domicile for our new insurance entity. Bermuda offered flexibility through its Segregated Account Companies Act 2000. Our interaction with the regulators and service providers delivered a consistent professional experience. We felt like we were working with folks that had done this before and understood what we were trying to accomplish. The more we visited Bermuda, the more we became comfortable with the territory's stability and security. I can still recall a lunch meeting with a long-tenured insurance manager at an open air restaurant overlooking Hamilton Harbour. His 60-plus years of experience and track record for building successful insurance facilities made our captive formation seem so easy and automatic.

So off we went, engaging one of the island's prestigious law firms to undertake our company's formation. We would end up spending a lot more time and money than we originally planned, but when we reached the finish line (12 months and a few hundred thousand later) we were glad we did it. Roundstone Insurance was born and ready for business—or so we thought.

Captive management

Initially, we engaged a captive manager that was a division of a primary insurer. At the time, we were working with this same insurer as their managing underwriter for the nursing home liability business. It maintained an office in Bermuda, costs were reasonable and we felt its role was inconsequential. We learned very quickly how wrong we were. One of the primary responsibilities of a captive manager is accurately reporting the financial condition and transactions undertaken by the captive. Reading the first batch of reports presented many problems, including missing transactions, improper entries, and other information that made decision making impossible. Making matters worse, the poor accounting caused us to submit additional capital to avoid unnecessary oversight by the Bermuda regulators.

After a year of trying to work through the reporting and other communication questions, we decided to undertake the captive management function ourselves.

Fortunately, our ownership group at the time was made up of a regulatory lawyer, actuary and two other insurance management professionals. While the financial reporting for this entity may have seemed daunting, we understood accuracy was paramount if we were to realise the value of the business unit that we had created. We hired an accountant. We purchased a software system developed for insurance company management. We began to dig into the details. We were glad we did. Understanding how accounting inaccuracies were not only causing us to contribute additional capital, but how we could better manage our programme, made the change a good one.

After a year of seeing first-hand the opportunity that a well-run reinsurance captive could provide any insurance programme, we decided to expand the business assumed by our segregated account captive facility. We also began marketing our captive management capabilities and started managing other captive facilities for customers across many different product lines. Why not, if the captive could help provide much needed capacity to our medical malpractice programme?

"We thought other insurance programmes could equally benefit from a captive insurance facility that didn't take more than a year and a couple hundred thousand to form"

We thought other insurance programmes could equally benefit from a captive insurance facility that didn't take more than a year and a couple hundred thousand to form. Helping other captive participants in the market avoid some of the mistakes we made over the past two years, while offering a well-managed, turnkey, flexible captive facility, sounded like a good strategy.

Managing general underwriter

After successfully managing numerous captive programmes and witnessing first-hand where the traditional market was failing to provide adequate solutions, Roundstone took another step in its evolution.

We became a managing underwriter for several lines of business, beyond the original medical malpractice, in 2008. Offering underwriting, policy and claims management services, in addition to captive management, made sense.

As captive managers, we were actually seeing where claims were coming from and what underwriting factors contributed to positive loss ratios. We developed an underwriting, policy and claims function with the latest systems and experienced professionals. We knew how important it was to receive accurate policy-level detail when we went to prepare the captive's financial statements. The focus on details carried over to the underwriting business.

Still, Roundstone never left its captive origins. All of our programmes maintain an element of captive self-insurance as part of their strategic advantage. The four pillars of "experience, innovation, focus and results" that were relied upon when building our captive management business have proven to be an equally successful approach for growing our managing general underwriter business.

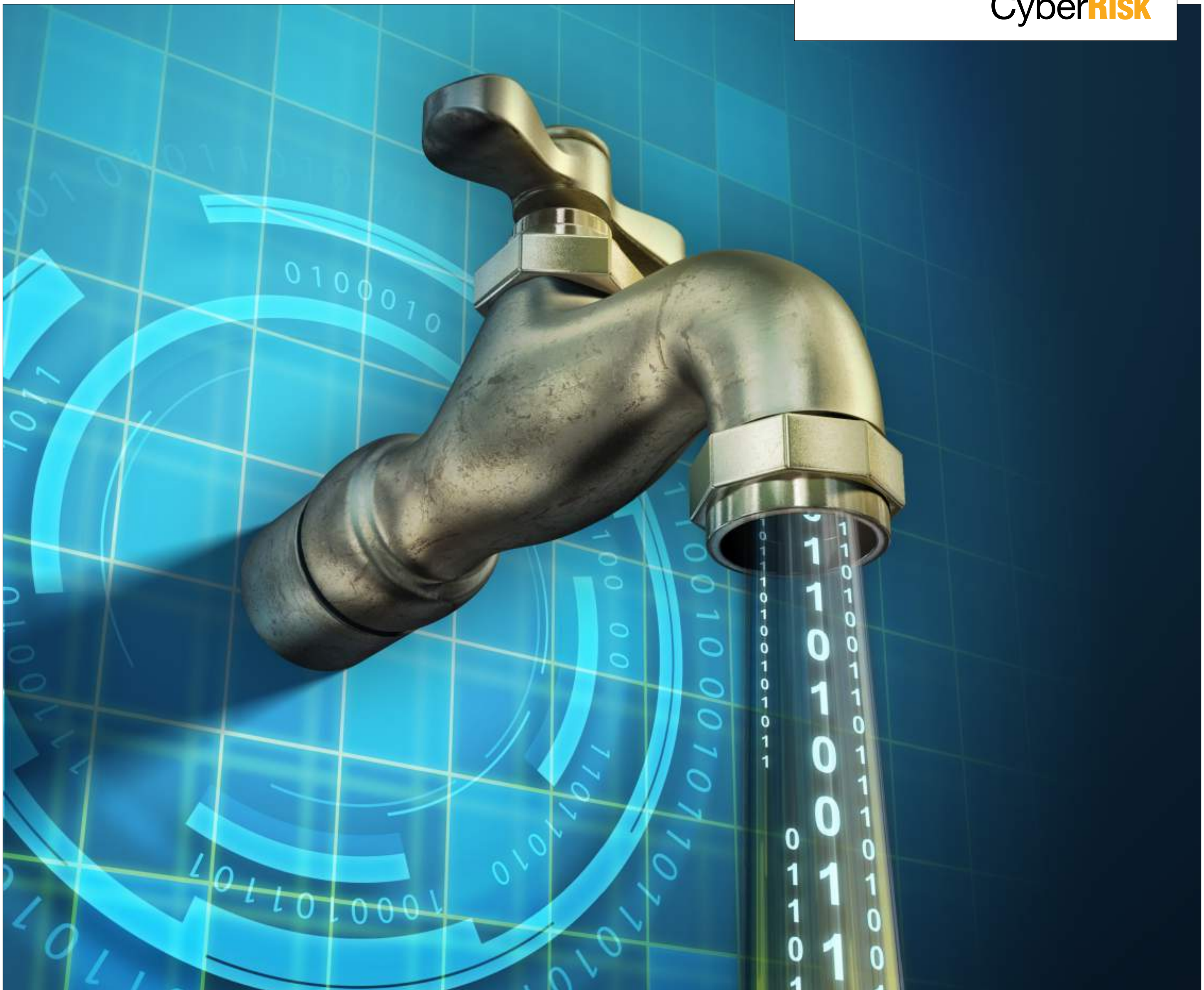
The butterfly experience

Today, Roundstone offers a turnkey captive solution with the same quality insurance management service that our founders were seeking in 2000.

Accurate, timely reporting, combined with flexibility and creativity, has proven to be a good recipe for attracting customers.

From the spring of 2005 to the present day, Roundstone has seen its business increase 25-fold, all built on the original captive formed to resolve a capacity problem in medical malpractice. As my wife reminds me, even a blind squirrel finds an acorn once in a while. CIT

Michael Schroeder
President
Roundstone



Data damage: cover may be the cure

The proverbial old wives would have it that prevention is better than cure, but that platitude is of little comfort to victims of cyber attacks

STEPHEN DURHAM REPORTS

While the majority of companies have some form or another of cyber security in place, far fewer have also implemented adequate cover, should the worst happen.

On 28 January, many parts of the world observed International Data Privacy Day, an initiative designed to help consumers and businesses become more aware of the increasingly frequent dangers of data privacy compromises online.

Although a large proportion of modern society has the potential to become victim to cyber crime, none are affected quite so monumentally as large, multinational businesses. As a result, the compulsion to insure against such an event is becoming harder for businesses to ignore.

Given some of the confusion in the insurance market and the inherent complexity of cyber-related risks, the benefits of retaining those risks via a captive and gaining a better understanding of the losses and expenses is steadily emerging as an effective solution.

According to global practice leader for cyber risk insurance at Aon Risk Solutions, Kevin Kalinich, a good cyber programme includes broad, customised policy wording (including coverage potentially not available through traditional insurers), tax and other financial statement benefits (which may vary domicile to domicile), and control of claims, including expedient payment of claims compared to traditional insurers.

It also offers the best pricing available, as “most cyber captive placements underwrite to what the price would have been if not in a captive”.

Kalinich continues: “A small minority of organisations take in to account the cyber risk management programme of captive management companies, but not yet a majority of organisations. However, the trend is growing to consider the cyber resiliency of captive management companies."

"The cyber exposures of each entity must be evaluated individually based on a variety of factors. The expansion to Asia and South America may raise different risks, but not necessarily worse. The largest issue is the uncertainty for a lack of actuarial data in emerging markets—not necessarily an automatic higher cyber exposure."

Despite the growing frequency and severity of cyber exposures, the increase in cyber risk programmes remains in its infancy.

Aon's 2014 Captive Benchmarking Study showed that only 1 percent of captive owners surveyed are funding cyber risk through their captives.

The reluctance for many organisations appears to derive from the challenge of gaining an estimation of the cyber risk exposure and quantification of consequences of cyber events. This result has prompted Aon to further investigate the possible reasons why, especially as prior research suggested much higher interest levels.

In its 2014 Underrated Threats Report, Aon found that 83 percent of the captive directors surveyed felt that the low ranking that cyber risks received in an older survey had them severely underrated, a finding that was consistent along regional and revenue categories.

In the same 2013 survey, only 7 percent of the captive owners surveyed indicated interest in underwriting cyber risks such as computer crimes, hacking, viruses and malicious codes, in a captive over the subsequent five years.

Most cited the lack of appropriate cover in the commercial marketplace as the reason for their disinterest. While this is clearly a sticking point on both sides of the industry, the fact remains that these kinds of threats are not simply going to vanish by being ignored.

When Aon analysed those captives that do write cyber risk, the majority were from the US healthcare industry. This relates to the Patient Protection and Affordable Care Act that places an obligation on the medical company or hospital to have electronic medical records, which are inherently open to cyber attacks.

According to Aon, other industries writing cyber risk are professional services groups, financial institutions and retailers—all of which have an increasing reliance on online tools.

As well as acting as a safety net in the event of a cyber attack, there is an argument that cyber insurance also allows captive owners and managers to diversify a particular entity's programme by adding new business and increasing its solvency as a result.

> "Insuring cyber in a captive in addition to property and casualty creates an additional risk diversification, which may support the captive's capital requirements"

"Including new lines such as cyber also helps to provide greater diversity and stability to a captive programme. Under the provisions of Solvency II in Europe, which impacts captives as well as the commercial insurance market, there is an incentive for a captive owner to diversify its portfolio of exposures," says Mark Camillo, head of cyber across Europe, the Middle East and Africa at AIG Global Risk Solutions.

For example, insuring cyber in a captive in addition to property and casualty creates an additional risk diversification, which may support the captive's capital requirements, according to Camillo. With Solvency II in place, the additional line could reduce the amount of capital necessary for the captive to retain, as it is not correlated to the other business.

It is not only those in Europe who have turned their attention towards the growing number of cybercriminals targeting big business.

The National Association of Insurance Commissioners (NAIC) has created a cybersecurity task force to monitor emerging cyber risks, their impact on the industry and whether regulatory action will eventually be required.

"We're hoping to propose additional guidance to insurance examiners to assure the nation's insurers are using the best risk management practices available to manage their risk of cyber loss," says NAIC president and Montana commissioner of securities and insurance, Monica Lindeen.

"In addition, we'll also consider collecting detailed information from insurers writing cyber security coverage for other businesses to learn more about how the nascent market is evolving."

North Dakota insurance commissioner Adam Hamm has been elected as chair of the new task force, while South Carolina Department of Insurance director Raymond Farmer will serve as vice chair. Although the initiative is still in its relatively fledgling stages, the task force intends to coordinate NAIC efforts regarding the protection of information housed in insurance departments and the NAIC, the protection of consumer information collected by insurers, and monitoring of the cyber liability market.

As well as efforts from the NAIC, the Terrorism Risk Insurance Program Reauthorization Act (TRIPRA) of 2015 could also help US captive managers and owners to tentatively test the waters of cyber insurance. A recent report from Marsh said that US captives could enjoy premium savings under TRIPRA if there is no terrorism loss, as premiums paid to a related party are retained on a consolidated basis.

In the wake of recent security breaches, the New York State Department of Financial Services (NYDFS) conducted a survey of 43 entities and requested information about cyber security practices and procedures. The results of the survey have assisted the the state agency with developing a series of measures that claim will strengthen cyber hacking defences at insurers.

These measures include, but are not limited to, targeted assessments of cyber security preparedness at insurance companies as part of the NYDFS's examination process, enhanced regulations requiring institutions to meet heightened standards for cyber security, and examining stronger measures related to the representations and warranties insurance that companies receive from third-party vendors.

This, in itself, highlights the paradox that is currently in effect. Regardless of such initiatives and the abundance of cyber security infrastructure in place, there remains what can only be described as a moderate uptake in cyber insurance programmes. It seems that the industry is still very much at the foot of a steep climb to reach an acceptable level of cyber coverage. Whether it is willing to do so or not is another matter but, as cyber attacks continue, it follows that consumers and business will soon grow tired of covering their own losses. CIT

Ireland sees a good Solvency II arising

Despite somewhat lagging in the global captive formation stakes, Dublin is at the heart of financial regulatory reform in Europe, and is poised to capitalise

STEPHEN DURHAM REPORTS

Ireland, or more specifically its capital city of Dublin, has maintained a long-term and consistent recognition of captive insurance over the past 25 years, resulting in a considerable amount of supportive infrastructure and professional expertise being available to the industry today. Despite this, Dublin and its European contemporaries have lagged in recent years compared with their equivalents on the other side of the Atlantic. According to captive benchmarking data by Aon, the US and Caribbean have been growing, while Europe has by and large plateaued.

However, as Michael Spellman, director of business development at Aon Global Risk Consulting Risk Solutions, is quick to point out, growth in the US and Caribbean is primarily driven by smaller captives, particularly those focused on healthcare, which is not common in the EU.

Spellman comments: “In some cases, the industries that we see most interested in captive solutions are those which have a significant footprint in Ireland already, for example, the pharmaceutical industry. Where Ireland most regularly comes out on top in domicile selection is reputational acceptability, the ability to underwrite EU business as part of a global programme and the double taxation treaties in place. These factors are driving the new wave of growth in captives in Ireland.”

In an era where strong corporate governance is becoming an attraction for companies, Dublin has become increasingly appealing, thanks in part to its robust regulatory reputation and focus on transparency. In late 2014, Ireland was selected as one of the five recommended ‘qualified jurisdictions’ for reinsurance by the National Association of Insurance Commissioners in the US, making it the only European captive location on that list. Also as of last year, the Central Bank of Ireland (CBI) began using the Solvency II definition of captive, which requires that captives are wholly owned by corporates and do not insure any third-party business.

Padraic Lee, relationship manager at Allied Risk Management, says: “On last count, Ireland was the second most popular destination for insurance captives in Europe. With a strong tradition and a wealth of experience in managing and regulating captives, Ireland offers the necessary support structures for those looking to establish in Ireland. Expertise, professionalism and a prudent approach to regulation is what appeals to those looking to set up or transfer captives to Ireland.”

It is this proactive approach to regulation that has attracted captive professionals there in recent years, with household names such as Aon, Marsh and Willis all having established offices in the country.

However, it is smaller operations such as Allied that have experienced year-on-year growth since the financial crisis.

As there is no protected cell company legislation in Ireland, the only vehicles available are captives and special purpose reinsurance vehicles. While its legal and tax framework is attractive for special purpose vehicles, the set regulatory authorisation process does not suit the speed of set-up often required for entities such as insurance-linked securities. Spellman says: “As a result, the deal-flow in Ireland is a trickle compared to the offshore territories.”

Although the ramifications of the financial crisis may have been a factor in shaping Dublin’s somewhat tentative approach to captive legislation, it has paid dividends in attracting stable and reputable names to the country.

Lee explains: “Without any past experience to draw from, it can be difficult even for the most experienced industry professionals to establish to set limits, reserves, rules, and so on. The CBI does its best to set out a framework that accommodates and protects all stakeholders. With the financial crisis still relatively fresh in peoples’ minds, it’s understandable that the framework errs on the side of caution.”

Even so, the sheer scale of regulation currently mounting within Europe is enough to concern even the most prepared and proactive of domiciles. Contrary to what many voices within the captive industry continue to maintain, some commentators, including Lee, have pinpointed the incoming Solvency II directive as an area of concern for 2015.

Lee says the directive, which is due to come into force on 1 January 2016, will give Europe a distinct advantage over its more established competitors in the Caribbean and US, ultimately becoming a catalyst for these regions to “catch up”, from a regulatory point of view, at least.

Spellman adds: “We still wait to see the application of a consistent and convergent approach to Solvency II by regulatory authorities across Europe but for the first time in many years, Solvency II is no longer a barrier. It is well understood at this stage and while there are still some elements to be clarified, the two-year preparatory phase, which we are in at present, has allowed a phased process of implementation and understanding. Now it will be interesting to see how the non-Solvency II domiciles apply the International Association of Insurance Supervisors principles over the coming years.” CIT

A focus on captives

The Bahamas Financial Services Board outlines what owners should consider when picking a domicile for their captives

Aliya Allen, CEO and executive director of the Bahamas Financial Services Board (BFSB), in speaking to the approach to the domestic check list for the captives sector, says: "The government of the Bahamas and BFSB have identified that developing the nation's international insurance sector could provide tangible benefits to the Bahamas. The joint strategic plan takes into consideration the relative competitive position of the Bahamian insurance industry, the regulatory environment, as well as changes in the behaviour and needs of insurance organisations and their clients."

She further notes: "We have made great headway in a short period of time in attracting captives to the Bahamas. Attendance at annual international conference such as the Captive Insurance Companies Association (CICA) is quite simply mandatory to ensure the captive industry understands that we are serious and committed to working with them."

Indeed, the Bahamas's geographic position provides it with an ability to serve as an international insurance centre in its region, while existing and developing commercial and cultural links with the EU, Canada, Latin America, and the US provide it with the ability to expand its insurance offering to meet the needs of customers in these markets. The Bahamas recognises the significant competition that exists for this business and the institutions, which serve it and has developed a highly focused strategy based on the advantages that it can offer to captives.

A 2014 benchmarking study by KPMG noted that "captives based in the Bahamas benefit from low travel cost and travel time, which reduces operating costs". In comparison with 10 other jurisdictions, it placed the Bahamas as the closest destination to Miami International airport, with travel time of approximately 52 minutes at an average cost of $397.

The report further noted: "Miami is the gateway to South America and therefore a convenient travel hub to the Bahamas." The same benchmarking exercise described The Bahamas as also one of the closest regions to New York and with very low travel costs. "Further, the Bahamas is likely to benefit from SMEs based in eastern and southern regions of the US as these companies would find the country a more approachable and economically feasible domicile location."

Of particular note, the KPMG report indicated that the Bahamas has competitive regulatory requirements and start-up and operating costs for captive insurance business when compared to other jurisdictions with similar infrastructures and economies.

The Bahamas has an attractive business centre, Nassau, as well as a potential centre in Freeport, which offer a competitive quality of life, cost of living, and quality infrastructure over other offshore insurance centres. However, to be competitive against other domiciles, it recognised years ago that it must develop and sustain market leading legislative, regulatory, and marketing programmes.

This strategic plan for the insurance sector, in fact, served as a useful guide during establishment of the new insurance regulator, the Insurance Commission of The Bahamas (ICB), which succeeded the Office of the Registrar of Insurance Commission (ORIC).

The ICB was established on 2 July 2009, under Chapter 347 of the Insurance Act 2005, and is responsible for the regulation and supervision of all insurers and intermediaries. In its role as both the prudential and market conduct regulator, its purpose is to ensure a sound and stable insurance marketplace and consumer confidence in the insurance industry.

The ICB has worked closely with the BFSB and the government on ongoing strategic development of the sector. One such initiative that arose out of regular discussions on market-sensitive legislative and regulations was the introduction of the Resident Representative Facility.

Resident representative facility

Physical presence in the Bahamas is seen as an important element of good governance and oversight, in both external and domestic insurance legislation.

However, this can also be an impediment to attracting established captive managers that do not have a sufficient number of captive entities to make it economically feasible to establish a full physical presence.

The requirement for captive managers under the External Insurance Act provides the commission flexibility in applying the physical presence requirements.

Established captive managers that are also major insurance market participants can be eligible to receive a captive manager licence in the Bahamas without establishing a full physical presence, subject to defined conditions. This is achieved by the manager appointing a resident representative in the Bahamas who is responsible for ensuring compliance with legislative requirements for the company.

The licensee is required to:

- Maintain books and records at the offices of the resident representative;
- Submit in writing the name, address and terms of appointment of its resident representative within 30 days; and
- Provide written notice of the intention to terminate its resident representative.

The resident representative's duties include:

- Receiving legal notices, instruments or documents on behalf of the insurance manager;
- Compliance with the solvency criteria; and
- Compliance with any other requirements of this act.

Michele Fields, the ICB's superintendent, says that her agency's key message for the captive sector is that the regulatory environment is proactive and recognises the business needs of entities. "As more locations throw their weight into the captive sector, it is vital they understand that we have efficiency and flexibility to respond to the changing market demands."

Recently, the Bahamas has achieved a ranking in the global captive space by number of captives, a sure sign that the jurisdiction's planning is beginning to reap rewards.

Allen says that the work done with the Bahamas Maritime Authority (BMA) over the past number of years to promote to shipowners the advantages of using the Bahamian financial services sector for their business needs is an example of the jurisdiction's strategic approach to captive business.

"As a result of that work, the BMA has been instrumental in providing a platform with the Bahamas Shipowners Association to present how captive insurance can benefit their business," she adds. CIT

Domicile checklist

In addition to its long-standing history as a safe place for capital, permanent and annual residence practices, a skills-based and cost competitive work permit regime, and government's firm commitment to invest in the development of the captive and reinsurance markets, the Bahamas boasts other compelling attributes:

Political and economic environment

- One of the oldest democracies in the Western Hemisphere
- Independent
- English common law system with final appeal to Privy Council in London
- Strong commitment to information exchange through deep TIEA network
- Recognised anti-money laundering framework
- Investment grade rated
- Public-private partnership, with a strong industry lobby

Location, accessibility and lifestyle

- Direct accessibility from major US cities, Latin America and the UK
- US Immigration pre-clearance
- Strong and attractive tourism brand makes ideal for captive board meetings
- Benefits from high airlift capacity due to buoyant tourism market—likely to be increased further with the opening of Baha Mar, the new $3.5 million mega resort on Cable Beach
- Luxury lifestyle options, with first-rate international schools and low-tax environment

Infrastructure: human, physical and institutional

- Diversity and depth of institutions—eight of the world's top private banks and 35 of the top 100 global banks
- Strong domestic insurance market—availability of qualified representatives
- Availability of lawyers and top four audit firms
- $700 million extension of airport and huge investment in new roads, including $12 million redevelopment of downtown Nassau underway
- Opportunity to exploit existing relationships private banks and shipping

Regulatory environment

- 2005 Insurance Act and 2009 External Insurance Act established the ICB as a full independent Commission
- IMF and World Bank's FSAP findings support an attractive regulatory environment for insurance
- Growth in captives market reflective of recent reforms and implementation of risk-based regulation
- The ICB is very open to dialogue with captive owners, and can accommodate urgent turnarounds and expedited formations.

What is a captive?

There are many preconceived notions of what a captive is and what it is not. Anne Marie Towle of Willis dispels some of the myths

A captive is a limited purpose, licensed insurance company of which the main business purpose is to insure the risk of the captive owners and/or associated third parties. A captive is very similar to a traditional, commercial insurance company in that it is licensed as such, it sets insurance-premium rates for the risks it chooses to underwrite, writes policies for the risks it insures, collects premiums, and pays out claims made against those policies.

Key differences between a captive and a traditional insurance company are: (i) more flexible regulations governing captives; and (ii) a captive cannot offer direct insurance to the general public without a fronting carrier.

A captive is a formalised loss retention mechanism designed to enhance the parent's risk management programme, and/or enhance the corporate bottom line. A captive can mean different things for various companies. It can be a risk retention vehicle, a reinsurance company, a profit centre or allowing access to capacity for difficult to place risks.

What types of captives exist today?

The types of captives include:

- Single-parent captives;
- Risk retention groups (RRGs);
- Rent-a-captives;
- Segregated cell/protected cell captives;
- Group or Association captives;
- Agency captives; and
- Special purpose vehicles (SPVs).

The type of captive chosen for your organisation will be recommended by your advisor as respects to the facts and circumstances applicable to you.

Why is a captive important?

Companies form captives to benefit from internal risk financing and to strengthen their risk-management programmes. In a captive arrangement, the insured assumes a contractual obligation to pay premiums to the captive for a specified type and level of insurance coverage. In turn, the captive assumes a contractual obligation to make the insured whole again if that insured suffers a covered loss.

The popularity of captives stems from their ability to provide an efficient loss funding vehicle for risks identified by a business entity as being significant, but where the commercial insurance markets are either unable or unwilling to insure such risks at a reasonable cost.

Captives can provide insurance programme cost reductions for businesses whose overall loss experience may be better than industry averages or whose structural complexity inhibits efficient access to the commercial insurance markets. Benefits are achieved through withdrawal of premiums from the commercial markets and redeployment of those funds to the captive to protect against potential negative developments.

A captive is established when a company makes the decision that maintaining a rationalised, validated and transparent risk retention philosophy is a priority. The value of such a proposition may be comprised of: providing the infrastructure for transparency, validation and rationalisation of retained risk positions; demonstrating the efficacy of risk management programmes in reducing ultimate loss figures against originally expected; and building wealth in an insurance orientated facility so as to support reduced cost of risk over time.

When structured correctly and when used within the context of a risk management strategy that emphasises risk retention and funding of liabilities, a captive can be an important tool to a company and can provide significant savings to their overall insurance programme costs.

The establishment of a captive gives senior management an increased understanding of risk, together with its management and financing. With this understanding, they will be more committed to, and give better support to, risk management programmes throughout the company. In turn, this does often translate into a significant reduction of the company's overall cost of risk.

In addition, when a captive is structured as an insurance company for US income tax purposes, tax benefits may be derived for the premiums paid to the captive. Many companies avail themselves of the tax benefits associated with owning a captive insurance company along with the risk management benefits.

How can I utilise a captive?

There are four principal categories of captive insurance company utilisation:

- Retained risk finance;
- Access to reinsurance risk transfer rate and capacity;
- Third-party business aligned to enterprise risk management; and
- Third-party business in the pursuit of new revenue streams.

These categories are not mutually exclusive. In many cases, a captive utilisation programme may involve several or all of these categories in developing a holistic and well-rounded captive infrastructure.

Retained risk finance: the utilisation of a captive insurance company to optimise an organisation's management of retained risks. These risks may span conventional types of insurance, such as the deductibles under commercial property and casualty risk placements, areas of insurable risk where an organisation has chosen not to purchase risk transfer, and more esoteric risks where commercial risk transfer markets do not offer relevant solutions.

Access to reinsurance markets rate and capacity: an institutional nuance in the insurance industry. Consumers buy insurance from insurance companies, insurers buy insurance from reinsurance companies, and consumers cannot access reinsurers directly without their owned insurance company.

Consequently, when a consumer recognises that the reinsurance markets are offering better pricing, terms, conditions, or capacity for their risk transfer programme, a captive insurance company may be an ideal tool for directly accessing the reinsurance markets for that purpose and cutting out the middle man that is the commercial insurance market. This model also applies to certain government offered insurance backstop programmes, such as for terrorism risks, which are only offered to insurance companies.

Third-party business aligned to enterprise risk management: a large host of scenarios in which a third party (from a technical insurance perspective) needs to purchase insurance, and the organisation can provide a mechanism (through a captive insurance company) for that third party to purchase the required insurance, and, in doing so, the organisation improves its enterprise risk management platform.

Third-party business in the pursuit of new revenue streams: captive insurance programmes in which a third party (from a technical insurance perspective) needs to purchase insurance, and the organisation can provide a mechanism (through a captive insurance company) for that third party to purchase the required insurances.

However, in doing so, the organisation does not necessarily improve its enterprise risk management platform, but instead is motivated by the pursuit of net revenues, which are expected to emerge through the underwriting profitability of the insurance programme.

Several examples of this captive insurance utilisation model are available for review: health systems selling local/regional health insurance channelling plans; big box retailers selling service contracts/extended warranties at the point of sale; auto dealerships selling extended warranty programmes; alumni associations selling personal and commercial insurances to alumni; and students (or their parents) purchasing renters insurances when they move off campus.

What is the process to establish a captive?

All domiciles will require a feasibility study as part of the business plan application. Thinking about the process, one needs to start with an assessment of the current insurance programme and the risk appetite of the organisation prior to engaging in a formal feasibility study.

Feasibility analysis involves the following:

- Actuarial analysis of insurance programmes and determination of appropriate premium, reserve and surplus levels;
- Attorney/tax advisor review of the tax consequences of a captive, in particular, tax deductibility of premiums paid to the captive, captive tax structure and overall programme structure;
- Domicile selection, based on a variety of factors such as experience of the domicile regulators, receptiveness and experience of the business under consideration, financial considerations, travel considerations and tax outcomes;
- Preparation of pro forma financial statements in consideration of the actuary's work, the captive's tax status, and the domicile of choice;
- Assessing service providers and insurance carriers for partnership value;
- Building a five-year strategic plan for captive utilisation; and an
- Exploration of overall programme structure and dynamics, in order to best develop an operational scheme which meets strategic goals.

Who is involved in the process of establishing a captive?

Initially, it is best to engage a consultant, who has experience in coordinating feasibility studies and captive formation. The captive consultant will coordinate the activities of your selected service providers and act as the overall project leader for the captive feasibility study. Service providers with input into the feasibility study and incorporation of a captive include:

- Actuary;
- Tax and audit advisors;
- Legal advisors;
- Investment advisors
- Brokers;
- Regulators; and
- Key stakeholders of the organisation.

Where can I incorporate a captive?

When it comes to domicile selection, the landscape reaches far and wide. Domicile selection is typically one of the last decisions made in the captive establishment process. But it has the most allure and is very important.

The most common authorised domiciles are, in order of the approximate number of captives domiciled: Bermuda, the Cayman Islands and Vermont.

In the last decade, competition for captive business in the US has resulted in more than 25 states enacting legislation.

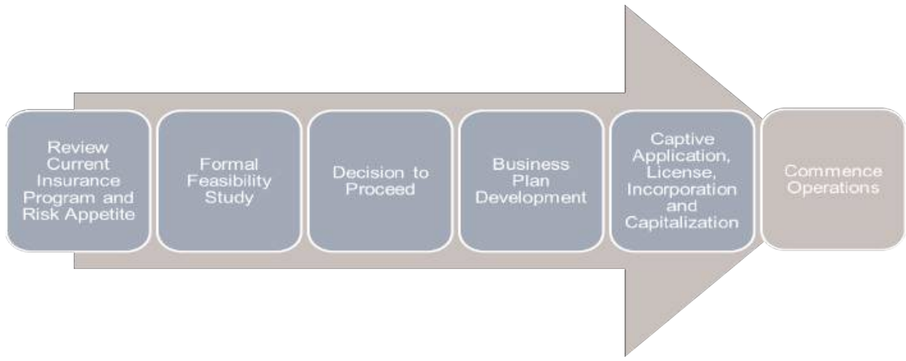
Some of the domicile metrics that should be considered in selecting an appropriate domicile:

- Capitalisation and surplus requirements;
- Receptiveness of regulatory environment;
- Quality of local infrastructure;
- Availability of expertise;
- Stability of regulatory environment;
- Flexibility as respects investment portfolio;
- Ease of doing business—in a suitably regulated environment;
- Experience in business under consideration;
- Established track record; and
- Efficient financial outcomes: tax, wealth, investment and so on.

When should I establish a captive?

Companies that are financially sound, with good risk management and are driven by an interest in financing assumed risk positions, with a long-term commitment to an alternative risk transfer vehicle, are ideal candidates to form a captive.

The timing can be predicated by either a hard or soft market, or the risk appetite of the organisation.



What drives successful captives?

A commitment to the long-term solution that is a captive is critical in driving success. Other prudent elements include strong governance, strict underwriting criteria, a well-capitalised and funded programme, the commitment to loss control and claims handling, and surrounding a captive with strong, experienced business partners. One of the most important details is to do proper due diligence of all business partners.

In summary, a captive can be an excellent tool for managing risk for your organisation, allowing access to the reinsurance market, control of investment income, underwriting profits, potential tax benefits for profit corporations and the ability to manuscript tailored policies to suit your needs.

The important elements of owning your own captive insurance company provide the control, cost efficiencies, access to capacity and creativity in which you reap the rewards long-term. **CIT**

Anne Marie Towle
Senior vice president
Willis Global Captive Practice

Industry Events

16th Annual SCCIA Executive Educational Conference

Location: South Carolina
Date: 21-23 September 2015
www.sccia.org

Save the date for the 16th Annual SCCIA Conference, returning to downtown Charleston September 21-23 2015. The event features presentations by the top players in the industry, continuing education opportunities, networking and fun.

35th Annual National Educational Conference & Expo

Location: Washington, DC
Date: 18-20 October 2015
www.siia.org

SIIA's National Educational Conference & Expo is the world's largest event dedicated exclusively to the self-insurance/alternative risk transfer industry. Registrants will enjoy a cutting-edge educational program combined with unique networking opportunities, and a world-class tradeshow of industry product and service providers guaranteed to provide exceptional value in three fastpaced, activity-packed days.

Industry appointments

Kieran O'Mahony of Marsh Cayman has taken over as chair of the Insurance Managers Association Cayman (IMAC).

He replaces Rob Leadbetter, who is vice president of USA Risk Group.

As chair, O'Mahony plans to continue to develop the relationship between industry, legislators and regulators, and to proactively promote Cayman's captive insurance industry in existing and new markets.

Speaking at the 2015 IMAC general meeting in January, Leadbetter commented: "I am confident that under O'Mahony, the association will continue to carry the flag for Cayman and to work tirelessly to ensure its continued dominance and strength in the industry."

At the meeting, Kane's Linda Haddleton was elected vice chair and chair of the education committee, while Stephen Gray of Willis was selected to take over as treasurer.

Global Captive Management's **Jennifer Reid** is to become secretary of IMAC, and **John Pitcairn** of Artex was elected chair of the association's educational scholarship foundation.

Erin Brosnihan of Kensington was elected chair of the forum committee.

JS de Jager of CSI International was named chair of the marketing committee and Strategic Risk Solutions's **Seamus Tivenan** will be chair of the regulatory and legislative committee.

Aon's **Adrian Lynch** was also elected chair of the research and development committee.

Law firm Anderson Kill has promoted **Patricio Suarez** to shareholder in its New York office.

Suarez is a member of the firm's captive insurance group, providing counsel to clients in their establishment and management of captive insurance companies.

He focuses his practice on domestic and international tax and wealth planning and conducts numerous multi-jurisdictional reviews of clients' personal, business and family activities around the world.

He also advises global institutions, wealthy families, family offices, trust companies and governments.

Robert Horkovich, managing shareholder of Anderson Kill, commented: "Suarez has been instrumental in helping Anderson Kill build its captives business and for many years has ably served high net worth clients with the most exacting standards."

Guy Carpenter & Company has appointed **Matthew Eagle** as managing director and head of international analytics.

Eagle, who has experience in the reinsurance sector, will be joining the firm's London office on 1 August.

In his new role he will be responsible for providing resource leadership across the Europe, the Middle East, Africa and the Asia Pacific regions, with a focus on developing a market-leading catastrophe modelling and analytics proposition.

He joined Willis Re in 2010, where he was most recently head of catastrophe analytics and a regional director of Willis Re International.

Nick Frankland, CEO of EMEA operations at Guy Carpenter, commented: "Eagle brings a wealth of experience in catastrophe risk assessment across the numerous geographies that make up our international region."

"He will add invaluable skills to our regional leadership," he added.

Todd Goldenhersh has joined Brown Smith Wallace as a manager in the insurance advisory services practice.

Goldenhersh will be responsible for performing audits of insurers writing fidelity, personal and commercial lines; medical and life insurance; and professional liability coverage. He will also serve the firm's captive insurance clientele.

Prior to his new role, he was a senior auditor at Mallinckrodt Pharmaceuticals.

Larry Pevnick, partner in charge, insurance advisory services at Brown Smith Wallace, commented: "His progressive experience working closely with clients in the heavily regulated insurance industry is a great asset to our clients and our team."

Liberty Mutual Insurance (LMI) has promoted **Ian Cook** to head of development for UK commercial.

Cook was previously business development manager for the London market and the south.

In his new role, he will be responsible for the running of LMI's UK development team based in Glasgow, Manchester, Leeds, Birmingham, London and Bristol.

He will report to Mark Stephenson, and will work closely with the team to implement strategy and ensure there is a consistent approach to business development across the UK commercial branch network and its broker partners.

Sean Rocks, chief underwriting officer for commercial at LSM, said: "With Cook now in place, our team is poised to take advantage of this position as one of the leading commercial lines offerings across the country and a very credible alternative to other markets." **CIT**

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Published by Black Knight Media Ltd
Provident House, 6-20 Burrell Row
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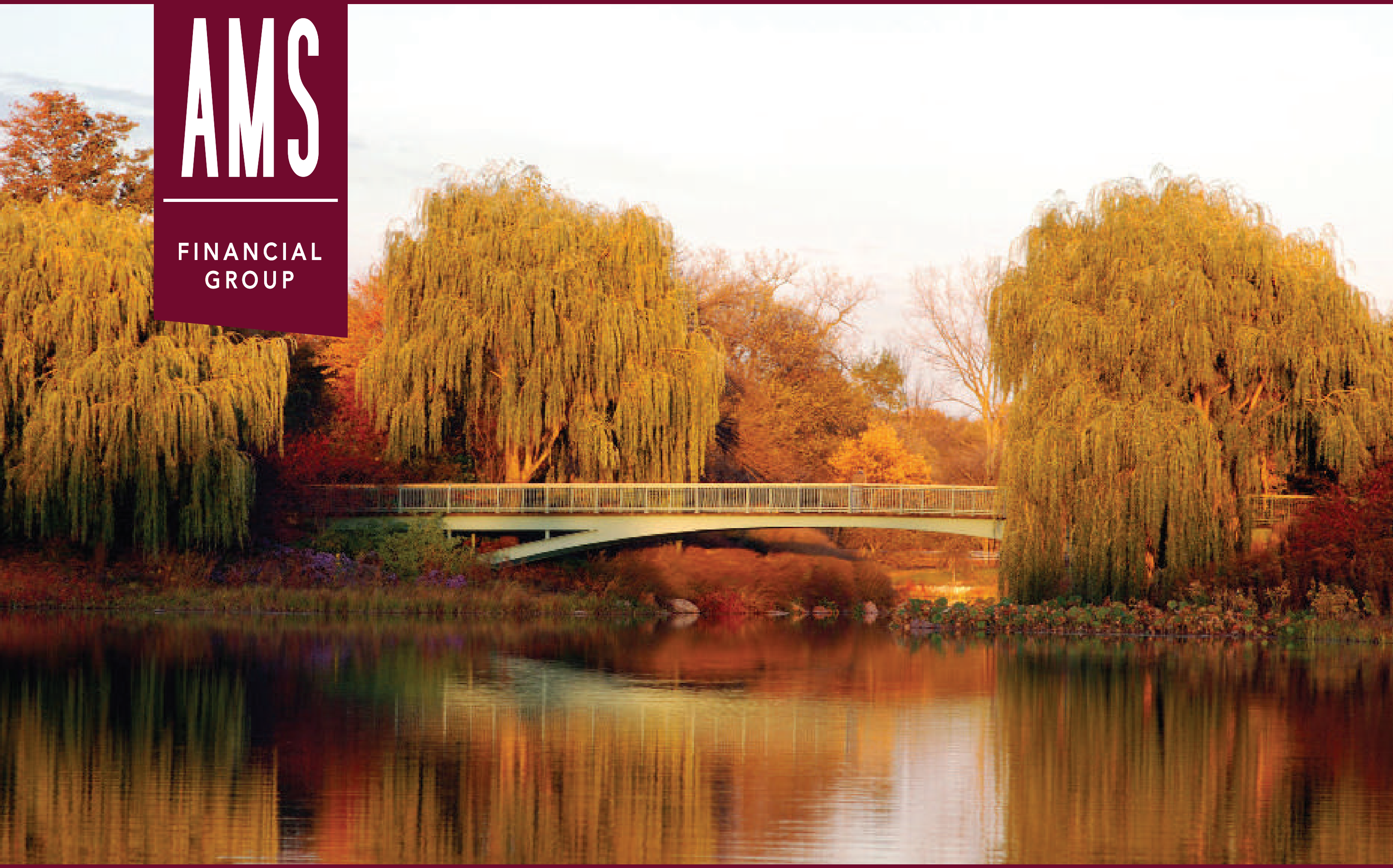

Striking the Right Balance

For over two decades we have been at the forefront in the design and implementation of risk management solutions for a vast array of clients. We offer a comprehensive range of captive management services through our dedicated team of insurance professionals with over 80 years of experience.

From the feasibility study and business plan preparation, through the license application and company incorporation process to the ongoing daily management of the captive, we manage the process at each and every step to suit our clients' requirements.

Contact us to see how our approach can deliver the right outcome for your business.

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