CIT CAPTIVE**INSURANCE**TIMES

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Oregon officially opens to captives

SALEM 15.10.2012

The US state of Oregon has declared itself open for captive insurance business. Oregon's law allowing captive insurers became effective in July this year.

The law will allow a range of captives comprising pure captives, association captives, branch captives and captive reinsurers.

Minimum capital and surplus requirements include a minimum requirement of $250,000 for a pure captive insurer, $750,000 for an association captive insurer and $300 million for a captive reinsurer.

Dennis Ault, an Oregon Insurance Division financial analyst, said: "Oregonians understand the benefit of having a captive insurance industry in the state. Oregon is the only state on the West Coast or in the Pacific Northwest that has a captive law. Not only will Oregon companies benefit from the state's captive laws, but companies in other states will benefit also."

he added: "Branch captive insurers are required to establish a trust fund equal to or greater than the amount of capital and surplus for the applicable line of coverage and the net reserves on the insurance policies or reinsurance contracts."

Ault also revealed that the law will not permit captives to provide workers' compensation insurance, life insurance, health insurance, or any personal property or personal casualty line of business.

However, the state law will not impose a premium tax, in the hopes of luring captives with a large premium volume.

To ensure that captive insurers in Oregon have access to regulators, the state has employed stable funding. Captive insurers in Oregon must pay a $5,000 annual assessment fee to staff the captive department of the Oregon Insurance Division.

read**more p3**

CITINBRIEF

Caledonian and Captiva unite

Captiva Managers has merged with Caledonian Insurance Services to provide captive insurance management services through its offices in the Cayman Islands, the British Virgin Islands and Anguilla.

read**more p3**

Randall & Quilter acquires RAB insurance

Randall & Quilter Investment has completed the acquisition of the entire issued share capital of RAB Insurance, a Guernsey-domiciled captive insurer, from the owner Drakelow Development.

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Oregon officially opens to captives

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"Access to government regulators is important for a company exploring captive insurance. Oregon's regulators are available to meet timely with companies to help them evaluate this form of self-insurance and to ensure they comply with Oregon's captive law. It is in our interest to help companies form well-run captives, and this will be easier in Oregon through our personal and timely approach," said Ault.

The Oregon Insurance Division of the Department of Consumer and Business Services, which regulates captive insurance, is completing its rulemaking and is accepting applications.

Oregon's insurance commissioner, Lou Savage said: "We are excited about this opportunity for businesses to look to Oregon as a place to gain control over their own insurance risks and costs."

Caledonian and Captiva unite

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The merged company, trading under the name, Captiva Managers, manages in excess of 100 insurance programmes with total annual premiums and assets under management in excess of $2 billion.

Managing director of the combined group, Connor Jennings, said: "Our initial plans for Captiva are very simple. That is to enjoy the obvious benefits of economies of scale, to utilise our combined legal, insurance, risk management and accounting skills, and to tap into our combined network of international clients and contacts. However, our mid- to long-term vision is to leverage our combined legal, fiduciary and insurance skills to develop innovative captive insurance services. These will involve the blending of traditional captive insurance with asset protection and estate planning products."

Randall & Quilter acquires RAB insurance

Continued from page 1

RAB has been in runoff since October 2011. From 1992, it wrote employer's and product liability insurance for Roger Bullivant and its subsidiaries, a building foundation company that was sold by Drakelow in July 2011.

The net asset value of RAB based on the latest available management accounts is estimated at £950,000, and RAB was acquired by Randall & Quilter at a discount.

Ken Randall, chairman of Randall & Quilter, said: "The acquisition of RAB further evidences the increasing level of acquisition activity we are seeing as a group."

"It also continues to demonstrate our ability to provide attractive exit solutions for captive owners who have put their captives in run-off or are contemplating ceasing writing new business. This will be our third captive acquisition in 2012 and our second in Guernsey this year."

Ohio's Roundstone Management focuses on groups

Roundstone Management and Nationwide Life Insurance Company have signed off on a new managing general underwriter agreement focusing on group captives.

The agreement aims to be the only resource for a one-stop, complete, turnkey, group captive underwriting facility offering stop loss coverage.

Michael Schroeder, president of Roundstone, said: "We look forward to working with Nationwide as we strive to improve upon our stop loss captive offerings."

"Our customers will benefit through our ability to deliver a complete underwriting solution in the most time and expense efficient manner in the market. Stop loss group captive growth and successful outcomes are greatly enhanced with Nationwide on our side."

Syed Rizvi, vice president insurance officer for Nationwide, said: "We are very excited to partner with Roundstone, a proven captive manager, to bring a unique value proposition to small to mid-size employers looking to share risks through a group captive approach and lower health care costs.

"The partnership reflects our overall optimism about the continued growth of self-insurance and further expansion of the stop loss market post-ACA."

Roundstone Management is an Ohio-based insurance organisation that is focused on the development, underwriting and servicing of alternative risk products, including captives, rent-a-captives and specialty insurance programmes.

It uses the facilities of Roundstone Insurance, a class III Bermuda reinsurer.

ICON Reinsurance kicks up a fuss

ICON Reinsurance will not be participating in A.M. Best's rating process after the company revised ICON's outlook to negative from stable.

A.M. Best also affirmed the financial strength rating of B (fair) and issuer credit rating of "bb+" of the Cayman Islands company.

The negative outlook is based on A.M. Best's concerns regarding ICON's coal reserve holdings and the effect on its risk-adjusted capitalisation and cash flows. The rating affirmations reflect ICON's experienced management team and the steady growth of retained earnings.

First Insurance Company of Hawaii nabs Alliance portfolio

First Insurance Company of Hawaii (FICOH) has acquired Alliance Captive Insurance Services' client portfolio, a move that will more than double the number of captive insurance companies managed by FICOH subsidiary First Risk Management Services (FiRMS).

"This acquisition is an opportunity for First Insurance to bring its service and expertise to a broader range of clients while supporting the growth of the Hawaii captive insurance domicile," said Steve Tabussi, FICOH vice president.

Wanda Jong, who established Alliance Captive Insurance Services in 2005, will continue on as a consultant to FiRMS, Tabussi said.

With the acquisition, FiRMS is positioned to assume the management contracts for five additional captive insurance companies with combined total premiums of approximately $20 million and total assets of $90 million.

There are approximately 180 active captives in Hawaii, which was established as a captive domicile in 1987. With eight captives, FiRMS will be the largest Hawaii-based captive management company in the state.

Guersey moves up rankings

The latest Global Financial Centres Index (GFCI) has ranked, Jersey 20th, Guernsey 28th, the Isle of Man 40th, the Cayman Islands 44th, the British Virgin Islands 45th and Hamilton in Bermuda 46th.

Guernsey has moved up three places from the last report, which was published in March.

Commenting on the results, Fiona Le Poidevin, chief executive of Guernsey Finance, said: "It is encouraging to see us move up the rankings and in particular that the report specifically highlights that we are one of the two leading offshore centres."

GFCI reports have been published twice a year for the last six years. The latest report, GFCI 12, said that generally offshore centres suffered significant reputational damage during and in the wake of the financial crisis, but now they are starting to make up the lost ground.

Le Poidevin added: "In line with the other offshore centres, we fell in the rankings during the last few years, which was partly as a result of the financial crisis and its effects but also due to the number of centres, particularly from the emerging markets, being taken into consideration within the reports."

GFCI 12 is published by Long Finance and sponsored by the Qatar Financial Centre Authority. London retained its position at the top of the table, followed by New York, Hong Kong, Singapore and Zurich.

Islamic Arab Insurance Company gets rated

A.M Best has affirmed the financial strength rating (FSR) of "A- (excellent)" and issuer credit rating of "a-" of Islamic Arab Insurance (Salama). The outlook for both ratings remains stable.

The ratings reflect Salama's good business profile and strong risk-adjusted capitalisation.

Offsetting factors include the effect of the Thai flood losses on Salama's otherwise consistent underwriting profitability and its fast growth written premiums in 2011.

"Salama's level of risk-adjusted capitalisation is likely to remain at a strong level over the medium term. Salama's reinsurers generally hold an A.M Best FSR of A- (Excellent) or above. The group maintains a relatively conservative investment allocation, with 75 percent of investments held as short-term deposits, 9 percent as equities and 16 percent as real estate. A significant proportion of future profits are expected to be retained in order to support business growth," said the ratings firm.

Reinsurance company gets ratings green light

A.M Best has affirmed the financial strength rating (FSR) of "A (Excellent)" and issuer credit

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rating (ICR) of "a" to Caymen Islands-based, Greenlight Reinsurance (Greenlight Re).

The ratings firm has also awarded the FSR of "A- (Excellent)" and ICR of "a-" to Greenlight Reinsurance's affiliate, Greenlight Reinsurance Ireland.

Concurrently, A.M. Best has affirmed the ICR of "bbb" to Greenlight Reinsurance's holding company, Greenlight Capital Re. The outlook for all ratings remains stable.

Greenlight Re operates as a Cayman Islands-based broker market reinsurer writing a combination of property, casualty and specialty reinsurance business.

Best stated the ratings of Greenlight Re reflect its excellent risk-adjusted capitalisation, experienced management team and the disciplined implementation of its overall business strategy.

The ratings also recognise the company's enterprise risk management as it aggressively manages risk on both sides of the balance sheet.

The ratings are partially offset by: "The challenges Greenlight Re faces writing profitable business in a market with increased capacity and further competition from new reinsurance companies with a similar alternative investment strategy."

Park View Insurance Company granted trademark

Park View Insurance, a Tennessee captive that handles risk-mitigation services for parent company HCA, has registered its name as a tradmark with the US Patent and Trademark Office.

It was the first captive insurance company to be licensed by The Tennessee Department of Commerce and Insurance (TDCI) since a revision of the state's regulation.

Commissioner Julie Mix McPeak authorised the company in September 2011, commenting at the time that the revision of the law put the state on a par with other domiciles. "It modernises our regulatory framework and helps Tennessee compete with other states. I believe Tennessee, which already regularly ranks high among destinations for company relocations, can compete on a more regional level with other states that have seen marked success over the years."

Park View's parent company is a Nashville-based operator of hospitals and health systems throughout the country.

PMG Assurance ratings slip

A.M. Best has downgraded the financial strength rating to "A- (excellent)" from "A (excellent)" and issuer credit rating to "a-" from "a" of PMG Assurance (PMG). The outlook for both ratings is negative.

Bermuda-based, PMG, a subsidiary of Sony, has been downgraded due to Sony's credit risk profile. Despite PMG's strong capital strength its risk profile is compromised as a captive for Sony.

"The captive continues to be an integral component of Sony Corporation's risk management platform. In A.M. Best's opinion, the third party credit ratings as well as market based credit risk measures of Sony Corporation, indicates negative rating pressure on PMG," said the ratings firm.

Negative rating movement might occur to PMG if there is any downward movement in Sony's risk profile. Any upward rating is based on improvement in Sony's risk profile and maintenance of the captive's capital strength.

Islands are forever

Europe's largest and most established captive centre is going from strength to strength in highly competitive and fiscally difficult times. CIT checks out Guernsey to find out more

GEORGINA LAVERS REPORTS

It all started in 1922, when captive legislation was first initiated in Guernsey to support an insurance industry that had been active since the 18th century. Though it may have taken more than 50 years to get up and running, the industry on the island has benefited from its years in the game.

Codes of conduct covering captive insurance companies are included in the Insurance Business (Bailiwick of Guernsey) Law 2002, and the Protected Cell Companies Ordinance 1997 as amended by the Protected Cell Companies (Amendment) Ordinance 1998. Major growth areas include ATE insurance, credit insurance, professional indemnity reinsurance and transformer cell, with the island housing companies such as Aon, Barbican, Catlin, Chartis, Generali, Hiscox, Jardine Lloyd Thompson, Marsh, Old Mutual, Royal & SunAlliance, SCOR and Willis.

"Guernsey has a combination of many of the key attributes for a successful captive domiciles," says Chris Le Conte, CEO of Robus Group. "It has a strong and competitive industry of insurance managers with a mix between the major brokers and independents; an approachable and knowledgeable regulator and flexible regulation; an experienced suite of advisors from the legal, banking, investment and accounting professions; geographical proximity to London and good communication links; a 0 percent corporate tax rate; andfinally, Guernsey brings that added value of innovation.

"We have had protected cell companies (PCCs) of course, then incorporated cell companies (ICCs), and now the new risk purpose trust, which has applications to captive insurance. When you put all of these together, it is no surprise that Guernsey continues to thrive as a domicile for those operating or interested in operating captive structures."

Fiona Le Poidevin, chief executive of Guernsey Finance, adds that growth is better than expected for the current climate, with a 53 percent rise in the number of new licences since the end of 2011, bringing the island up to to 687 insurance entities, including PCC cells, as well as standard subsidiary captives.

"We're now standing, as of the end of August, at 741 entities: a huge increase of 54 insurance entities and a statistic we're very pleased with. A lot of that growth has come from one particular structure, JLT group in Guernsey, which is assisting the UK government with the NewBuy scheme. This is where first-time buyers can get a mortgage of 95 percent, which effectively is underwritten by government, and then reinsured back to the captive."

"There are around 46 cells now in that structure, and it is growing rapidly. We've also seen Nomura setting up a captive, which has been the catalyst for lots of new business coming in, and as I understand from regulators, there are more things in the pipeline and they are seeing a lot of new applications at the moment. It is all very positive."

The NewBuy scheme is indicative of Guernsey's ability to cater for a niche. Le Poidevin says: "As we're a small jurisdiction, we're quite nimble in terms of being able to move fast and react to things. If you look at innovative matters, PCCs were pioneered in Guernsey in 1997, and that really gave us another market leading capability. We havethe most experience in PCCs, and now we can offer ICCs as well, which have different uses, as well as other new innovations. People are always working on new things, in what is essentially a mature market."

As for the effects of Guernsey's geographical proximity to—and political separation from—Europe: "As far as our economic situation is concerned, we're not part of the EU and we're not part of the UK, so we are not required to follow EU directives," says Le

Poidevin. "Geographically, we're centrally in Europe, so are quite well placed. In terms of time zones, we can do business with the Americas and Asia in the same day, which is a benefit that people like."

Though the island's location and time zone are not as convenient as the likes of Singapore, Le Poidevin is hopeful of more captive work coming from the Far East.

"In China, there's so much wealth that a lot of businesses are expanding out into Europe, and in time they may wish to have a captive for their European operations," she says. "Guernsey's position means that we're ideally placed, so if you are going to come to Europe to look for captive insurance, logically you would come to Guernsey."

The island may also be well-placed for to offer Asian and Latin American-owned captives, due to its depth of knowledge."We do see opportunities in both Asia and Latin America," states LePoidevin. "As businesses become more sophisticated and more international, they will start understanding the reasons why you would use a captive as opposed to third-party insurers in the market. Also, we have an initiative for cleantech and renewable energy, and it's the emerging markets that are really investing in that because they have such great energy demands. Given the growth that's happening in those countries, technologies will develop quite rapidly, and you'll then see a need for more insurance products. I think that captives could definitely play a part in that in the future."

No, no, no

Diane Colton, the Guernsey Financial Services Commission's (GSFC's) former director of insurance, wrote in December 2009: "Guernsey is well positioned to benefit from the introduction of the Solvency II regime in Europe, provided it can achieve equivalent status under the directive. This will benefit both the captive insurance and the reinsurance sectors."

But the GFSC's stance changed, due in part to discussions with the Guernsey International Insurance Association (GIIA), and for the last two years, the island has said that it will not seek Solvency II equivalence.

"The government and the regulator made the decision back at the beginning of 2011. Obviously there's still a lot of uncertainty around the directive and the timing, so at the moment, it's just a case of watch this space from a Guernsey perspective," states Le Poividen.

"We made a definite decision not to seek equivalence because the directive was really there to address systemic risks in the system and protect the policy holder. Therefore, it just doesn't suit the captive model. There's been a lot of research done to say that a significant number of captives would be technically insolvent under Solvency II, and yet most of our captives are incredibly well capitalised and well over the minimum regulatory levels that we have and that we follow through the IAIS core principles."

"It is all about being proportional, and at the moment, Solvency II doesn't give that proportionality and flexibility. It is very difficult to do that, as the directive has to cater for the whole insurance market, so until there's a workable solution we will continue to be outside of Solvency II. I think that making that definite decision in 2011 gave us certainty for our clients. There's no sitting on the fence, and I think that's attributed to some of the growth we've seen over the last year and a half."

While the door is shut is on Solvency II in Guernsey, the island is yet to lock the door and throw away the key.

Le Conte says: "In my view, the jury remains out in the medium term. Like Bermuda, the ideal scenario would have been for Guernsey to seek to have a class of insurers classified as Solvency II equivalent and another class classified as not. The trouble was that we could not get clarity from Europe as to whether that would be possible and therefore Guernsey took the 'safe' path of protecting existing business as much as possible from a regulatory system that was broadly irrelevant. This was the correct decision, but if Bermuda does end up with a successful bifurcated system, Guernsey should re-open that debate." CIT

Easy does it

Pierre Paul of Royal London Asset Management provides an update on where financial markets are on the long road to economic recovery

The financial crisis is roughly five years old, but depending on your financial position, it may be a case of 'crisis—what crisis?' Investors with cash holdings do not need to be reminded of the crisis as they come to terms with the very low interest rates resulting from efforts to limit the damage. On the other hand, borrowers who need mortgages or other loans are in a much better position thanks to low interest rates. However, neither group is happy; the former see the value of their money being eroded by inflation and the latter struggle to agree new loans, and when they succeed, they wonder why interest rates aren't as low as they might expect.

Authorities leading the Western economies have gone to unprecedented lengths firstly to protect the banking system from collapse and secondly to stave off a 1930s-style economic depression. Not only have banks in Europe, the UK and the US needed to be bailed out, but countries too have needed emergency help. First, there was Ireland, then Greece and Portugal. Measures to deal with the crisis ushered in a new terms—quantitative easing—which refers to a mechanism that is used by central banks to provide banks with liquidity. A central bank creates 'electronic money', which is used to buy financial assets (bonds and gilts) from banks. It is argued that without this liquidity, the recession would have been much worse. On top of all of this drama, there is the on-going issue where many other countries must reduce their budget deficits, including the Spain, Italy, France, the UK and last, but not least, the US.

At the time of writing, the financial markets were watching to see if Spain will fall into the arms of the European Central Bank (ECB), and if that happens, the focus will shift to Italy. This will be a stern test of the ECB's resolve and markets' nerves.

The resilience of the US dollar, which is partly due to its petro-currency status, masks the potential problems of the US' own budget deficit. While economic performance is central to the current election debate between the Republican and Democrat parties, there is little being done about resolving the deficit because US Congress is mired in political gridlock. All the while, however, the clock is ticking down towards the end of 2012 when, on paper at least, there will be an end to certain tax breaks followed by the implementation of automatic spending cuts that were agreed as part of the deal in 2011 to tackle the debt ceiling. If this happens, the US economy would almost certainly be driven back into recession and the knock on effect for the rest of the world's economies would be quite painful.

Most likely, a compromise will be reached after the election to avoid the worst of the pain, but both parties agree on the need to cut US government spending in order to reduce the deficit. If the private sector is unable to step in and

replace this lost stimulus, the US economy is bound to suffer.

Another aspect of the financial crisis is the collapse in trust that is afforded to those working in financial services, particularly bankers. An old joke is that a banker is happy to lend you an umbrella when the weather is nice, only to ask for it back when it starts raining. This analogy is seen to be very true in the current climate.

One problem for banks is that the public is resentful that public funds had to be used to support the banks. First there was the outright failure of Northern Rock. Next came the rescue of Royal Bank of Scotland and Lloyds TSB Bank. All the while, there were sensational revelations of bankers' pay and bonuses, so it was not surprising that during this period former Royal Bank of Scotland CEO Fred Goodwin was stripped of his knighthood.

Banks then faced accusations of not doing enough to help the economy by restricting credit to individuals and businesses—thus preventing the economy from staging a quicker recovery from recession. With their reputation at a very low ebb, bankers would have preferred to keep a low profile and work quietly to rebuild trust, but revelations of trading losses at UBS and the LIBOR fixing scandal only served to intensify animosity towards banks.

Taking a lead, the Bank of England has been doing what it can to help the economy avoid a worse recession, initially by reducing interest rates to 0.5 percent in March 2009, and then by a series of quantitative easing asset purchases, and most recently through its Funding for Lending scheme. It is also worth noting that inflation has regularly been above target since March 2009, which has been driven by external factors providing justification for the Bank of England to leave the interest base rate unchanged. Indeed, the Bank of England has intimated that one of the aims of quantitative easing was to ensure that inflation remained positive by providing monetary stimulus to boost economic activity.

Arguments will wax and wane as to the extent of the economic benefit that is wrought by quantitative easing, but there is little doubt that the UK economy would be in a far worse position if the authorities had taken a more laissé faire approach. It is true that the economy is flat-lining, but if this underpins employment, confidence and house prices, then the Bank of England's actions should be judged to have been successful. However, we are not out of the woods yet and whilst the Diamond Jubilee, Tour de France, London Olympics and Paralympics provided cause for much British celebration, the recent wet weather and rumblings from farmers about food prices means that it is likely that the economic pressure with correspondingly low interest rates is likely to persist for some time yet. CIT

Risk and shout

A new product has surfaced in Guernsey that could address the shortcomings of captive insurance companies. Chris Le Conte of Robus Group, which is one of the companies behind the innovation, explains

Although they are very valuable vehicles in assisting the risk management process, captive insurers come at a frictional cost, the level of which appears to be increasing year by year.

The main problem with these costs is that they increase a corporation's total cost of risk. Risk management concerns itself with controlling and reducing the total cost of risk, and while captives provide a framework to do so, they do not do so with maximum efficiency.

The key frictional costs of captive insurers are :

- Capital to fund the captive's solvency requirement and the net cost of providing that capital
- Insurance premium tax, charged on premiums remitted to the captive
- Management fees and other third-party costs payable
- Regulatory fees and the costs of dealing with regulatory supervision
- Management time for the parent group.

It was these shortcomings of captive insurers, among others, that led the founder of the risk purpose trust (RPT), Richard Gale, to begin looking for an alternative solution.

Despite beginning life as a solution to the imperfections that are inherent in captive insurance, the RPT has developed into a solution for a range of risk management and financial budgeting issues.

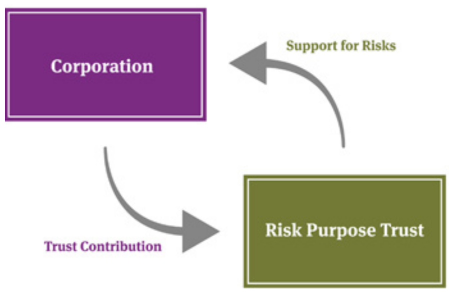
The varied uses of an RPT can range from :

- Support and provision for the unforeseen risks of corporates generally.
- Gratuity payments, incentive payments or sports bonuses
- Future repair costs to replacement costs (ie, foreseen expenses)
- Rent guarantees for landlords of large property portfolios
- Pension shortfalls.

The RPT can be utilised as a risk management solution that retains the benefits of a captive insurance structure, while avoiding the disadvantages and minimising the attritional costs.

How does the RPT work?

Similarly to a captive, an RPT acts as a repository for money that is being used to fund a corporation's risks, claims reserves and claims payments. The RPT receives contributions from the corporation to fund those risks and uses those contributions to support the corporations' risk management process.



The RPT provides the support by way of the trust deed. Taking a UK example, the UK corporation is the settlor of the RPT, and it and its subsidiaries are the beneficiaries. A Guernsey-appointed trustee is the trustee of the RPT.

The level of financial support that the RPT can provide to its corporation settlor is limited to the amount of funds that it has within it. In other words, the accumulation of its settled funds and any investment income that is received on them. However, additional funds can be introduced at any time.

But the RPT, when used in this way, should be distinguished from a captive insurer. There is no contract of insurance or contractual rights to received payments. Rather, the RPT has a purpose, which is defined in the trust deed, for example, to "fund for the foreseen or unforeseen expenses of the benficiary(ies)" and the trustees then use their discretion and judgement to provide funding to the beneficiary(ies) as appropriate when such expenses arise.

Trust terminology

The settlor—This is the person who usually initiates the trust by establishing the trust and transferring assets to it.

The beneficiary—the beneficiary's name is usually set out in the trust document but usually trust documentation permits the addition or removal of beneficiaries during the duration of the trust.

Trust deed—a written document setting out the terms of the trust and the powers and duties of the trustee specific to that trust. This document is usually signed by the original trustee and the settlor.

Risk purpose trust—a trust specifically set up to support a corporation's risk management process.

The concept of the RPT is straightforward. For the element of its risk that a corporation wishes to retain, an element can be funded and controlled through the set-up and formation of the RPT. Typically, as with captive insurers, the corporation will retain the lower value elements of the risk for its own account and will insure the catastrophic elements of the risk in the insurance market. It is the less predictable, material but not catastrophic risks that the corporation will be interested in retaining, but controlling closely and funding appropriately.

Because of the nature of the RPT, these risks need not be limited to those that are traditionally 'insurable' or transferable to a third party. The risks can be of any nature, they need not fall into a particular period as with the necessity for most insurance policies to provide cover for 12 month periods. The RPT is, by its very nature, a multi-year flexible solution.

In addition, the RPT has the ability to be broader in scope that a traditional captive. It can blend 'unforeseen expenses' and risks with 'foreseen' and be used as a budgeting tool.

The risk purpose trust :

- Ensures a company's risks are well managed and appropriately funded
- Promotes strong corporate governance in the area of risk management
- Minimises the additional costs of supporting that corporate governance and risk funding
- Is not a tax shelter or other aggressive tax avoidance mechanism
- Is a logical and more efficient alternative to the traditional captive insurance vehicle.

We are excited to be launching our RPT at our forthcoming seminar, which is due to take place in London on the morning of 31 October. At this seminar, we hope to give a real insight into how the RPT product has been developed and why we believe that the RPT will go forward to transform the way that we all view risk funding in the years to come.

The schedule for the day is still being finalised, but we are delighted to confirm that on top of presentations from the creators of the RPT concept, we will have an industry panel to debate and discuss the merits and demerits of the RPT solution. This panel will be made up of Jonathan Moore, James Quarmby and Alan Fleming.

Moore is the risk manager of Marston's and has had many years of experience overseeing that company's captive.

Quarmby will be able to give a commercial and trust law perspective to the discussions, and Fleming, who leads the captive special interest group for AIRMIC, is a former risk manager and ex-Guernsey insurance regulator. He is a strong supporter of the captive concept and will offer honest views as to why captives will always have their place.

Register now for the Princeps RPT seminar (limited spaces available) and find out more about the speakers and event. Visit www.princeps-rpt.com/seminar. **CIT**

Chris Le Conte
CEO
Robus Group

There is no contract of insurance or contractual rights to received payments. Rather, the RPT has a purpose, which is defined in the trust deed

Ups and downs

CIT talks to Jay Adkisson of law firm Riser Adkisson about tax shelters, captive investment, and why New York could be a strong player in the sector

GEORGINA LAVERS REPORTS

How would you sum up your experiences in the field so far?

I started working in the captive sector in 1998 when I became a partner in a new business that was formed to consult on captive formations and manage captives. This business substantially grew until I left in 2003—during which time we have created our own insurance management firm in the British Virgin Islands. After that, I went back to the practice of law, including forming captives and litigation of captive issues. In 2006, I published a book on captive insurance. Lately, I have been the chair of the American Bar Association's committee on captive insurance.

What is your main concern with the industry at the moment?

Captives that are improperly used for what they are not—tax shelters—as opposed to what they are, which is risk financing vehicles. The primary purpose of a captive must be insurance, but in too many cases the insurance is simply an afterthought to achieve the tax benefits. Eventually, the US IRS will clean this up, and hopefully without throwing the baby out with the bathwater as the IRS is wont to do.

What do you think are some appropriate, and inappropriate investments for captive insurance companies?

Captives should typically invest like other commercial insurance companies, which invest in a wide range of things, from treasuries to commercial real estate. Captives should not invest in personal assets or other assets that belie the insurance nature of the company, nor should captives invest back into companies that have just taken a deduction by paying the captive a premium for insurance.

What was it like to own a licensed captive insurance management firm in the British Virgin Islands?

The management of captive insurance companies is hard work and a full-time occupation that forecloses many other opportunities, which is why it was a poor fit for me who is easily bored and so always dabbling in new things.

Because of the rise of US domiciles, there is rarely a need for US companies to form offshore captives, and so I would be reticent about advising somebody to set up shop offshore. When we first started out in 1998, the British Virgin Islands was a very flexible jurisdiction, but then we learned the hard truth: an inflexible captive insurance commissioner can wreck a jurisdiction, as was the case for several years with the British Virgin Islands. But that commissioner is gone, and I don't know who is down there now or what they are like. Frankly, I try to avoid offshore formations whenever possible.

Is there a US captive domicile that you would tout as being a viable competitor for Vermont?

The US State of Vermont currently has a pretty good lock on the large corporate captives, but other jurisdictions have been at least as competitive, if not more so, in the market for smaller captives. The real question is what the effect of the US Dodd-Frank Act will be on the state taxation of captives, which could drive companies to form their captives in the states where they maintain their company headquarters. So, if New York ever gets serious about competing in the captive insurance marketplace, that might have a dramatic effect on Vermont.

Do you think the stigma around 'offshore' can ever be forgotten—or should it be?

It should not be forgotten. By far, most of the scams involving captive insurance companies have featured offshore domiciles, because the practical regulation of so many of those jurisdictions is more facade than effective. In some offshore jurisdictions, there is little due diligence, little regulation, and little recourse for those who become entangled in scams or schemes. Some jurisdictions, most notably Bermuda and the Cayman Islands, have regulatory regimes that are comparable to those in the US (if not better in many instances), but they are certainly the exceptions. The old adage 'sunny climes are for shady people' rings as true with captives as with anything else that is offshore. CIT

Jay Adkisson
Partner
Riser Adkisson

Business as usual

Despite a complicated economic environment, US captives are doing well and state domiciles are vying for new business. CIT talks to Michael Meehan of Milliman to find out more

How fierce is competition between captive insurance domiciles in the US?

There are approximately 30 domiciles now in the US, each of which is trying to claim their share of the captive industry. While I wouldn't describe the competition as fierce, I do think domiciles may be putting in more of a marketing effort to capture captive business. More and more domiciles are now hosting their own captive conferences and you can often find representatives from different domiciles attending them. Companies forming captives tend to identify and focus on a few potential domiciles early on in the formation process. The domiciles are looking to ensure they make it onto the 'shortlist' or else risk never really being in contention for the business.

As a result, I believe that domiciles are now more diligent in making sure that their captive laws are up-to-date to meet the demands of the industry while ensuring that they are not at a competitive disadvantage with other domiciles. In addition, they are stressing ways to differentiate themselves from the competition.

What is the reason for this competition, and how are states differentiating themselves?

I think that given the economy and shortfalls in state budgets, states are looking for ways to increase revenues, create jobs, and so on. The captive industry is a clean industry that has the potential to achieve both of those goals. In addition, states don't like the idea of having companies that are headquartered in their state setting up shop with a captive in a different state, as it can reflect poorly on them. Having a captive law on the books can help them to keep that business in state and ultimately support their local businesses

As far as differentiating themselves, I would say that the more established domiciles tend to highlight their experience with captives and the infrastructure that they have in place. Newer domiciles seem to be trying to differentiate themselves by focusing on things such as lack of premium taxes, their flexibility and ability to modify their captive law as needed, or the domicile's focus on a specific type of captive, such as those smaller captives that make the 831(b) election. As is the case with most businesses, the two key factors are price and the quality of the product/service.

How is the US doing with new formations in 2012 and what are the reasons for this?

I haven't heard too much with regards to the number of formations in 2012. Any information that I have seen suggests that 2012 is going to be a fairly 'average' or typical year. It really is tough to say at this point as a large percentage of the formations tend to take place during the last quarter of the year as companies form their captives so as to begin operations on 1 January.

Considering the formations that I have been involved with this year, I would say that there hasn't been a single consistent theme behind them. Each was attributable to one or more of what might be considered the standard potential benefits of captive insurance, such as companies looking to stabilise the pricing of their insurance costs, insure otherwise uninsurable lines of coverage, or cover gaps in their existing insurance programmes.

How attractive is captive insurance to SMEs in the US, and what sorts of benefits can they get from a micro captive?

Captives can be an attractive option for SMEs. These companies can certainly realise some of the same benefits that the larger companies have through their captives; such as being able to insure otherwise uninsured or uninsurable exposures, stabilising costs, and so on. There is also the potential to realise some of the additional tax benefits that are available to the micro captives. These types of captives are often used as vehicles for estate and tax planning. However, they certainly aren't for all SMEs. Once the captive is established, the owner(s) are now in the insurance business and they have a company that needs to be managed properly. The risk of a financial loss is real and that may be reason enough for them to seek out alternatives. CIT

Michael Meehan
Consultant
Milliman

Industry appointments

Insurance Commissioner Thomas Leonardi has hired **John Thomson**, a veteran risk management specialist, to manage the new captive insurance regulatory unit.

The commissioner confirmed the appointment during the Captive Insurance Education Symposium at the Bushnell Center for the Performing Arts.

Thomson began his new position on 28 September. Prior to joining the department, Thomson was an editor for the International Risk Management Institute, the publisher of Captive Insurance Company Reports.

He was also the COO for energy industry captive, Oil Casualty Insurance, and has held positions with General Electric, Aetna, Cigna and Towers Perrin/Tillinghast, a Hartford risk management firm.

Reinsurance broker Miller has appointed **Chris Tabbitt** and **Chris Baulf** to expand its property solutions.

Baulf, who most recently worked at JLT, is a specialist in the design, placement and servicing of complex property programmes for corporate clients based in the UK and internationally.

Tabbitt, also joining from JLT, will lead a team that is responsible for creating property and casualty solutions.

South Carolina's captive department is training **Quincy Robinson** to be a captive financial analyst.

Robinson will initially be working as an administrative coordinator for the Alternative Risk Transfer Services of South Carolina's Department of Insurance, whilst pursuing educational programmes from the National Accosiation of Insurance Commissioners and the Society of Financial Examiners.

Guy Carpenter & Company, a member of Marsh & McLennan. has appointed **Peter Barr** as senior vice president. Barr is based in Portland, Maine.

Barr joins Guy Carpenter's team of regional and mutual insurance experts to provide the tailored solutions needed to meet the challenges of this marketplace.

Prior to joining Guy Carpenter, Barr spent 28 years at Mutual Reinsurance Bureau in Cherry Valley, Illinois, most recently as senior vice president.

North Carolina Association of County Commissioners president Howard Hunt has appointed Polk County's commissioner, **Renée McDermott**, as vice chair of the association's risk management pools board of trustees. **CIT**

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