



Captive manager CIC Services has lodged a second lawsuit against the Internal Revenue Service (IRS) and US Treasury in a bid to block Notice 2016-66.

The second lawsuit, filed in the US District Court for the Eastern District of Tennessee on 27 March, has added Texas-based tax firm Ryan as a plaintiff.

CIC's first lawsuit was filed in the same court at the end of December, and sought injunctive relief to permanently put on ice Notice 2016-66's 30 January deadline for responses.

But the IRS granted a 90-day extension, setting the new deadline at 1 May.

In its first lawsuit, CIC argued that Notice 2016-66, which formally identifies micro captives as "transactions of interest" and requires extensive reporting back to the IRS, was "unlawfully issued" because it didn't comply with the mandatory notice-and-comment provisions of the Administrative Procedure Act.

Notice 2016-66 is also "arbitrary and capricious and ultra vires in nature", lacking the Administrative Procedure Act's requirement for underlying authority and a reasoned analysis footing.

CIC Services principal Sean King was highly critical of Notice 2016-66 earlier this year. He said: "Notice 2016-66 undermines important public policies as codified by Congress, unfairly targets small businesses, attempts to administratively repeal Internal Revenue Code Section 831(b), impinges upon the exclusive authority of the states to regulate and define insurance, runs in contravention to court precedent, has many unintended but devastating consequences, and subverts the rule of law."

According to King, after five years of audits and investigations, the IRS should have all the information it needs to spot abusive captive insurance arrangements from legitimate ones.

King said: "Failure to provide such guidance by characterising all or even most 831(b) captives as 'abusive' is not just bad tax administration, it is an improper attempt by an administrative agency of the executive branch to repeal or nullify an act of Congress."

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## Atlas Insurance secures approval as captive manager in Texas

Atlas Insurance Management has received approval from the Texas Department of Insurance to act as a manager for captive insurance businesses in the state.

According to Atlas, the company will be working with Texas regulators to offer a “viable domicile” to companies for captive formation.

Martin Eveleigh, chairman of Atlas Insurance Management, said: “Texas has a very business-friendly environment.”

“We look forward to giving companies headquartered in Texas the ability to be domiciled in their home state and provide an option for any companies looking to re-domicile their existing captive business.”

Atlas suggested that the Texas Department of Insurance is “very proactive in encouraging businesses headquartered within the state to stay and do business in Texas” and that the approval provides “a great opportunity for Texas-based companies to form captives in their home state”.

Texas is the thirteenth domicile in which Atlas has been approved to provide captive management services.

Since the beginning of this year, Atlas has also been approved by the States of North Carolina and Oklahoma.

### TRA Stanford to acquire PHT Services

The Risk Authority Stanford (TRA) is expected to acquire PHT Services (PHTS), following unanimous approval by both boards of directors.

Both boards have signed a non-binding letter of intent summarising the material terms pursuant to which TRA will acquire all of the assets of PHTS, in a transaction expected to close in Q2 2017.

## Inside **captiveinsurance**times

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PHTS provides various risk management services to South Carolina’s healthcare industry, while TRA is a healthcare risk management-consulting firm offering solutions to its clients’ risk management practices.

The acquisition of PHTS’s assets and operations will double the staff and client base of TRA, while expanding the organisation’s presence to the East Coast.

Jeff Driver, CEO of TRA and chief risk officer of Stanford Health Care and Stanford Children’s Health, said: “TRA’s prowess in professional liability dovetails nicely with PHTS’s deep experience in both liability and workers’ compensation. Together, we will

continue to harness the power of innovation and advanced technological expertise in Silicon Valley to meet the challenges of data collection and risk management innovation coast-to-coast.”

Following the closing of the transaction, TRA will continue to provide risk management services to the 30 South Carolina hospitals now working with PHTS.

It has been agreed that employees of TRA in South Carolina will continue to be based in Columbia.

Brian Teusink, president and CEO of PHTS, said: “It will be exciting to provide our

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# UK finally triggers Brexit

The UK has officially pulled the trigger on Article 50 and commenced the two-year negotiation process that will end in its exit from the EU.

With the activation of Article 50 of the Treaty of Lisbon, EU legislators are convening to decide what positions they will take on a range of issues, from the rights of EU citizens in the UK to financial services passporting.

The Article 50 letter, which was signed by UK Prime Minister Theresa May on 28 March, was handed to Donald Tusk, president of the European Council, at lunchtime on 29 March.

Official negotiations between the European Commission and the UK's Brexit team are expected to commence soon. The process can take no more than two years, unless the European Council approves an extension.

Membership of the EU is complex, with many aspects of UK legislation intertwined with, or underpinned by, regulations and directives designed in Brussels.

UK ministers will have to negotiate the terms of the exit from the EU, lobby for and begin discussions about a new trade deal with the 27 remaining member states, do the same with every other country around the world, and begin reforming its own laws.

The mooted Great Repeal Bill will preserve EU law in UK legislation in one fell swoop, although this is still subject to parliamentary scrutiny and controversy over how much power it will give to ministers to tear up the statute book.

A leaked European Parliament resolution suggested no free trade deal will be forthcoming in the next two years, and that any post-Brexit transition arrangement beginning in 2019 can last no longer than three years.

In particular, the resolution "opposes any agreement between the EU and the UK that would contain piecemeal or sectoral provisions, including with respect to financial services, providing UK-based undertakings with preferential access to the single market and, or the customs union" and "underlines that after its withdrawal the UK will fall into the third-country regime foreseen in EU legislation".

According to Ivor Edwards, corporate insurance partner at law firm Clyde & Co, insurers haven't been waiting for Article 50 to be triggered. Planning for the UK's exit from the EU is "well underway".

Insurers have been actively working to take concrete steps for all eventualities by setting up carrier companies in remaining EU member states. Edwards said: "At this point, no-one knows when an agreement might be reached, if at all, nor what provisions in might contain. The industry is watching on with interest, but it's not waiting with baited breath. It's acting already."

Lloyd's of London was among the first to announce its plans. It will open a new EU insurance company in Brussels.

With the opening of the new company, planned to be ready to write business for 1 January 2019, Lloyd's will continue to be able to write risks from all 27 EU member states and three European economic area states after the UK has left the EU in March 2019.

clients access to the best-in-class and most forward-thinking tools available to improve loss experience and create cost-effective risk management programmes."

## Guernsey considers Solvency II

Guernsey is "actively considering" whether it is appropriate to pursue equivalence with the EU's Solvency II Directive.

Stakeholders are currently discussing the cost and implications of equivalence to figure out how realistic it would be to achieve, according to people familiar with the matter.

Guernsey is hoping to come to a consensus on an approach by late April or early May. Once the decision has been made, dialogue with the Guernsey regulator and government would need to be started.

It is understood the Guernsey regulator and government would support the industry consensus.

Potential advantages for Guernsey being put forward include simplified access to a wider range of reinsurance buyers and increased attractiveness as a home for reinsurance capital.

Bermuda was the last jurisdiction to achieve equivalence with Solvency II.

When implementing the directive, Bermuda decided on a bifurcated approach to Solvency II, whereby only commercial insurers would qualify as Solvency II-equivalent, leaving captives out of its scope.

## Bespoke Software's inTell Captive to make more of managers' data

Bermuda-based Bespoke Software has launched a new business intelligence software solution designed to help captive managers leverage their data.

The inTell Captive solution provides reporting, forecasting and planning tools, and offers online access to data, dashboards, benchmarking and performance analysis.

The solution also contains underwriting, finance and foreign exchange capabilities, as well as reconciliation, audit and compliance features to ease captive managers' daily operational and regulatory reporting burdens.

It can take as little as three months to begin using, according to Bespoke, and can be deployed more quickly than traditional data warehousing and reporting initiatives, which are usually multi-year projects.

Bespoke said in an announcement on the launch: "Staying up to date is easy as we constantly enhance and add new features to the product as the captive business model changes, and we do the heavy lifting of sourcing, evaluating and integrating new tools as the information technology landscape evolves, such as leveraging big data sources or providing cloud-based data access."

### R&Q bags Bermuda captive

Randall & Quilter (R&Q) American Holdings has snapped up the Bermuda reinsurance captive of AmeriPride Services and AlSCO.

Linco Limited, domiciled in Bermuda and reinsurer of worker's compensation and general and automotive liability for the uniform rental and linen supply companies, went into runoff in 1985.

The sale of Linco is still subject to regulatory approvals, which R&Q expects to receive within 30 days.

Ken Randall, chairman and CEO of R&Q, commented: "We are delighted to announce the acquisition of Linco, subject to regulatory approvals."

"This transaction continues to demonstrate our market leading position, providing

captive legacy solutions across Bermuda, North America and Europe. This is further proof of our rapidly growing success in the runoff market."

R&Q has also acquired ICDC, the captive insurer of an American Fortune 500 company.

The company reinsured the workers' compensation, commercial general liability, business auto liability, business auto physical damage and property risks of its parent.

ICDC, which is in run-off, had a total net asset value of \$7.95 million at the end of 2016, with reserves at approximately \$2.65 million.

The captive, originally domiciled in Bermuda, was moved to Vermont in June 2015.

### RI licenses first dedicated runoff insurer

ProTucket Insurance Company has become the first domestic insurer dedicated to providing runoff portfolio transfer solutions in Rhode Island.

The new company has been formed under newly-implemented legislation in Rhode Island, which allows companies to transfer their insurance business in a way that is already allowed in other domiciles.

Rhode Island's Regulation 68 enables runoff portfolios of insurance contracts to be transferred from their previous carrier into a protected cell within a Rhode Island domestic company.

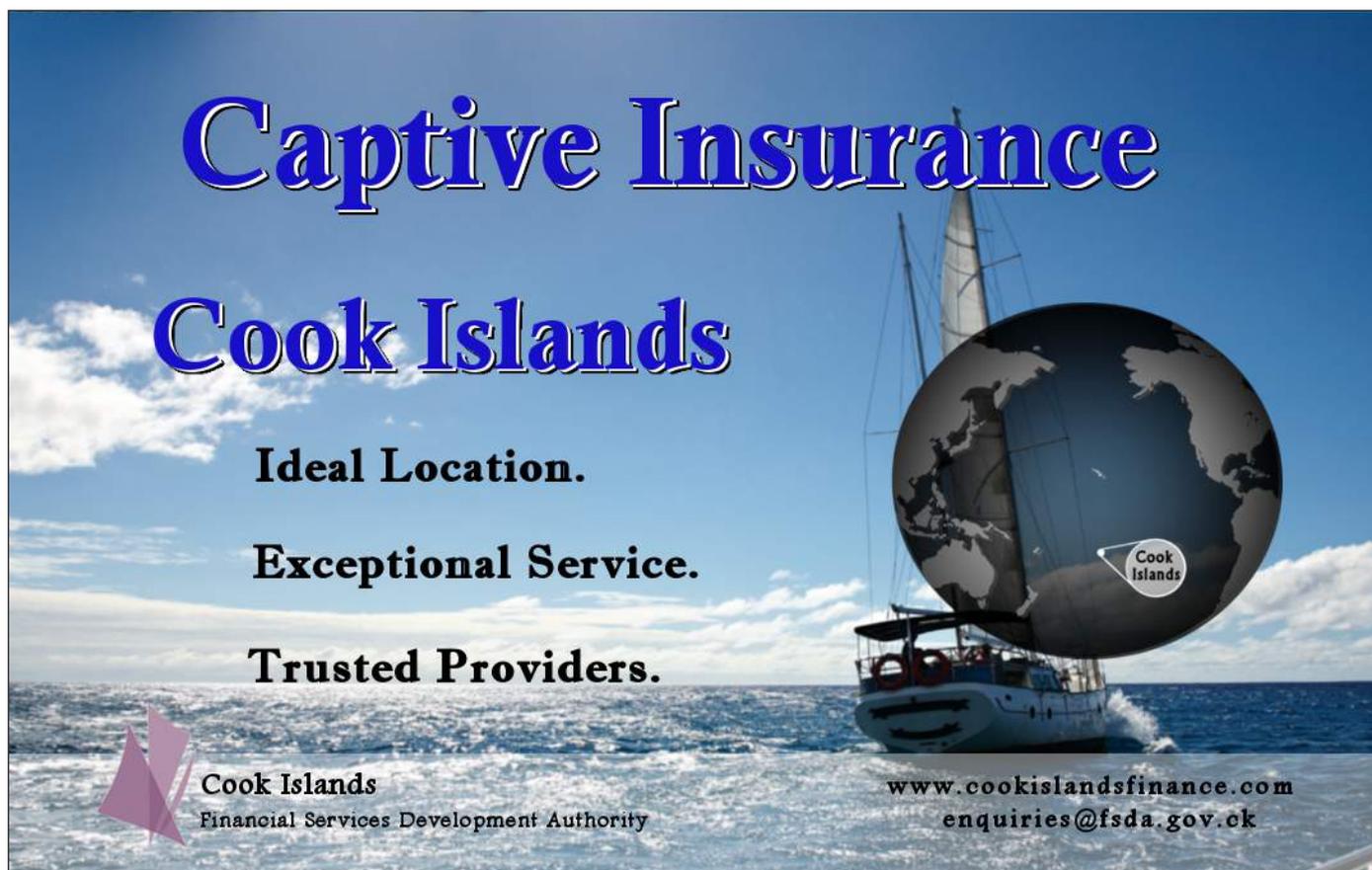
ProTucket is a subsidiary of the service provider Pro Global Insurance Solutions, which provides consulting and outsourcing services to insurance and reinsurance companies.

Artur Niemczewski, CEO of Pro, suggested the new legislation will release billions in trapped capital, adding that it has the potential to improve the capital efficiency of the US insurance industry.

Niemczewski commented: "We estimate the value of US books in runoff, which could benefit from the Rhode Island legislation, to be as much as \$100 billion."

"Over the next five to 10 years we expect this business transfer process to become a standard industry practice and believe that ProTucket will be pivotal in fostering a vibrant run-off market."

Mory Katz, head of Pro US, added: "We are honoured to be the first company to be granted a licence to implement Regulation 68 and are passionate about the benefits it will bring to our clients and



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## US Court of Appeals for the Second Circuit dismisses ‘shadow insurance’ claims

The US Court of Appeals for the Second Circuit has parried two attacks against the captive reinsurance transactions of life insurance companies, ruling that the plaintiff insureds lacked the standing to bring their complaints.

Metropolitan Life Insurance Company and AXA Equitable Life Insurance were taken to federal court in New York by several insureds after the Department of Financial Services issued its controversial report on life insurers’ failure to disclose captive reinsurance transactions in 2013.

In their separate cases, the insureds claimed that Metropolitan Life and AXA Equitable misrepresented their financial strength by not properly disclosing their captive reinsurance transactions.

The life insurers’ undisclosed use of ‘shadow insurance’ caused them injury, the plaintiff insureds argued.

They attempted to gain class-action status so they could represent insureds throughout the US, but the US District Court for the Southern District of New York dismissed their complaints due to a lack of standing under Article III of the Constitution.

Ruling in favour of Metropolitan Life and AXA Equitable at the end of February, the Second Circuit said: “The mere fact that an insurer may make a misleading representation does not require or even lead to the necessary conclusion that the misleading representation is material or even likely to cause harm.”

Commenting on the litigation, Dentons lawyers Sandra Hauser and Carter White, said: “The order is a strong signal from the Second Circuit that plaintiffs, who fail to demonstrate concrete, non-speculative injury, lack Article III standing to sue, and also dashes future putative plaintiffs’ hopes of leveraging New York’s insurance laws to support lawsuits by policyholders who are not personally affected by the conduct they challenge.”

the US insurance market. We have worked closely with the Rhode Island department of business regulation and greatly appreciate its assistance in the process.”

### ‘Excellent’ ratings for Pfizer captive

A.M. Best has affirmed the financial strength ratings of “A (Excellent)” of Blue Whale Re, the single-parent captive of pharmaceutical company Pfizer.

The rating agency also affirmed the long-term issuer credit rating of “a+” of the captive.

Blue Whale has strong risk-adjusted capitalisation and a conservative operating strategy, according to A.M. Best.

Partially offsetting these positive rating factors are the captive’s very large gross and net underwriting exposures to property losses, and its dependence on reinsurance.

The rating agency explained that as its reinsurer and insurer, Blue Whale plays an important role in Pfizer’s overall enterprise risk management programme.

The captive also assumes a “critical role” in protecting Pfizer’s assets and therefore benefits from the group’s extensive risk management and loss control programmes.

The captive’s ratings and outlooks could be upgraded if the company’s operating performance improves and risk-adjusted capital remains supportive of the ratings, according to A.M. Best.

### WCMA becomes an investment bank

Willis Towers Watson has launched Willis Towers Watson Securities, previously known as Willis Capital Markets & Advisory.

Willis Towers Watson Securities has re-launched as an investment bank, which will focus strictly on the insurance industry.

It will provide services around first-rate insurance, mergers and acquisitions, and capital markets execution capabilities around analytical, actuarial, brokerage, rating agency and risk management consulting services.

Carl Hess, head of Willis Towers Watson’s investment, risk and reinsurance segment, said: “Capital markets play an increasingly prominent role in the insurance value chain and Willis Towers Watson is at the forefront of this innovation.”

Rafal Walkiewicz, CEO of Willis Towers Watson Securities, added: “We are excited to be launching the new platform. Willis Towers

Watson Securities clients will benefit from greater access to world-class investment banking and securities expertise combined with specialist in-depth insight into the insurance industry.”

### Delaware to allow dormant captives

Delaware is the latest US jurisdiction to introduce a dormant status for captive insurers.

A bill, proposed in the state House of Representatives on 21 March, is currently making its way through the legislature and is in the hands of the economic development, banking, insurance and commerce committee.

According to the proposed bill, a captive will have to cease collecting premiums and notify the insurance commissioner of its intention to go dormant.

It must also possess and maintain unimpaired capital and surplus of \$25,000.

The bill includes a provision that would require a dormant captive to pay an increased renewal fee of \$25,000 in its sixth year of dormancy, and \$5,000 for every subsequent year, unless it proves it has a good reason for not transacting but remaining in existence for more than five years.

The Delaware legislature considered introducing a dormant status for captives last year, getting as far as the House, but the bill did not receive a vote in the Senate before the legislative session ended in July.

Arkansas and Montana introduced legislation proposing a dormant status for captives last month.

Vermont expanded dormancy to sponsored and industrial insured captives last year, allowing them to waive premium taxes but stay in the state, ready to be reactivated.

### Captive Resources hits \$2 billion

Affiliated captives of Captive Resources have reached a combined premium volume exceeding \$2 billion.

Captive Resources said it continues to see “very robust” year-on-year growth with the captive insurance companies it consults.

Captive Resources is an independent consulting company specialising in creating and overseeing the operations of member-owned group captives.

George Rusu, co-founder, chairman and CEO of Captive Resources, attributes the continued interest in group captives to a

“strong economy, growing awareness among regional insurance brokers, and our vigorous educational initiatives for both prospective member-owners and their brokers”.

He added: “An increase in the number of homogeneous captives has resulted in expansion into a wider variety of industries, and we’re also seeing an increase in the number of larger companies that generate higher premiums, exploring ownership in, and ultimately joining group captives.”

Nick Hentges, president of Captive Resources suggested that the sustained growth in the company’s core business “continues to support our expansion into new areas and has allowed us to bring on captive-specific and other specialised talent to service our captive clients in more diverse ways”.

Captive Resources moved its headquarters to Itasca, Illinois, late last year. The new building is located at 1100 N Arlington Heights Road.

Rusu said at the time: “[The property] presented an opportunity for Captive Resources to increase efficiencies with a consolidation, control growth, and also own a property at a very attractive operating cost relative to leasing.”

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## Quality over quantity

As the new chair of IMAC, Linda Haddleton hopes to see continued growth in licence numbers, but as a mature domicile, the Cayman Islands is focused more on quality and innovation

### What is going on at IMAC right now, and what's new?

The Insurance Managers Association of Cayman (IMAC) chair serves a two-year term, with the immediate vice chair taking over once that term is complete, so there is deliberate succession planning and continuity.

During this process a new vice chair is appointed, with the past chair remaining on the executive committee of IMAC. The remainder of the executive committee are officers—treasurer and secretary—and the chairs of the IMAC committees including the forum, marketing, legislative and regulatory, education, and research and development forums.

Generally, we have made some, but not wholesale, changes in the committee compositions, achieving better knowledge management and bringing in new blood and fresh ideas.



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This is an opportunity to refresh the agenda. Collectively, the committees represent most insurance manager members of IMAC, and we also reach out to all members to ensure that the hard-working, voluntary organisation truly reflects and aligns with our members' interests.

### As the new IMAC chair, what are you working on?

It is important to maintain IMAC's relationships with other stakeholders in the industry, and appropriate for every new chair to ensure continuity in these relationships.

Stakeholders include our full members (insurance managers), associate members (managed insurers, self-managed insurers and service providers to the industry), the Cayman Islands Monetary Authority, the Ministry of Financial Services in the Cayman Islands Government, Cayman Finance Limited, and peer associations in other areas of the Cayman Islands financial services sector and in other jurisdictions.

High on the list of priorities is the 2017 Cayman Captive Forum, which celebrates its 25th anniversary in December.

### Last year was described as a 'phenomenal year' for Cayman captives. What is being done to ensure 2017 follows suit?

It was a good year in terms of numbers of newly-licensed insurers. It is important to understand where the growth is coming from and the drivers, but also to determine where untapped opportunities lie, in order to inform our new business development efforts.

The collegiality and collaborative nature of IMAC, which is effectively an association of competitors, is one of the remarkable features of Cayman as an insurance jurisdiction.

When it comes to enhancing and growing our jurisdiction, we work together extremely well. We are certainly applying our collective wisdom to determining and highlighting what makes Cayman attractive to new licensees. We hope to see similar new licensing numbers in 2017, but as a mature domicile we are not simply chasing numbers.

We are interested in quality, and we are looking to innovate. That is the hallmark of Cayman's success. Our managers will also be working to ensure that we provide the skills and resources to meet the requirements of our expanding and diversifying client base.

### What are the most important ingredients that contribute to Cayman's success?

The diversity of entities licensed in Cayman reflects a jurisdiction that is welcoming to innovation. While regulations have been enhanced to meet international standards, the approach to licensing and compliance remains the same: does the business plan make sense, and is the business sustainable?

Those principles apply regardless of the underlying risks and types of coverage, and provide for proportionate regulation. The alternative risk market exists to offer solutions that replace or complement traditional solutions, and it represents a broad spectrum of beneficiaries, from owners of single-parent captives to open-market reinsurers that are taking innovative approaches to financing risk.

Insurance-linked securities (ILS) are a good example of this. Now that ILS has become more mainstream, it is easy to forget just how novel the first Cayman issuers of catastrophe bonds were in the 1990s.

There was opportunity in the catastrophe property market to enhance the cycle of capacity usage and restoration, and Cayman was the jurisdiction approached to establish these innovative structures. Another example of innovation in Cayman is our segregated portfolio company legislation and the more recent and refined addition of portfolio insurance company legislation.

These allow for interesting versatility in structuring transactions and programmes and have generated a lot of interest and growth.

### What plans do you have going forward at IMAC? Is there anything in the pipeline?

There are opportunities for Cayman as a jurisdiction that has elected not to seek Solvency II equivalency, making it attractive as a domicile for commercial insurers and reinsurers.

That is one area of focus—getting the message about Cayman's capabilities to the players in the life and annuity space and also the pension and longevity space. We are seeing Cayman cater to a more international and commercial audience than before.

We are taking a more proactive approach to our IMAC messaging, including three webinars planned for this year. These will provide an opportunity for IMAC to draw on the experience of our members and share some best practices.

We will be looking closely at emerging risks and emerging industries, which can benefit enormously from the alternative risk market for opportunities.

The 2017 Cayman Captive Forum is reaching a major milestone, and we can promise to once again exceed the expectations of attendees.

We will be working with other sectors of the Cayman financial services industry to ensure they understand the value proposition of our sector and to identify synergies and opportunities to be creative.

There is a sense of buoyancy in Cayman, and we will be working hard to ensure we keep up the momentum in new business development. **CIT**



**Linda Haddleton**  
**Chair**  
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## Cyber security regulations: The shape of things to come for captives?

In an environment of technological threats, cyber security is moving up the captive agenda, say EY Bermuda's Daniel Message, Kerr Kennedy and Chris Maiato

In an environment of growing technological threats, it was perhaps only a matter of time before enhanced regulatory oversight emerged for cyber security in the insurance sector. New requirements issued by the New York Department of Financial Services (NYDFS) represent an early version of what is likely to be a new wave of such regulations, with the topic simultaneously coming in to sharper focus for other regulators across the globe. Cyber security is now moving up the agendas of captive owners, as steps are taken to address these emerging issues.

### Emerging regulatory oversight

The NYDFS regulations come in response to concerns over the growing number of cyber security events and the corresponding

risks currently faced by the financial services industry. They pertain to banks, insurance companies and other financial services institutions regulated by the NYDFS, effective 1 March this year and a subsequent transitional period. Other regulators such as the US Securities and Exchange Commission and those in countries including Singapore, Malaysia, China and Japan have announced cyber security regulations, while others such as the Bank of Ireland have issued guidance (as opposed to requirements).

In the case of NYDFS, for example, there are limited exemptions to some reporting criteria, which may preclude some captives from having to necessarily comply with all regulatory requirements. However, those that do not fall within the scope, or are exempt from current regulation, may still wish to enhance their cyber security

approach, for reasons which may include: strategic alignment with the approach taken by parent or other group companies that may be regulated in their own right; as a tool to aim for best practice, with a structured approach to cyber security; and in anticipation of future additional regulatory and/or third party oversight.

To highlight some of the areas of regulatory focus, key elements of the NYDFS regulations include:

- **Cyber security programme and policy:** Firms should adopt an approved, written cyber security policy and supporting policies and procedures to protect their information systems and non-public information (NPI), as defined in the regulations. The spirit of the programme includes enabling the firm to identify cyber risks, protect against unauthorised access/use or other malicious acts, detect cyber security events, respond to identified cyber security events to mitigate any negative events, and recover from cyber security events and restore normal operations and services.
- **Risk assessment, testing and compliance:** Firms should rigorously assess the risks associated with their information systems. A firm's risk assessment will be utilised to provide the basis for how it addresses requirements under the finalised NYDFS requirements. On an annual basis, firms should conduct penetration testing, and vulnerability assessments should be performed biannually, both of which are based on the firm's risk assessment.
- **Personnel, resources and training:** Firms should designate a qualified chief information security officer to drive the cyber security programme. More broadly, in light of these proposals, firms should validate that they have the necessary resources (in-house or from a third party) to meet their new cyber responsibilities, and that employees have the necessary training.
- **Access privileges, application security and NPI encryption:** Firms need robust policies and procedures to address these issues. NPI should be encrypted but where compensating controls are used instead, they must be approved by the chief information security officer.
- **Audit and NPI records retention:** Firms need rigorous systems, policies and procedures to provide for a holistic audit trail. NPI should be destroyed appropriately.
- **Third parties:** Firms need to validate that third parties are capable of adhering to new requirements and implement guidelines and/or contractual terms to enforce these requirements.
- **Incident response and notification:** Firms should adopt robust incident management plans and should be able to notify the NYDFS of material events within 72 hours.

Due to the nature of how captives operate, the cyber security programme may involve multiple stakeholders such as captive employees, captive managers, the parent company and third parties. A clear understanding of what falls in the domain of each is needed in order to design appropriate strategies and controls, with the objective of ensuring the captive is equipped to deal with constantly evolving threats and a changing regulatory environment. Some upskilling of existing captive personnel and/or the use of third parties may be needed in order to handle more technical aspects or to fulfil a role such as that of the chief information security officer.

However, while the impetus of this enhanced oversight is on protecting registered entities and their stakeholders, adding a further layer of regulatory oversight could be seen as adding further bureaucracy, using valuable captive resources. This will be compounded if the cyber security requirements of one regulator are not streamlined with those of other regulators, which could complicate the reporting process. For example, state versus federal

versus industry-specific requirements. Further, having potentially been created for all regulated entities and not just insurers, some regulatory prescriptions may not be as applicable to captives.

Some exemptions perhaps imply an acknowledgement of this, with carve-outs for entities of a more limited scope or scale. Boards might consider adopting their own proportionate, risk-based approach in the absence of any formal requirements. Even if not directly applicable, however, the emerging regulations can still provide a forum for discussion and a structure in which cyber security can be brought to the boardroom table.



A clear understanding of what falls in the domain of each captive stakeholder is needed in order to design appropriate strategies and controls



Cyber security's rise in prominence will likely result in captive boards placing further emphasis on its inclusion in governance, risk management and controls frameworks, perhaps necessitating the design and implementation of altogether new policies. Regulations are likely to permeate in an already complex landscape, although it remains to be seen which bodies ultimately drive them and the extent to which compliance for captives is mandated. In any case, the enhanced focus of regulators on the topic points to a wider cyber security issue, which warrants careful consideration by captives going forward. **CIT**

*The views expressed in this article are those of the authors and do not necessarily reflect the views of any member firm of the global EY organisation.*

## Cell by numbers

Although ICC legislation was implemented in Barbados last year, SCCs are still leading the way, according to Lisl Lewis of London & Capital

**Last year, London & Capital reported a 'significant increase' in demand from captives. Has this trend continued?**

The global captive market is a very important one to us at London & Capital, particularly in the Caribbean and Europe. From our Caribbean office in Barbados, which we opened towards the end of 2015, we manage our Barbados and Cayman client base. Barbados has 246 captives to date, having licenced 13 new ones in 2016, while Cayman was home to 711 captives at the end of 2016.

Parent companies, primarily from the US and Canada, have been setting up captives in both locations since the 1970s, and the jurisdictions have a long history of good corporate governance and regulation.

Both Cayman and Barbados continue to grow as captive domiciles, with excellent captive insurance managers and well-qualified workforces able to provide the required underwriting, accounting, legal, actuarial and auditing services.

London & Capital has been working with captives in the region for 10 years and remains very committed to providing best-in-class discretionary investment management services to the sector. Based on the local expertise and growth in the region in general, I'm confident we'll continue to see increased demand from captives over the coming months.

**Where are you seeing the majority of captive business come from, and from what sectors?**

Over the last 30 years, the majority of captive business in the Caribbean has been driven by US and Canadian companies. Historically, Canadian companies have made use of the extensive Canada-Barbados double taxation treaty to set up their self-insuring entities in Barbados, while Cayman saw more US-parent business as a result of its proximity to the mainland US. In 2010, Cayman signed a tax information exchange agreement with Canada, which has resulted in some Canadian business being domiciled there as well.

Captives in Barbados can be from just about any sector, including finance, energy, retail and healthcare. In Cayman, there is a specialisation in the healthcare sector, but there's also a broad base of business from other sectors too.

Recently, there has been an increase in interest in insuring cyber risk in both jurisdictions, which is a reflective sign of the times.

In Barbados there has been an increase in interest in setting up captives from Latin American countries, particularly Mexico. This is driven by the implementation of a double taxation treaty between the two countries in 2010, and many captive insurance managers are now actively targeting the Latin American markets as a new source of business.

This has resulted in interest in our discretionary investment management services from Latin American captives, which we are well placed to serve with our Spanish-speaking capabilities.

### Since the implementation of the ICC legislation in Barbados last year, how much interest has there been from the industry?

The incorporated cell company (ICC) legislation was implemented last year in addition to the segregated cell company (SCC) legislation, which came into effect in 2001.

At the end of 2016, there were 19 SCCs licenced by the Financial Services Commission in Barbados, and one ICC. Interest in ICCs from the industry has been slow to get off the ground and that is probably due in part to some uncertainty around costs and the administration to be done by the various government departments involved in the application and licensing process. I do think, however, that these are teething problems, that will be resolved over time.

From an industry perspective, the more pressing question may be to determine the practical advantages of the use of ICCs over to SCCs. The certainty of the use of incorporated cells instead of the contractual segregated cells was always seen to be the key advantage of the structure, but it is fair to say that the market has not rushed in to take advantage of the new legislation.

### What can we expect to see from the captive insurance industry in the region this year?

Although the number of captives incorporated in the US has grown significantly in recent times, making that country the number one captive domicile in the world, the Caribbean will remain a vibrant location for captives. Each jurisdiction has established its core market and its effective business case for that market, and we expect that that will continue. One of the challenges faced globally

by the industry is from the Organisation for Economic Co-operation and Development's base erosion and profit shifting initiative.

In Barbados and Cayman, there has been a clear business rationale for the establishment of captives, coupled with very strong management and governance, for many years. We are confident that this will emerge as a competitive advantage compared to some other jurisdictions.

Over recent years we have seen that many of London & Capital's competitors have been sceptical about the value of servicing the Caribbean market. We feel differently and see a great deal of potential in the market, as evidenced by our investment in a dedicated local office in Barbados. The Caribbean captive and institutional market has grown significantly in importance to London & Capital over the last decade and we expect this growth to continue. Currently our institutional division manages over \$1 billion in assets for captive insurers, based primarily in Barbados, Cayman and Bermuda. **CIT**



**Lisl Lewis**  
Executive director and head  
of Caribbean office  
London & Capital



# Industry Events

## Captives & Corporate Insurance Strategies Summit

05-06 June 2017

Canada

[www.captivesinsurance.com](http://www.captivesinsurance.com)

As the only conference of its kind in Canada, this is the must-attend event for risk managers and current and prospective captive owners. Whether you're just considering a captive or looking to fine tune your captive strategy, this conference has something to offer you.

## VCIA Annual Conference

08-10 August 2017

USA

[www.vcia.com](http://www.vcia.com)

The VCIA Annual Conference now proudly hosts 1,100 people from all over the world for two and a half days of the finest captive education available. Whether you are new to the industry or have many years of experience, there is something for you to learn and someone for you to meet.





# Comings and goings at Zurich, Advantage Insurance, Drinker Biddle & Reath and more

**Steve Bauman has left his role as senior vice president and head of captive services at Zurich Insurance Group, according to multiple sources.**

Bauman, who joined Zurich in 2007, was responsible for helping customers with captive insurers integrate their captives into their insurance strategies.

He has 25 years of experience in corporate insurance and captive insurance company services on both the broker and insurance provider sides.

Previously he served as senior vice president at Aon Insurance Managers and, prior to that, was head of the New York office at XL Insurance Group.

**Drinker Biddle & Reath has strengthened its insurance, regulatory and transactional capabilities with the addition of Dan Brown as partner.**

Brown is based in the firm's San Francisco office. He was previously a partner at Dentons, where he was a member of the insurance regulatory practice.

Prior to joining Dentons (formerly Sonnenschein), he was at LeBoeuf, Lamb, Greene & MacRae, working in Portland, Oregon, as well as in London and San Francisco. Brown represents insurance companies, agents and brokers, and other

participants in the admitted and surplus lines insurance markets of the US.

This includes advising non-US insurers on how to comply with various state non-admitted insurance laws, and advising producers on licensing, placement and premium tax issues.

Neil Haimm, chair of Drinker Biddle's corporate practice group, said: "Dan Brown's deep familiarity with the California regulatory environment broadens our insurance capabilities beyond existing strengths in markets including Chicago, New Jersey, New York and Philadelphia."

"He is a highly regarded member of the insurance legal community, both in California and nationally, who has previously worked closely with other members of our insurance team, including Mike Byrne, Tom Dawson and John Mulhern."

**Advantage Insurance has appointed Christina Kindstedt as senior vice president.**

In her new role, she will develop and manage various alternative risk financing mechanisms, including captive insurance companies, risk retention groups and risk purchasing groups.

Previously, Kindstedt served as senior vice president of the Willis Global Captive Insurance Practice, where she has been since February 2003.

**XL Catlin has named Isa Ennadifi as senior underwriter of structured risk solutions, based in London.**

In her new role, Ennadifi will underwrite non-traditional solutions for corporate and captive clients.

The structured risk solutions team is an underwriting unit that provides clients with solutions for large and complex risks for which there are currently no insurance products offered by the market.

Ennadifi joins XL Catlin from Scor, where she was a captive solutions underwriter.

Rob Turner, global head of structured risk solutions for XL Catlin, said: "Increasingly, clients and their brokers are looking for new, innovative solutions for changing exposures."

"Our team has grown along with market demand and we are delighted to welcome Isa Ennadifi, a skilled and experienced structured solutions underwriter."

**Pool Re has named Andrew Sean Donaldson as deputy head of risk analysis, with immediate effect.**

Donaldson, who reports to head of risk analysis Ed Butler, is responsible for the management of threat reporting and commissioning of analytical products to help Pool Re members and partners understand the modern terrorist threat.

In addition, he will assist with project management in support of Pool Re's wider work in the terrorism reinsurance and insurance market.

Donaldson joins Pool Re from the police force, where he served in the counter-terrorism department.

Butler said: "Andrew Donaldson brings an exceptional level of understanding and first-hand experience of the terrorism landscape and I am certain he will be a key asset in our goal of providing our members and stakeholders with an unparalleled level of insight into this evolving threat."

"I am very pleased to welcome him to the team."

**Grant Thornton's Terry Carson has retired, stepping down from his role as founding partner.**

Dara Keogh will be taking over from Carson as co-managing partner of the company.

Previously, Keogh worked at Alesia Re in the Cayman Islands, where he served as CFO. He left Alesia Re in November last year.

Grant Thornton Cayman Islands offers audit, tax and accounting advisory services.

The company specialises in the audit of captive insurance companies, from those insuring small groups of individuals to large single-parent, group and special-purpose captives.

Carson and Ian Johnson, current partner of Grant Thornton Cayman Islands, first became partners of Morris Brankin in 2002, before the firm rebranded to Grant Thornton in 2003.

Carson and Johnson acquired the business from its former owners in 2010. **CIT**

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