captive insurance times
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ISSUE147 02 May 2018

Clearing the PATH

HR 1625 provides much-needed clarification on the PATH Act for micro captives

Arizona Down-Low

Michael Low talks Arizona captive law

Missouri Update

John Talley explains why the state has succeeded

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La Linea emerges as post-Brexit solution

The Spanish town of La Linea may be a post-Brexit solution for companies looking to ensure continued access to the European market, according to Nigel Feetham, partner at Hassans International Law Firm.

La Linea's close proximity to Gibraltar makes it an ideal solution for companies based in the British overseas territory who want to have EU passporting rights and keep their Gibraltar infrastructure.

It was announced in March that the UK government had guaranteed Gibraltar-based financial services firms access to UK markets until 2020, regardless of the Brexit deal.

Brexit will, therefore, not affect Gibraltar-based companies that only write UK business, which according to Feetham constitute the majority of companies licensed in the region.

The announcement confirmed, however, that those Gibraltan companies affected would need to redomicile in order to ensure access to the European market following Brexit, an issue which Feetham has been working on for the last 18 months.

He explained: "I'd been looking at EU solutions for Gibraltar insurance companies that would be affected by Brexit, in other words, a post-Brexit European solution."

"There are a number of businesses in Gibraltar that either write EU business exclusively or a large part of their portfolio is EU business. These companies need an EU solution."

Due to its similarities to Gibraltar, such as its similar prudential regime, benign tax environment, and approachable regulator, Malta emerged as an early option.

Insurers domiciled in Malta can currently write insurance in Britain and Europe, however, in the event that Britain leaves the single market those operating from Malta will no longer be able to sell insurance into Britain but will have continued access to European markets.

Feetham came up with a "two way Brexit strategy" in which Malta-based companies looking to continue to work in the UK market would move to Gibraltar, and visa versa.

He said: "The redomiciliation of the UK-focused motor insurer St Julians Insurance Company in January was evidence of this potential movement."

In late 2017, Feetham realised the potential solution that La Linea could offer companies by providing access to the European market while allowing them to keep their Gibraltar infrastructure.

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Company reg: 0719464
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La Linea emerges as post-Brexit solution

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He said: "Towards the end of last year I had a eureka moment. Travel between Malta and Gibraltar wasn't easy."

"Instead of going to Malta, why not La Linea if companies currently have an infrastructure in Gibraltar?"

"You are keeping the infrastructure in this area and therefore retaining employment, retaining economic activity, and you're sharing the benefits of that economic activity with your neighbours–in this case, La Linea."

"Employees can cross the border, geographically and physically we are talking about a ten-minute walk."

Feetham said Spanish regulators have been very accepting of the idea so far and the country has redomiciliation legislation which is a "huge advantage".

According to the Hassans' partner, the idea could be taken a step further and could be a solution for London-based insurers.

He said: "You can move the goalposts further. London has a problem, they need a solution. I can offer a solution that is Gibraltar and La Linea."

"That is where you then get into the concept of a join financial hub between Gibraltar and La Linea, feeding off each other."

"London has traditionally has been very close to Gibraltar, particularly the insurance sector, so they could continue to plug into the Gibraltar infrastructure as they have done in the past and you add in La Linea to that–so you have a three-way solution, Gibraltar, Malta, La Linea."

Clink here and subscribe now to receive the next issue of Captive Insurance Times, which features a more in depth exploration into Feetham's new "three way strategy".

MAXIS GBN partners with PARIMA

MAXIS Global Benefits Network (GBN) has partnered with the Pan-Asian Risk and Insurance Management Association (PANIMA) to further the development of its captives business in Asia.

A joint venture between MetLife and AXA, MAXIS GBN is an employee benefits (EB) network built on the expertise of almost 140 local insurers across 123 market which offers a captive programme through MAXIS Global Captive Solution.

PARIMA, headquartered in Singapore and currently made up of 1,400 risk management professionals, is dedicated to developing the risk management profession across the Asian continent.

The partnership means MAXIS GBN will be present at PARIMA's two main industry conferences in Bangkok and Japan in 2018, providing the company with the opportunity to network with clients and prospects in the region.

MAXIS GBN organised their first successful event with the association in March 2018, which hosted 40 delegates and included speakers from AXA, EY and Willis Towers Watson.

Juliet Kwek, regional director, Asia, MAXIS GBN, said the company was truly excited to be partnering with PARIMA.

Kwek explained: "It has an extensive and growing network of members across Asia and we hope this partnership is able to reach out to more professionals helping them to gain a stronger insight of the EB landscape and offerings in Asia with a global solution."

Kelvin Wu, executive member, PARIMA said: "Employee benefits is a key strategic aspect of risk management and risk financing, and the expertise of MAXIS GBN in this space will be invaluable to PARIMA's members as they seek to get a better understanding of how they better help their companies manage these risks."

"The event with MAXIS GBN in Shanghai was a great start and very well received by our members, and we look forward to further collaboration across the region."

Reinsurance market stable in 2017 despite catastrophe loss activity

The continued stability of the reinsurance market, despite the catastrophe loss activity in 2017, is a significant achievement and a testament to its strength, according to James Kent, global CEO of Willis Re.

Kent's comments reflected the findings of the Willis Re Reinsurance Market Report, which revealed year-end 2017 results for the reinsurance market based on the 34 companies tracked in the Willis Re Reinsurance Index.

The report found that shareholders' equity was up to $371 billion at year-end 2017, a 7.8 percent increase on the previous year, despite catastrophe losses which led to a weighted combined ratio for the tracked reinsurers of 104.8 percent, up 10.4 percent from 2016.

Alternative capital also increased from $75 billion to $88 billion at year-end 2017, in spite of the draw-down of some cat bonds and collateralised reinsurance and retrocession layers in the wake of the 2017 Atlantic hurricanes.

The equity increase was driven by unrealised investment gains of $34.7 billion, however, when National Indemnity is excluded from the group, the total shareholders' equity was roughly stable, at $343.7 billion.

Profitability relied largely on significant realised investment gains of $9.7 billion, up 38.6 percent, largely influenced by a $2.7 billion investment gain realised by Fairfax following the sale of two subsidiaries and equity gains.

Underwriting losses were partly offset by high prior-year reserve releases, while capital of $15.6 billion was returned by reinsurers through dividends ($11.2 billion) and share buybacks ($4.4 billion) far surpassing the aggregate net income of $12 billion.

The report revealed the results of a combined ratio analysis, which saw 2017 compared with 2005 and 2011, both of which were severely catastrophe-affected years.

The results of the analysis showed that the reported combined ratio for last year 107.4 percent compared with 108.2 percent (2011) and 112.8 percent (2005).

Natural catastrophe losses in 2017 had an 18.1 percent impact, lower than for both 2011 (24.8 percent) and 2005 (25.8 percent).

Particularly notable in the analysis results was that, excluding natural catastrophe losses and prior reserve releases, the Ex-Cat Accident Year combined ratio deteriorated to 94.6 percent last year, up from 90.2 percent in 2011.

Kent commented: "2017 was one of the worst years on record for insured natural catastrophe losses. However, today the global reinsurance market is able to deploy more capital than at the same time last year."

"That's a significant achievement for the reinsurance market, and a testament to its strength."

According to Kent, the comparison of 2017's natural catastrophe experience with 2005 and 2011 shows a number of large global property catastrophe reinsurance accounts were not impacted by the events of 2017.

"The 2017 result was supported by the aforementioned reserve releases and investment gains which remains a concern and is why many reinsurers continue to try to push pricing on under-performing lines."

He added: "The pressure on traditional reinsurers from alternative capital suppliers is stronger than ever, as many participants in this market cleared their first true major test."

"This increase in alternative capital, as well as the global reinsurance market having more capital to deploy, is continuing to dampen price increases in the mid-year renewals."

Ratings of BNY Mellon single-parent captives affirmed

A.M. Best has affirmed the financial ratings of A (Excellent) and the long-term issuer credit ratings of "a+" of BNY Trade Insurance and The Hamilton Insurance Corporation, the single-parent captives of BNY Mellon.

The outlook of these credit ratings remains stable.

The ratings reflect the companies' balance sheet strengths, both categorised by A.M. Best as strongest, in addition to both captives' strong operating performances, neutral business profiles, and appropriate enterprise risk management.

In their roles as single-parent captives, both companies provide reinsurance coverage and products to their parent.

BNY Trade's rating reflects its steady growth in surplus which has been driven by its consistent premium growth and favourable profitable over the past several years.

Hamilton's ratings are reflective of its outstanding liquidity and operating performance, as well as the contribution that its consistent level of investment income has made to its growth in surplus, according to A.M. Best.

Both captives benefit from BNY Mellon's robust, enterprise–wide policies and procedures in the areas of risk management, corporate governance, compliance, and ethics.

BOE and GFSC sign agreement

The Guernsey Financial Services Commission (GFSC) and the Bank of England (BoE) have signed a memorandum of understanding allowing them to share confidential information

about regulated entities and cooperate on supervision activities.

The agreement reaffirms the long-held relationship between the Guernsey regulator and BoE's Prudential Regulation Authority (PRA), which dates back to the days of the PRA's predecessor, the Financial Services Authority.

The PRA is responsible for the prudential regulation and supervision of banks, insurers and major investment firms, regulating some 1,700 financial firms.

The agreement was signed by GFSC director general, William Mason, and Sam Woods, deputy governor at the BoE for prudential regulation and CEO of the PRA.

Mason said the agreement emphasises the longstanding regulatory cooperation which has existed for a considerable period of time between the UK and Guernsey.

Mason explained: "There is a very productive and good relationship between the GFSC and the PRA, and we see this confirmation as good news for the Bailiwick, demonstrating that we are regarded as credible operators by our main counterparties."

"It has been signed in the spirit of mutual cooperation and information exchange seen as crucial by the G20 countries and international standard-setters for financial services supervisors."

Dominic Wheatley, chief executive of Guernsey finance, added: "A good relationship between regulators in Guernsey and the UK is important for financial services on the island and particularly as both parties seek to reposition the trading relationship post-Brexit."

'Crumbling foundations' non-profit captive seeks board members

The non-profit captive insurance company set up to assist homeowners impacted by the 'crumbling foundations' issue in Connecticut is seeking board members.

In October 2017, the Connecticut state government passed SB 1502 which authorised the formation of the non-profit captive, Connecticut Foundation Solutions Indemnity Company, to distribute the remediation funds to homeowners across the state–with $100 million in state bonding available over five years.

The 'crumbling foundations' issue was caused by concrete of a stone aggregate mined from a quarry containing pyrrhotite and has resulted in cracks forming decades after the foundation was constructed.

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Commercial insurers have generally refused to cover the structural issue, which has affected 5000 homes, as reported by the Connecticut Mirror.

The Connecticut state government predicts the assistance fund will be accessible through the captive in July 2018.

Per statute, the captive's board of directors must contain a real estate agent or broker, a homeowner impacted by the issue, representatives from both the insurance and banking industries, a chief executive of a municipality or their designee and a registered investment adviser.

The board of directors must also contain executive directors of capitol and eastern region governments or their designees.

State Representative Jeff Currey announced on 13 April that Connecticut Foundation Solutions Indemnity Company was now accepting applications.

He said: "This is the next step in getting the captive up and running so it can begin distributing remediation funds."

"I encourage community members impacted by this issue and industry professionals to consider applying."

The deadline for submissions, which will be reviewed by the incorporators and organising committee of the captive, was Friday 27 April.

Pfizer captive ratings affirmed

Pfizer's captive insurance company, Blue Whale Re, has had its financial strength rating of A (Excellent) and its long-term issuer credit rating of "a+" affirmed by A.M. Best.

The outlook for the ratings of the Burlington-based insurer is stable.

The ratings are reflective of Blue Whale's balance sheet strength, which A.M. Best categorises as very strong, in addition to its strong operating performance, neutral business profile and appropriate enterprise risk management.

They are also impacted by Blue Whale's strategic position as captive insurer of the leading global pharmaceutical company, Pfizer.

The captive provides insurance and reinsurance for Pfizer's global property exposures and plays and an important role in its overall enterprise risk management and assumes a critical role in protecting the Pfizer enterprise's assets.

According to A.M. Best, Blue Whale benefits from reinsurance protection but its retentions remain very substantial.

The ratings company added: "Reinsurance is provided by a large panel of reinsurers, and Blue Whale relies on significant capacity to support its obligations. Therefore, it is heavily dependent on reinsurance."

"A.M. Best recognises the quality of the reinsurers, and the substantial financial resources and support available to the captive as part of the Pfizer group."

The ratings agency recognises that the nature of the relationship between Blue Whale and its parent company means that changes to Pfizer's credit risk may impact the captive's ratings.

A material deterioration in Pfizer's credit profile may lead to a negative rating impact for Blue Whale.

Negative rating action could also occur if underwriting performance weakens, negatively impacting risk-adjusted capitalisation over time, or if there is a material shift in risk profile which may undermine the stability and profitability of the company.

The ratings may be upgraded if the captive's operating performance improves to outperform similarly rated peers with supported risk-adjusted capitalisation.

Sedgwick completes acquisition of Cunningham Lindsey

Sedgwick has completed the acquisition of claims management and risk solutions firm Cunningham Lindsey.

The combined organisation, which includes Cunningham's subsidiaries, will move toward operating under a combined leadership team and the Sedgwick brand name.

In acquiring Cunningham Lindsey, Sedgwick will gain almost 6,000 staff in 65 countries who perform services throughout the risk management lifecycle, including property loss adjusting, third-party claims administration and provide support to a global customer base of businesses, insurers, brokers and policyholders.

Sedgwick president and CEO, Dave North will continue to lead the company's executive council, which will be made up of global CFO Henry Lyons, and group presidents Mike Arbour and Bob Peterson.

Also included in the executive council will be Jane Tutoki, who previously held the role of Cunningham Lindsey global CEO, and will now take up a new position as vice chair of Sedgwick.

North said the growth in the size of the business, which is now more than 21,000 people worldwide, would allow them to meet the needs of more clients in more locations than ever before.

He explained: "The close of this transaction brings a wealth of talent to Sedgwick, broadens our international footprint, and reinforces our position as the leading global provider of technology-enabled business solutions in the risk and benefits space."

Tutoki added: "Bringing together the talent, expertise and robust capabilities of our esteemed organisations under the Sedgwick banner will allow us to provide a unified, end-to-end service solution to clients around the world."

"Integrating our services and further growing our reach redefines what we can offer the global market."

Demotech: RRGs report $286.9 million net income last year

Risk retention groups (RRGs) remain financially stable and continue to provide specialised coverage to their insureds after reporting a net income of $286.9 million in 2017, according to a report by Demotech's senior financial analyst Douglas Powell.

Powell's report 'Analysis of RRGs Year-End 2017', also revealed that RRGs collectively reported more than $3.2 billion of direct premium written last year, up 5.9 percent on 2016.

According to the report, between year-end 2016 and year-end 2017 cash and invested assets increased 4.5 percent and total admitted assets increased 4.9 percent.

The one-year loss reserve development to prior year's policyholders' surplus was -5.2 percent for 2017, an improvement on -2.4 percent in 2016, while the two-year loss reserve development to second prior year-end policyholders' surplus for 2017 was -7.5 percent, an improvement on -6.9 percent the previous year.

Powell explained that these results exhibited that "RRGs collectively reported adequate loss reserves at year-end 2017".

The report showed that underwriting results indicated RRGs were collectively profitable last year, reporting an aggregate underwriting gain of $46.6 million.

Collectively, RRGs reported a net investment gain of $299.5 million and a net income of $286.9 million.

Additionally, the report revealed the income statement analysis ratios appear to be appropriate and have remained within a profitable range.

Powell stated that the results indicate that "specialty insurers continue to exhibit financial stability".

He added: "It is important to note again that while RRGs have reported net income, they have also continued to maintain adequate loss reserves while increasing premium written year over year."

"Despite political and economic uncertainty, RRGs remain financially stable and continue to provide specialised coverage to their insureds."

Rating of Redding Funding secured notes affirmed by A.M. Best

A.M. Best has affirmed the long-term issuer credit rating (ICR) of "a+" on the initial $1.2 billion of 5.75 percent secured notes issued by Redding Funding, a wholly owned subsidiary of Wilton Re (WRL).

The outlook of the rating for the notes, which are due 31 December 2058, is stable. As of 31 December 2017, there is still $905 million outstanding.

The notes were part of a deal used to fund statutory reserve requirements for a block of life insurance policies that Wilton Reassurance Company ceded to South Carolina-based captive insurer, Redding Reassurance Company 2.

As the statutory reserve requirements are reduced, the amount of the corresponding notes will also be reduced.

When the notes were issued, the Canada Pension Plan Investment Board, the parent of WRL, contributed $1.2 billion to WRL, which in turn provided that amount to Redding Funding to collateralise the notes.

The rating affirmation is evidence of the rating agency's opinion of the issuer's ability to meet its financial obligations to the noteholders when due.

According to A.M. Best, the rating is primarily based on the fact that the notes issued "are collateralised by a pool of invested assets, which as of 31 December 2017, other than a small amount in a money market fund, were entirely invested in US treasuries".

In addition to: "The potential losses of the collateral portfolio due to defaults and lack of marketability of the investments over the notes legal maturity period; and the support provided by WRL as guarantor of Redding Funding's payment obligations."

The long-term ICR may be altered and the outlook revised if material changes occur in the credit ratings of the underlying collateral or the long-term ICR of the guarantor.

Texas welcomes eight new captive formations in 2017

Texas saw eight new captive formations last year, according to figures from the Texas Captive Insurance Association (TxCIA).

The figures, which were compiled by the TxCIA in collaboration with the Texas Department of Insurance, revealed that the total number of licensed captives in the Lone Star state was 38.

The level of growth in the captive market was down in comparison to 2016 when 14 new captives were licensed.

In June, state governor Greg Abbott signed a new captive bill into law which allowed captives to be formed as a reciprocal insurance exchange and take credit for reinsurance ceded to a non-affiliated reinsurer when specific requirements are met.

The legislative changes also meant captives in the state were able to insure life insurance benefits for employee benefits subject to the Employee Retirement Income Security Act and hold capital and surplus in the form of Texas county or municipal bonds.

There is currently one captive in the process of applying for a license in the state, for which the TxCIA is about to start the qualifying examination.

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Micro captive clarification

HR 1625 provided some much-needed guidance for taxpayers with micro captives, primarily regarding section 831(b) diversification requirements implemented in the PATH Act 2015. John Dies and Matthew Spradling break down the changes

Captive insurance companies exist because the business world is full of unknowns. A business owner can turn to a captive insurance company to mitigate their risk, however, what happens when the unknowns involve the tax treatment of a captive? Captive owners utilising an Internal Revenue Code section 831(b) micro captive, have been left with unanswered questions. The passage of HR 1625 has, however, provided taxpayers with micro captives with some much-needed guidance.

On Friday 23 March 2018, US President Donald Trump signed into law HR 1625, the Consolidated Appropriations Act 2018. In addition to funding the US government for the remainder of this year, HR 1625 provided clarification regarding section 831(b) diversification requirements as previously implemented by the Protecting Americans from Tax Hikes (PATH) Act 2015.

The PATH Act increased the maximum annual premium limitation for section 831(b) micro captives from $1.2 million to $2.2 million and provided for an inflation adjusted increase for future years. This was a victory for small and mid-sized businesses who rely on section 831(b) micro captives as an integral risk management tool. However, in light of increased scrutiny by the Internal Revenue Service (IRS) Congress also implemented additional requirements to address the potential abuse of micro captives. Most notably, the act implemented two diversification tests: the 20 percent test and the ownership test. To qualify as a section 831(b) captive, the taxpayer must meet at least one of these tests.

The 20 percent test

The 20 percent test, provides that no more than 20 percent of the annual net written premiums of the captive insurance company may be attributable to one policyholder. For purposes of this test, controlled groups and related entities within the meaning of sections 267(b) or 707(b) are considered to be one policyholder.

The implementation of this test originally created questions regarding reinsurance, fronting, and intermediary arrangements. For example, consider a captive that is a member of a risk management pool which received 81 percent of their premiums through a reinsurance agreement with the pool. Prior to the recent changes it was unclear whether such a situation would constitute one policyholder, or whether each underlying insured would be a policyholder. HR 1625 implemented a look-through provision to resolve this confusion. The statute was amended to define policyholder as “each policyholder of the underlying direct written insurance with respect to such reinsurance or arrangement”.

This means that the pool itself is not considered the policyholder, but rather each discrete insured paying premiums into the pool is

a policyholder. Therefore, as long as none of the insureds in our example above account for more than 20 percent of the total premiums paid to the captive, the 20 percent test would be met.

This common sense change will allow the diversity requirement to be met with an appropriately structured reinsurance pooling agreement. The tax treatment of the reinsurance agreement now reflects the real-world effects of the pooling arrangement. Overall, this change is anticipated to have a profoundly positive effect on the captive insurance industry.

The ownership test

Captives failing the 20 percent test may still qualify for 831(b) treatment if the entity meets the requirements of the relatively more complex ownership test. The ownership test was devised as a way to prevent captives from being utilised as estate planning vehicles. Originally, a captive would fail this test if a "specified holder" (spouse or lineal descendant) owned an interest in the captive that is greater than two percent of that individual's ownership interest in "specified assets" (interest in the insured) of the captive. Put more simply, a captive would fail the ownership test if a spouse or lineal descendant of an owner/shareholder of an insured business, owned a greater share of the captive than they owned in the business (the test did, however, allow for a de minimis difference of two percent). Several questions arose under this arrangement, especially with regards to the treatment of community property.

HR 1625 clarifies the spousal issue by eliminating spouses from the definition of specified holder, unless they are not a US citizen. Therefore, under the new rules, the ownership test now only applies to lineal descendants of either spouse, spouses that are not US citizens, and spouses of lineal descendants. Furthermore, a new aggregation rule has been applied to certain spousal interests. Under the new law, any interest held, directly or indirectly, by the spouse of a specified holder is deemed to be held by the specified holder.

Lastly, the test was also modified to look at the "relevant specified assets" of the captive rather than the specified assets. Specified assets were defined as trades, businesses, rights, or assets with respect to which the net written premiums of an insurance company are paid. Relevant specified assets, on the other hand, restricted the determination to the aggregate amount of an interest in the trade, business, rights, or assets insured by the captive, held by a specified holder or the spouse of a specified holder. The new rule excludes assets that have been transferred to a spouse or other relation passed "by bequest, devise, or inheritance from a decedent during the taxable year of the insurance company or the preceding taxable year".

Remaining areas of uncertainty

Although a move in the right direction, these changes do not resolve all of the uncertainties surrounding the PATH Act tests. For example, the new law does not provide guidance as to the definition of an 'interest'. It is unclear whether interest exclusively denotes ownership, and how to calculate the amount of ownership if the interest is held by multiple individuals through a trust or other entity. It is also unclear how to quantify the amount of interest when there are multiple insureds involved. Further guidance is still desperately needed in this area.

Although these amendments go a long way to address the ambiguity and unforeseen consequences of the changes made in the PATH Act, there are still many items for which taxpayers entering into captive arrangements should be on the lookout. Taxpayers using or considering a captive insurance arrangement should consult an attorney. **CIT**

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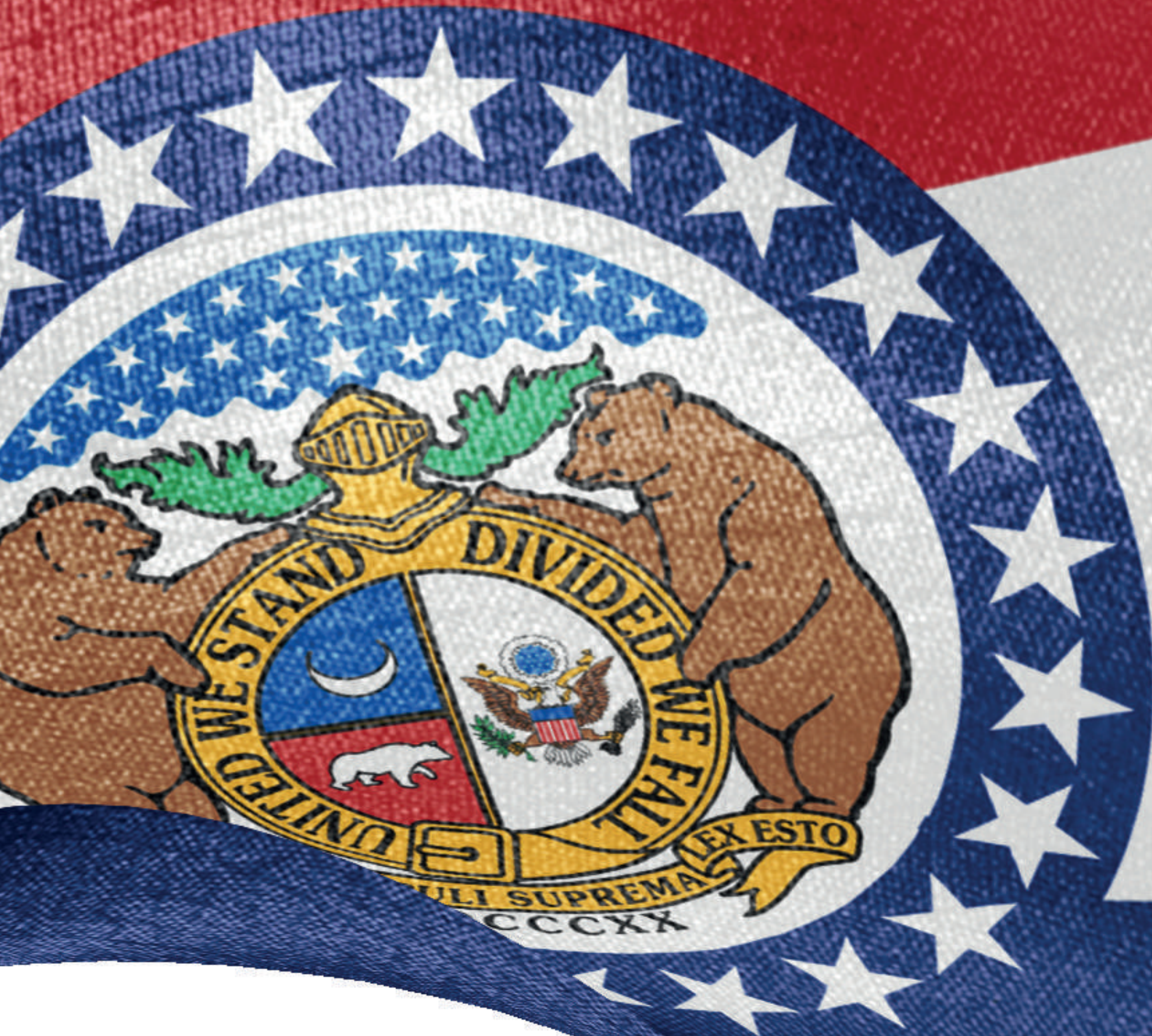

The Show Me State

Missouri's no frills approach to captive insurance means it maintains a friendly and reliable regulatory environment, keeps costs low and adapts for the needs of each captive. John Talley of the Missouri Department of Insurance, says this is where the state's success lies

What is the current state of the Missouri captive market?

This is the 11th year since our captive legislation was enacted in Missouri, and it is now a mature domicile with a healthy market providing benefits to captive owners through a wide range of captive programmes. We are continuing to issue new licenses and receive numerous inquiries from companies and service providers interested in our captive programme. Presently, we have licensed 63 captives, which wrote $3.9 billion in premium in 2017. Missouri is consistently a top five domicile by this measure each year.

I've written articles regarding topics of interest that I have been discussing with current and potential captive owners related to terrorism and farming risks in captives. I am looking forward to speaking engagements in the next few months to further assist and engage with the captive industry in Missouri.

How was 2017 as a year for the Missouri captive market?

We had a positive year overall. The companies we licensed last year have become very active. I believe they're going to grow very quickly. In fact, I've had captive managers asking about new things they can do. In most cases, the answer is positive and I work closely with our captives to help them get things done while making sure they are adequately prepared for the move by analysing their accumulated surplus to allow for prudent expansion of their programmes.

We licensed four captives in 2017. The soft market conditions reduced the urgency of some other potential applicants, but, there are still a number in the pipeline that we expect to see come into formation this year.

How has the start of 2018 been?

The first quarter has been good. We licensed two pure captive formations and approved one redomestication. One of the pure captive formations was a bank captive, the first of its kind in Missouri. The Missouri commissioner of finance, which is a division director under the department umbrella, was very positive about the formation of this captive. This may open up a new industry in Missouri for captive formations.

I am seeing increased interest in captive formations in the agricultural industry. Companies and captive service providers are contacting me expressing interest, and I expect discussions of these programmes will continue throughout the year. I am also in active discussions with potential pure captive applicants from other industries and a potential sponsored cell captive in the construction industry. Given we are already off to a strong start, and with what we are actively working on already, we're expecting solid growth in 2018.

Are there any recent developments of note in Missouri?

The Western Region Captive Insurance Conference is the biggest thing on the horizon right now. My staff and I plan to attend and I am scheduled to speak at the event. The department is thrilled to participate in this conference that is co-sponsored by the Missouri Captive Insurance Association.

We are also happy to welcome the gathering to Missouri this year and, in addition to my staff, my division director and former captive programme manager John Rehagen will be in attendance. Director Chlora Lindley-Myers will welcome attendees Monday evening and is very supportive of our captive programme. Some may not know that our director was most recently with the Tennessee Department of Commerce and is very familiar with the steps Tennessee has taken to successfully revive its captive insurance programme. It's great to have such knowledge of the captive industry at the highest levels of leadership within the department. Not many states can claim that level of support.

Other than that, we are going to stay the course that has led to the development of our very successful captive programme. Missouri will continue to promote the qualities that make us a premier captive jurisdiction: knowledgeable regulators providing quality regulation; high responsiveness to company requests; low examination costs and reasonable fees and premium taxes.

Are there any recent regulatory changes that have made an impact?

We did not have any regulatory changes in 2017. Our legislative session ends on 18 May but we'll see what happens in planning for the next session this fall. We are always interested in discussing

> Companies operating in Missouri are seeing a substantial decrease in expenses. It’s cheaper to do business in Missouri because of our lower cost of living and the elimination of travel expenses to other distant captive domiciles

John Talley
Captive programme manager
Missouri Department of Insurance

technical changes or enhancements to our statute to help keep up with the needs in the captive market. However, presently our statute is designed to give the director a lot of discretion and it works quite well.

Is there anything to look out for moving forward?

I believe agriculture business captives might be the next big thing for Missouri. Agriculture is Missouri’s number one industry, and not only do we have large agricultural businesses, but we also have smaller or middle sized businesses. From my recent contacts, I feel many will be moving from exploring the captive concept to implementation soon.

What is it that sets Missouri apart as a captive domicile?

Our regulatory system is geared toward helping the companies with their individual needs. We have the flexibility and knowledge to work with just about any type of captive programme. Since each captive is unique, we work with the individual captive to develop the best programme possible for them.

Our costs are low. Our application and renewal fees are deductible from a company’s premium tax payment. Our exam costs are low because we perform them with our in-house examination team.

Missouri is in the middle of the country and we have two major cities on either end. You can fly in and out the same day if need be. We have department offices in Jefferson City, Kansas City and St Louis providing convenience when meeting with the department. We are flexible and accommodating if you need to travel to the state.

Companies operating in Missouri are seeing a substantial decrease in expenses. It’s cheaper to do business in Missouri because of our lower cost of living and the elimination of travel expenses to other distant captive domiciles.

What are you most looking forward to about the Western Region Conference?

I’m looking forward to people from all over the country coming to St. Louis and personally helping them gain an understanding that Missouri is an excellent domicile in which to form and operate a captive insurance company. We are going to have a major presence there and will be able to show off our experience and knowledge, while also being able to stay close to home.

I have written articles on terrorism and agricultural risks recently and will be writing more articles on additional captive topics in the future. I want to accentuate the fact that Missouri understands industry risks and can work with any company that desires to domicile a captive in the state. **CIT**

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CBC-7079-03 06/17

Captives high, Canyon low

Michael Low, counsel at Kutak Rock, summarises the requirements of Arizona captive law and highlights some of the unique features of the law that has brought major captive business to the Grand Canyon State

24 US states have adopted captive insurance programmes providing alternative risk mechanisms to attract American businesses. Arizona enacted its captive statutory scheme in 2001 and the Arizona Department of Insurance (ADOI) has since licensed 117 captive insurers through its captive insurance division, including subsidiaries of manufacturers, health care companies, finance and insurance groups, construction companies and other business entities.

This article will provide an overview of the requirements of the Arizona captive law and discuss some of the unique features of that law that has attracted major business enterprises to form captive insurers in the state.

Arizona permits the licensing of six different types of captive insurers, pure captives, association or industry group captives, risk retention groups, agency captives, protected cell captives, and pure reinsurance captives.

The captive insurance division is a separate unit within the Financial Affairs Division of the ADOI. The assistant director of the ADOI, Financial Division, is Kurt Regner.

The captive insurance division, which reports to Regner, is headed up by Vince Gosz, chief analyst, and includes Rae Hughes, captive analyst, and Maidene Scheiner, administrative assistant.

A captive insurance fund is established to fund the administration of the captive programme and consists of monies deposited relating to the fees paid for the issuance of a captive insurance license and upon the annual renewal of same.

Application process

The ADOI requires a pre-application submission, including a business plan, a proposed governance structure, the name of the actuary who will be performing the feasibility study and a list of the proposed service providers, including the captive manager. The department may request an in-person meeting following the review of the pre-application materials; however, a face-to-face meeting is generally recommended.

When the application is submitted, it must include an initial license fee of $1,000, an examiner's revolving fund deposit of $100, a charter document filing fee of $75 and articles of incorporation with a filing fee of $60 payable to the Arizona Corporation Commission. The application also must include original biographical affidavits for all officers and directors.

Fingerprinting is not required. Bylaws, consistent with both Arizona General Corporate Law and the Captive Statutes, should also be filed and should include at least one board of directors meeting in Arizona annually, as well as the identification of a principal place of business in Arizona. The latter can be the office of the captive manager, the attorney or the statutory agent.

A warm environment for captives

Unlike most captive jurisdictions, no premium tax is required to be paid by a captive insurer. After licensing, the only fee charged is an annual renewal fee for $5,500 payable to the ADOI. Small-company exemption from annual actuarial opinion and audit requirements are available. Essentially, captives with less than $1 million in direct or assumed premium and $1 million in loss reserves and loss expenses are exempt from providing annual actuarial opinions and independent financial audits. There is no regularly scheduled statutory examination for pure captives. While the director reserves the right to conduct an examination at any time, from a practical standpoint, such examinations are rare and only triggered under extraordinary circumstances.

Arizona has a strong confidentiality law that protects all information filed with or made available to ADOI. By statute, the Arizona director can only identify the name of the captive insurer, the date of its licensing, the type of captive insurer, including the business or industry of the owners or member and the captive's licensed status. Information may be discoverable by a party in a civil action in which the captive insurer has previously submitted information to such party and the director is required to provide information other governmental agencies in connection with any civil or criminal investigation as may be required by a subpoena issued by such agency.

Approval of the application for a captive license should take place within thirty days after submission of an application deemed complete. The average time for license review and approval is generally 25 to 30 days.

Steady growth

The Arizona captive programme has been in existence for over sixteen years. At the time of writing, there are 117 licensed Arizona captive insurers, ranging from some of the largest and most technically complex financial entities in the US to smaller niche entities that qualify for the small company exemptions. As a mature captive programme, Arizona is ranked as the 10th largest captive jurisdiction in the US. Over the years, the programme has seen a steady and consistent growth in the number of captives due to both the provisions of the captive law and the support of the ADOI. The expectation is that that trend will continue. **CIT**

"Over the years, the programme has seen a steady and consistent growth in the number of captives due to both the provisions of the captive law and the support of the ADOI. The expectation is that that trend will continue"

Michael Low, counsel, Kutak Rock

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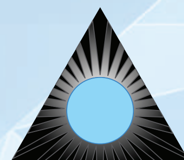

ACTIVE CAPTIVE MANAGEMENT

Comings and goings at Willis Towers Watson, Sedgwick and more

Willis Towers Watson (WTW) has promoted Ciaran Healy to head of international development and consulting of its global captive practice.

Healy, who joined WTW in 2013, will now lead the firm's consulting and development initiatives everywhere outside the US.

In his new role, he will focus on maintaining and further developing WTW's position as the industry leader in captive advisory and thought leadership.

Additionally, Healy will help WTW to continue to deliver the highest standard of consulting services to captive owners globally.
Healy said he was excited about the challenge ahead.

He added: "I'm looking forward to the new challenge and continuing the significant growth we have been experiencing over the last few years."

Sedgwick has appointed Ian Muress, Stewart Steel and Paul White to the leadership team of its combined business operations in the UK.

The firm completed the acquisition of claims management and risk solutions firm Cunningham Lindsey in April.

As a result of the deal, a new UK leadership has been formed including senior members of leadership from Sedgwick, Cunningham Lindsey and Vericlaim.

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Muress will remain Sedgwick international CEO, and continue to provide executive oversight for all business operations outside the US and Canada.

Steel, an insurance industry veteran with more than 35 years of experience, will continue support Muress in the management of the UK business and remain as UK CEO.

Since 2009, Steel has been responsible for the leadership and direction of Vericlaim, one of Sedgwick's subsidiaries.

After serving as Cunningham Lindsey's COO for nine years, White joins Sedgwick as UK COO.

Muress said the company is pleased to have industry veterans like Steel and White leading UK operations.

He added: "As we expand our global operations with a growing footprint, improved capabilities and broader technical resources, our focus remains clearly on our clients."

"I look forward to working with them and the rest of the management team to ensure we capitalise on the opportunities in the market and enhance services and value for our customers and industry partners."

Sedgwick, a provider of technology-enabled business solutions in the risk and benefits space, has appointed Malcolm Hughes as CEO for Ireland.

In his new role, Hughes will lead a team of 400 toward the goal of achieving market-share growth in a range of diversified claim services, as well as driving strategic direction of the company in Ireland.

An industry veteran with more than 30 years experience, Hughes was the co-founder and CEO of Outsource Services Group, an Irish provider of outsourcing to the insurance industry which was acquired by Sedgwick in 2016.

As a member of Sedgwick's international leadership team, the Hughes will lead the firm's Irish business development and support the consolidation of Cunningham Lindsey, which was recently acquired by Sedgwick, with OSG Vericlaim in Ireland under the Sedgwick brand name.

Ian Muress, Sedgwick CEO of international, said Hughes is the ideal person to lead the company in Ireland.

He added: "His reputation for overseeing the delivery of a broad portfolio of services to financial and insurance companies is unparalleled, and his expertise will be instrumental as we continue to produce outstanding results and serve our customers with the exceptional support they have come to expect."

Captive management firm USA Risk Group has appointed David Spratt as its new senior vice president.

Spratt will serve as a subject matter expert to clients and prospects and will manage a number of the group's captive clients and oversee the delivery of excellent client service in all of the jurisdictions that the company operates in.

His responsibilities will include developing, managing and implementing a quality assurance and control process for the company, in addition to creating new captive business opportunities.

An insurance industry veteran, Spratt's previous positions include his roles as CFO for captive business for Marsh in Bermuda, vice president of finance for Aon Cayman, and leading the risk consulting practice for IBM.

Spratt said he was excited to be starting at USA Risk Group and was looking forward to "working with the team to deliver real value to our clients through excellent client service and innovative approaches to captive and risk management".

He added: "The nature of the risks facing our clients is changing dramatically on a global scale and I believe that captive insurance solutions can play an important role in effectively managing these changing risks."

USA Risk Group CEO and president, Stephen Roseman, commented: "David Spratt brings our team a breadth of not only captive knowledge but also industry insight."

"We view his appointment as a sign of our commitment to being the leading company in the captive management space."

"I'm confident that he will play a key role in going the extra mile with not only our existing clients but prospective ones, too." **CIT**

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