An Interview with Brad Adderley, Partner at Appleby (Bermuda) Limited

Brad Adderley is a partner in the corporate department of Appleby’s Bermuda office and has been a member of the insurance team for 20 years

1. Please provide an overview of Appleby and your role within the firm

Appleby is one of the world’s largest providers of offshore legal advice and services. The Group has offices in the key offshore jurisdictions of Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, Hong Kong, Isle of Man, Jersey, Mauritius, and the Seychelles. Appleby has been ranked as one of the world’s largest providers of offshore legal services by number of lawyers in The Lawyer’s 2015 Offshore Survey.

Appleby delivers sophisticated, specialised services, primarily in the areas of Corporate, Dispute Resolution, Private Client and Trusts and Property. The Group advises public and private companies, financial institutions, and high net worth individuals, working with these clients and their advisers to achieve practical solutions, whether in a single location or across multiple jurisdictions.

I am a partner in Appleby’s Bermuda office, specifically in the corporate practice group and specialise in the (re)insurance sector. I’ve been at Appleby 20 years. Our corporate lawyers in Bermuda are an integral part of the island’s international financial and regulatory landscape. The team advises on all aspects of Bermuda and international corporate and commercial matters involving banking, (re)insurance, trusts, funds, structured finance, ship and aircraft registration, telecommunications and technology and listings on the Bermuda Stock Exchange.

Appleby’s insurance team is the only Bermuda insurance team ranked No. 1 by Chambers Global since 2011. Our first-rate insurance team specializes in advising on the establishment, regulatory compliance and business operations of insurance and reinsurance companies.

Appleby is also the official law firm of the America’s Cup 2017 which we are very excited will be held in Bermuda.

2. Bermuda has been an established (re)insurance hub for some time. However, we witnessed significant growth in Bermuda compared to other domiciles since 2010 for ILS products and fund managers. For example, almost two thirds of outstanding cat bond issuance has been issued from Bermudian SPIs. What do you attribute this to? In addition, how have the ILS investors’ and fund managers’ use of Bermuda entities changed over the last five years?

Prior to 2010 Bermuda had always been a center for sidecars and collateralised segregated account structures. The Bermuda ILS sector started to distance itself from other offshore centres around 2010 when it started to attract cat bonds and the advent/growth of ILS fund structures. The roots of this success can be found in Bermuda’s introduction of “special purpose insurer” (SPI) legislation in 2006. SPIs are fully funded (re)insurance vehicles, which are established for a limited period and for a specific purpose. SPIs can only be used by sophisticated cedants and sophisticated investors and the particulars of the structures and transactions have to be fully disclosed to all parties. As a result, SPIs often experience a quicker approval process and are subject to prudent regulation based on the attributes of the transactions and structures involved. This allows the SPIs to be subject to very competitive regulatory fees, particularly when compared with other commercial insurers and other offshore centres (the annual insurance licence fee is currently USD6,180).

The use of SPIs has gathered momentum and evolved as market participants grew more familiar with such vehicles and the products that they could offer. Examples of this evolution can be seen through the use of SPIs with “bolt-on” features (such as the ability to utilise Bermuda’s segregated accounts legislation), as well as SPIs with an unlimited life.
In addition, we have seen a marked increase in the use of collateralised reinsurance (or “cat bond lite”) programs in recent years. Such programs (which are often bespoke reinsurance structures that utilise an SPI or a more traditional “transformer” vehicle, often with segregated accounts) offer sponsors a faster, more cost-effective access point to the ILS market, particularly when compared with more traditional cat bond transactions. Appleby is at the forefront of these transactions and is passionate about developing innovative solutions for our clients and the marketplace to solve their ever-changing needs. These structures are creating more liquidity by listing the notes or preference shares on the BSX and allowing them to be cleared through “Euroclear”. They are also attracting more entrants to the market as the transactions are normally smaller in size.

Appleby is a founding member of ILS Convergence and I am on the Bermuda ILS Steering Committee, helping to shape the industry. As a world-class financial centre and leader in ILS, Bermuda is well positioned for continued success due to its highly regarded regulatory framework, intellectual capital and drive to continually innovate. Investor confidence in ILS structures continues to grow, making ILS transactions more mainstream.

3. In November 2015, the European Commission declared Bermuda’s commercial (re)insurance regime fully equivalent to Solvency II. Please discuss the advantages of achieving this status.

Bermuda’s designation as equivalent under Solvency II will ensure that Bermuda’s commercial insurers can continue to transact business within the European Union – in particular, Bermuda (re)insurers and groups will be able to conduct business in the EU without additional regulatory requirements or restraints (unlike (re)insurers from jurisdictions that have not achieved equivalency under Solvency II). Equivalency will also benefit the EU and its citizens, as it enhances the provision of well-regulated, stable (re)insurance capacity. Equivalency will also substantively strengthen the level of cooperation and trust between international insurance supervisors, as well as the cross-border efficiencies and effectiveness of supervision between jurisdictions.

As Bermuda has made strides to achieve equivalency under Solvency II, we have had many clients welcome the development of the regulatory regime—indeed we have had clients come to Bermuda specifically because of its equivalent status under Solvency II. This, coupled with Bermuda’s status as an NAIC-approved jurisdiction, will make Bermuda one of the only reinsurance hubs with unparalleled access to the U.S. and Europe.

4. Where do you see future opportunities for growth?

Bermuda has a history of fostering new ideas and making them happen. For me, I see opportunities for growth in new and interesting vehicles—from a Bermuda legal and regulatory perspective, anything is possible and so I always encourage clients to tell me what they want to do, so that I can build them the framework that they need to grow. What’s important is that the Bermuda regulators are open to listening to new ideas and are responsive to what the market needs.

5. Finally, what’s the best and worst things about living in Bermuda

The best thing about living in Bermuda is the work environment, vibrant business market and the abundance of outdoor activities. In the unlikely event that you do get bored, travel is easily accessible.