

THE HOST WITH THE MOST

Timothy Faries and Matthew Carr of Appleby examine Bermuda as the captive domicile of choice in a post-Solvency II equivalence era

Many will have heard the claim that Bermuda has more golf courses and churches per square mile than any other country. Another impressive claim for Bermuda is that the island is the domicile of choice for more captives than any other jurisdiction.

A cemented position

The recent Bermuda Captive Conference was testament to the growing interest in Bermuda as a world-leading captive jurisdiction. Surging numbers of attendees had access to a concentration of experts and top quality captive service providers based in Bermuda.

As noted in the recently published Bermuda Business Development Agency press release following the conference, Bermuda is home to nearly 800 captive insurance companies, supporting primarily Fortune 500 corporations in the US, and generating over \$48bn in annual gross written premiums. Bermuda also hosts a growing number of captives from Latin America and Asia and other regions, many of which with emerging economies around the globe.

The reasons for Bermuda's global dominance as a captive domicile are manifold. Proximity to the US, a robust and top-tier reinsurance market, stability and depth of expert service providers are among the many attractive features for prospective and existing captive owners.

Ideal regulatory framework

Bermuda's regulatory landscape is another selling point. Importantly, the Bermuda Monetary Authority (BMA), the body regulating captives and commercial insurers, has acted with remarkable foresight and industry sensitivity as it gained equivalence under Solvency II such that Bermuda now has 'bifurcated



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equivalence'. As such, only commercial insurers are required to adhere to the modified, and arguably more onerous, regulatory requirements under Solvency II, while captives (licensed as Class 1, 2, 3, A, and B Insurers under the Insurance Act 1978, as amended) are not.

This means that the costs associated with set up and ongoing compliance with Bermuda's top-tier regulatory regime have not increased; nor have the regulatory burdens placed on Bermuda-based captives as a result of Bermuda's equivalence under Solvency II. Therein lies the real triumph that is bifurcated insurance regulation in Bermuda.

Innovative approach

The BMA has also recently rolled out the electronic filing system whereby Bermuda captives can (and will be obligated to) file their

statutory filings electronically (E-SFR) rather than manually. Although the E-SFR is being rolled out at this stage, early indications suggest that the electronic (rather than manual filing) will save time and expense for Bermuda captives and service providers while allowing for greater synthesis of information relating to the Bermuda captive market.

While some offshore jurisdictions opted to do nothing in relation to Solvency II equivalence, Bermuda industry leaders and regulators worked tirelessly to design the new regulatory landscape for insurers. The result is a regulatory environment that protects captives from the imposition of additional regulation while enabling commercial insurers to compete on an even footing in the European market.

This sets Bermuda apart and offers very real benefits for Bermuda captives who have access to an increasing number of highly rated reinsurance options on their doorstep. Captive owners and risk managers can access this reinsurance market from continents around the globe, or meet face to face when on-island. In this way, captive owners and risk managers can establish and maintain relationships with reinsurers, and stay abreast of the latest developments in reinsurance coverage that may enable an expansion in to new lines of business, or obtain a more competitive rate on coverage. The advantages abound.

ILS evolution

Bermuda has been on the leading edge of development in the alternative risk space for over two decades and Bermuda captives benefit from these developments. More specifically, Bermuda captives have benefitted from the evolution of insurance-linked securities (ILS), whereby captives can gain access to global capital markets. ILS has the poten-



tial to offer captives an alternative option to traditional reinsurance, where the captive may be able to secure coverage at a lower cost and on bespoke terms that better suit each captive programme. Recent examples in the ILS space show that there is an appetite from investors not just for traditional catastrophe coverage, but also for new risks such as operational risk. As Bermuda currently holds two-thirds of global ILS volume, the island is ideally placed to work with captives to develop alternative risk structures.

Rating-friendly environment

For captives that utilise a European-based fronting insurer, as a portion of offshore captives do, Bermuda also offers an advantage of being a highly rated environment and one in which rating agencies are very familiar. Obtaining a rating at the captive level may reduce the amount of capital that a fronting carrier must carry (for failure to pay claims by the captive) as stipulated by the new Solvency

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II capital standards and as such can reduce costs associated with the fronting carrier.

Bermuda’s rated captives are among the highest rated in the world. By way of example, 81% of AM Best’s Bermuda-rated captives are highly rated, having a rating of A- or better. Bermuda service providers are well-versed in terms of preparing for and obtaining ratings.

Onwards and upwards

While the Bermuda Captive Conference has drawn to a close for another year, the work

of the Bermuda captive industry practitioners in working with existing captives, welcoming new ones and aiding innovation continues. Developments in the regulatory space demonstrate Bermuda’s dedication to providing both commercial insurers and captives with a well-respected and fertile environment from which to launch and grow. Bermuda’s well-established reinsurance market, innovative ILS market and rating environment, provide world-leading options for Bermuda captives to meet their aims, no matter how lofty. ☾