CAPTIVE REVIEW

SEPTEMBER/OCTOBER 2022

THE US AWARDS ISSUE

Honouring the best of the best
in US captive insurance

THE ESSENTIAL GUIDE TO ALTERNATIVE RISK TRANSFER

CONTENTS

EDITOR'S LETTER

Well, it certainly has been a busy time of late here in London. A new monarch, a new prime minister, and a new *Captive Review* editor...

Okay, one of these roles is not like the others, but that didn't stop me making my own grand entrance into the job, appearing on stage at the US Captive Review Awards in Burlington to hand out awards to some of the captive industry's finest. As first days go on captive insurance publications, they don't come a lot bigger than that. But it was an excellent way to immediately introduce myself to the 150+ people in attendance, all of whom I hope will continue to work closely with me in the coming months and years.

But as it turned out, the awards were just the entrée, as my first taste of the VCIA conference introduced me to many more of the captive industry's leading figures and gave me my first education in all things captive. Coming from an insurance journalism background, I enter this job with some base knowledge, but I'm well aware that there's a lot for me to bring myself up to speed on in this captive space. Which is why it's come as a great relief to find that everyone I have met so far has shown me great patience and been more than willing to help me out with any industry questions.

And it strikes me that this is a wholly collaborative industry, which actively wants to help all fellow market participants improve what they do, because doing so helps the whole captive space become more innovative. I'm delighted to have found my spot in the captive industry at a time when there is a lot of growth going on.

Captives are becoming a more popular option as corporation's seek alternative risk solutions, and this will undoubtedly lead to greater innovation and a greater need to keep on top of all that is developing in the captive world.

As the new editor of *Captive Review* I hope to play a leading role in sharing with readers the most important and relevant news stories to you, as well as keep you aware of the ongoing state of the market through analytical and opinion pieces from market commentators.

Captive Review has forged an excellent reputation over the years for its laser sharp focus on matters relevant to the captive market, and I plan to continue in this vein. To do this, I am keen to know the subjects that our readers are most interested in and deliver exactly what you want to know.

I welcome input from anyone that has thoughts on what we should be covering, or has an interesting news story that they want to share with the market. Simply email me at mark.richardson@withintelligence.com in the first instance.

Now enough with introductions, please enjoy this September/October edition of *Captive Review*, my first as editor.

Mark Richardson, editor

Corrections & Clarifications

Captive Review is committed to accuracy. To reach us, contact the editor Mark Richardson at +44 (0)7408 848 014 or email mark.richardson@withintelligence.com. Please indicate whether you're responding to content online or in the magazine.

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PEOPLE MOVES

Ashwood departs Oklahoma for Aon

Donald Ashwood has left his role as captive coordinator for the Oklahoma Insurance Department (OID). He joined the Aon captive and insurance management team on 26 September in a business development and accounting executive role.

"I'm very excited to be involved in both of these dynamic areas," Ashwood told *Captive Review*. "It was an honour to have been recruited by Aon as this new role will certainly provide me the opportunity to expand my horizons in the captive world.

"It is equally important to note I have nothing but the utmost respect and appreciation for Insurance Commissioner [Glen] Mulready and the Oklahoma Insurance Department for all they've done in helping me find my passion for captive insurance, along with helping others."

Ashwood spent over eight years at the OID, and since January 2021 had been the captive coordinator. The OID has confirmed to this publication it is "actively seeking a new captive coordinator", but in the interim has put deputy commissioner of finance Andy Schallhorn and senior counsel Teresa Green in charge of growing Oklahoma's captive industry.

In a statement on LinkedIn, Ashwood said his time in the job representing Oklahoma's captive division had been an honour. "I am blessed to have served under two great insurance commissioners, worked alongside an exemplary staff and found my passion for captive insurance. I am also forever thankful for the many friendships that I've made along the way and the many mentors who've helped me learn my craft."

EXPANSION

BMS launches Alberta captive unit

BMS has launched a new captive division in Alberta, Canada. The unit, named Captive Insurance Services, was formed in response to new Alberta-specific legislation – the Alberta Captives Insurance Companies Act and the Insurance Amendment Act – which entered into effect on 1 July 2022.

Services it will provide to Alberta-based captive insurance and reinsurance companies include insurance company management, strategic and advisory services, governance and compliance audits, analytical and capital impact analysis, and transfer pricing validation.

Once all necessary regulatory approvals are received, BMS said the division will serve as the foundation for the launch of BMS Canada's Alternative Risk Financing (ART) business planning.

Ian Matheson, non-executive chairman of BMS Canada, is a member of the Alberta Economic Development Task Force, and BMS said he helped inform the new legislation. In addition, Brian Gomes, president and CEO of BMS Canada, participated in an advisory role to the task force.

Matheson said: "With the amendments to the Insurance Act and the passing of the Captive Insurance Companies Act, Alberta is rapidly establishing its position as a vibrant and welcoming hub for insurance activity. It is gratifying to be able to work alongside my peers in the task force to continue to develop Alberta's insurance expertise as well as to attract new business into the region."

Consistent with the confidentiality and independence standards required of captive insurance managers, BMS said the new division will strictly adhere to ring-fence principles.

PEOPLE MOVE

SRS hires new Canada lead from Marsh

SRS has hired Brad Meindersma to lead its brand new Canadian unit.

Meindersma joins as president of SRS Managers (Canada), Limited, having spent the last three years as senior vice-president at Marsh Bermuda. Before that he spent over seven years at JLT Insurance Management in a variety of roles.

"We are excited to have Brad join us as we have many Canadian clients in various domiciles but decided it was an opportune time to have 'boots on the ground' locally to better serve our current and future clients based or with significant operations in Canada," said Brady Young, SRS president and CEO.

"We expect an uptick in activity, new formations and redomestications given recent legislative changes and the opportunity to form domestic captives in British Columbia and more recently Alberta. Brad is the ideal person to build and lead our team in Canada as these domiciles gain traction," he explained.

Meinderama added: "I'm happy to be part of SRS and look forward to collaborating with my new colleagues, clients and all the new opportunities on the horizon.

"The growth potential at SRS is very exciting. Diving into the legislation and coordinating the setup of Alberta and British Columbia insurance management operations is a great beginning."

RECOGNITION

Bermuda Captive Conference honours Cyril Whitter

The Bermuda Captive Conference has recognised Cyril Whitter as the recipient of the 2022 Fred Reiss Lifetime Achievement Award.

In what was the 60th anniversary of the Bermuda captive industry, organisers The Bermuda Captive Network praised Whitter as "a veteran amongst Bermuda's insurance community" whose "long-standing career in the captive insurance space has seen more than 44 years of dedicated service to clients and industry peers alike".

Whitter received his formal accounting training at The Bermuda College where he received a diploma in accountancy in 1978. He then joined Jardine Pinehurst Management Company Ltd as an accountant specialising in the management of captive insurance companies and was appointed senior vice-president in 1991. He remained at Jardine Pinehurst until 1993 when he joined Independent Management Ltd.

On receiving news of the award, Whitter said: "I am truly humbled to receive the Fred Reiss Bermuda Captive Conference Lifetime Achievement Award. I have had the honour of serving Bermuda's captive insurance company and international business sectors for many years. The executives from these sectors have worked tirelessly to ensure that Bermuda continues to be a global leader. I am thankful that I have had the opportunity to be a part of this effort."

Cyril Whitter is the sixth industry veteran to receive this honour, following previous awardees including Cathy Duffy, country leader of Bermuda, AIG (2021); Jeremy Cox, executive chair at the Bermuda Monetary Authority (2019); Brian R Hall, OBE, a former

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director and president of Johnson & Higgins (2018); Michael Burns, a leading Bermudian corporate lawyer (2017); and Jill Husbands, former chairman and managing director of Marsh IAS Management Services (Bermuda), who won the inaugural award in 2016.

The Bermuda Captive Conference took place from 12-14 September 2022 at the Hamilton Princess Hotel & Beach Club, as well as virtually online.

RATINGS

AM Best gives ratings of Dow captive

AM Best has affirmed the financial strength rating of A and the long-term issuer credit rating of 'a' of Dorinco Reinsurance Company. The outlook of these credit ratings is stable. Dorinco is the Michigan-based single parent captive reinsurance company of The Dow Chemical Company.

The ratings agency explained that while Dorinco's overall metrics "had trended in an unfavourable direction in recent years," that the captive nevertheless had a long track record of favourable operating performance. This was assessed as 'adequate'.

This trending was put down to 'redundant reserving', which AM Best said may produce lower accident year combined ratios when the claims are ultimately settled.

Additionally, the ratings acknowledged Dorinco's business profile, which AM Best assessed as neutral.

"Dorinco issues direct property and liability insurance policies to Dow and certain related companies, and it participates in property and casualty reinsurance treaties covering Dow and related parties with other insurance companies," AM Best stated.

"Approximately half of Dorinco's premium is derived from reinsuring uncorrelated non-standard auto third-party business. The diversification this provides enhances Dorinco's business profile."

PEOPLE MOVE

Jensen to leave Maersk captive

Kasper Reinmann Jensen is to leave his insurance underwriter position at Maersk Insurance A/S (MIAS), the A.P. Moller-Maersk (APMM) insurance captive.

Jensen has taken up a new role as a group senior underwriter in AIG's Danish accident and health department. His final day at MIAS will be 30 September 2022, having first joined the captive in December 2019. MIAS provides multiline insurance coverage for the majority of APMM's insurance needs.

Jensen has been responsible for underwriting and risk management for the employee benefit programme in Maersk. He has also been involved in the overall risk management and pricing in MIAS, including input for risk structuring, negotiation and management of reinsurance, management of (re)insurance partners, as well as providing input for insurance product development.

PEOPLE MOVE

Delaware announces Kinion successor

The Delaware Department of Insurance has appointed Stephen Taylor as the new director of its Captive Bureau. Taylor succeeds Steve Kinion, who exited the role on 30 September.

"Stephen Taylor's extensive experience as an innovative yet meticulous insurance regulator stood out amongst contract applicants for our captive director position, and we are happy to welcome him to the department," said insurance commissioner Trinidad Navarro. "This role is certainly not without its challenges, but Taylor's adeptness at engaging in both federal and non-federal policy matters will serve our state well in the years to come."

Taylor served as insurance commissioner of the District of Columbia from 2015 to 2020. In addition, he has also held several leadership roles in the National Association of Insurance Commissioners.

He most recently served as director of policy and assistant general counsel to the Surety and Fidelity Association of America, and has nearly 30 years of insurance regulation, legislative, and legal experience.

DEAL

Darag Bermuda agrees $30m deal

Legacy acquirer Darag Group has agreed a $30m deal with a captive insurer. The transaction structure was a novation of its 03-06 and 15/16 policy years with primarily workers' compensation reserves, allowing the counterparty full legal finality with Darag facing the original fronting insurer.

The transaction has been written into Darag Bermuda, which recently strengthened its balance sheet and solvency ratio with the commutation of a large commercial auto book. Tom Booth, CEO of Darag, said: "We are pleased to have acted as a trusted partner for our client, enabling them to focus on their core business and ongoing underwriting profitability.

"Darag has developed an excellent track record in this core niche of small to mid-sized captive and self-insured portfolios in North America. Our focus on underwriting discipline and risk management is central to our expansion. Our appetite to continue growth in this area is stronger than ever. We expect to announce another similar sized transaction shortly and the pipeline for the remainder of the year is beyond expectations."

PEOPLE MOVE

AXA XL appoints new captive leaders

AXA XL's Primary Casualty business has appointed Mark Benz and Joseph Davina to lead the newly created Group Captives unit.

Both join from AIG. Benz had most recently served as head of captive solutions, while Davina had been working as lead underwriter for energy and casualty lines. Based in New York, Benz and Davina report to Chris Kopser, president and CUO, Primary Casualty, Americas.

As head of Primary Casualty Americas – Group Captives, Benz will lead the group captive portfolio, including oversight of the underwriting, operations, distribution and overall performance of the unit.

Davina, who takes on the role of underwriting manager, Primary Casualty Americas – Group Captives, will focus on underwriting and operations within both casualty and the group captive business.

Commenting on the launch of the new unit, Kopser said: "As we continue to grow and diversify our US risk management portfolio, we see great opportunity in underwriting open broker multi-line group captives. Mark and Joe's combined experience in the captive space will be an exceptional asset to the broader primary casualty and captives teams who are currently supporting our growing list of clients in the space."

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(Credit: Sam Simon Imaging)

VCIA CONFERENCE: A NEW AUDIENCE

The Department of Financial Regulation (DFR) aims to encourage more talent into the captive workforce at annual event

Written by **Mark Richardson**

For the first time in three years, the great and the good of the US captive insurance scene descended on Burlington, Vermont, for the return of the Vermont Captive Insurance Association Conference.

For this editor, it marked a sudden plunge into the world of captives. It showed me how diverse this space really is, bringing together people from a wide range of industries and demonstrating how, when they cooperate, companies can protect themselves from losses in extremely innovative and ingenious ways.

In total, there were over 70 exhibitors at the conference and 986 attendees, as everyone embraced the event's return, both for the networking and education opportunities.

Highlights were plentiful, including a special drinks event marking the retirement of Dave Provost after 14 years as deputy commissioner of the Department of Financial Regulation's captive division, a tour for captive owners of the Vermont Air National Guard base, and an inspiring talk from Michelle Howard, a retired US Navy four-star admiral.

However, particularly promising was that of the attendees, 22% of them were revealed to be first-timers, and 27% were captive owners. VCIA President Kevin Mead said he was delighted with the "breadth and depth" of those attending, and that it spoke to the quality of education and networking people could gleam from the conference.

"We have a blissful little honeymoon period here, because there is that pent up demand," Mead added. "One of the first questions we have to ask ourselves is how we sustain this going forwards, and how do we keep the conference experience fresh and alive for everybody so that we don't fall off the shelf next year."

Vermont growth

The number of first-timers and captive owners in attendance may likely have something to do with an uptick in demand for captives in the last few years.

The hard market has made it more difficult for companies to secure all the protection they require from the commercial market, and as one of the leading, most established captive domiciles, Vermont has clearly been a beneficiary of this.

The DFR licensed 45 new captives in 2021 – the fourth highest number in the department's 41-year history – and there is a strong possibility for this number to be exceeded in 2022. The state issued licences to 29 new captives in the first six months of 2022, three more than at the same stage in 2021. The most common industries for new licences are healthcare, construction and real estate.

In the department's entire history, the number of licensed captives has now reached a total of 1,271. This figure does not include cell captives. The state has 60 sponsored captives, for which there are 500 cells and accounts in operation.

The conference is an excellent stage for the state to sell itself to prospective captive owners, and so it perhaps comes as no surprise that volunteers from the DFR worked with Vermont's captive insurance economic development director Brittany Nevins and a committee led by Ian Davis, SVP of captive insurance at M&T Bank, to put on the event.

Staffing shortage

As the industry booms in Vermont, a key point to come out of the conference was that it needs more talent to be entering the industry. To meet the growing demand for captives, the DFR has confirmed it will be asking for investment from the State of Vermont to increase its headcount beyond the current number of 29.

With Sandy Bigglestone taking over from Provost at the start of September as captive insurance deputy commissioner, and Christine Brown moving up to fill Bigglestone's role as director of captive insurance, there is already a vacancy in the assistant director position. However, in addition to this vacancy, the department suggested that they may be seeking at least three more new faces to join the team.

Nevins admitted finding appropriate people with experience to fill roles across the captive sector is becoming harder, and that this was a main discussion point they wanted to spark at the conference.

"We've been talking a lot about the challenges in the workforce and finding skilled labour to fill available positions in the captive industry, and that's definitely happening here in Vermont," Nevins said. "That applies a bit within the Department of Financial Regulation, but I've definitely heard of this a lot from service providers."

> "We've been talking a lot about the challenges in the workforce and finding skilled labour to fill available positions in the captive industry, and that's definitely happening here in Vermont"
> Brittany Nevins

She said a major aim of the VCIA conference was to raise awareness of the industry among young people, with several local students invited to attend this year. "Having this conference back in person will hopefully be the start of some really tangible actions that will take place to work with students and focus on that locally," she added.

Busy department

Bigglestone revealed the department had no issues hiring new people without experience of the captive sector, and that previous new recruits had come almost straight out of college.

Referencing the growing number of captive applications being received, Bigglestone said that the department was committed to ensuring it maintains a high level of training and evolves to meet the increasing demand.

"We're busy," she said. "The number of new captives does increase the work we have to do. But I'm passionate and dedicated to growing the talent, and having the resources to do what we do and do it well. I'm looking at ways we can improve, but I'm also passionate about growing the talent we have in the industry itself. It can't just be at the DFR, we have to shout about all the career opportunities that the captive industry provides."

It currently takes around 30 days for a licence application to be reviewed in Vermont, and Bigglestone said it was the efficiency of this processing that was part of the attraction of the state.

Proposed changes

The conference is a significant vehicle for raising awareness of the industry in Vermont, and maintaining the popularity and relevance of it will be important for the DFR to meet its goals.

It, too, therefore needs to evolve in order to meet the demands of attendees. Such movement started this year after a consultation showed people wanted more informal discussions and less 50-minute lectures. This adjustment was partially made for this conference, Mead said, but major changes were limited by the requirements of the US Continuing Education Credit System.

Mead went on to say that it was a "standard gripe" of his that "the system rewards attending the 50-minute person standing on stage delivering a powerpoint in breakneck fashion, rather than maybe three 15-minute sessions where people can get bite-sized information".

"So, to a certain extent, because people do come for that continuing education, we're required to put things in some of those blocks, so you won't see radical changes in future conferences because of restrictions like that, but you'll see us adjust to the needs of the community."

The conference was held at the Hilton DoubleTree in Burlington over 8-11 August. Planning for next year's conference starts from just three weeks after the end of the 2022 event.

ESG IN THE USA

Captive Review takes an in-depth look at how US captive owners should be approaching their ESG responsibilities

Corporations have never been more under the microscope when it comes to properly managing their environmental, social, and internal governance (ESG) responsibilities. The three are separate but intertwine with each other, reflecting a corporation's awareness of its impact externally on the world and people in it, and internally around how it treats its own staff.

It used to be that these were more ethical considerations, but in Europe especially these elements are all becoming more and more part of what is expected as appropriate corporate governance. Focusing on the US, there is a slight time lag in ESG expectations compared to Europe.

Written by
Mark Richardson

Nevertheless, US captive owners should really be recognising the ever-increasing importance of ESG and start preparing for the challenges and opportunities it can bring.

Challenges

First and foremost, it's important to note that the US is a very litigious country and every company should be forming a strategy to handle ESG risk as part of good risk management practice.

In isolation, each of the E, S and G may require their own dedicated resource, whether it be to ensure the business is not having an overly detrimental impact on the environment, is helping local communities and others it affects, or is fully abiding to the latest governance regulations. Whatever strategy a parent organisation devises though, the captive should align with this. "Captives have to be conscious of their parent's principles and take actions adopting these principles," says Anne-Marie Towle, global captive solutions leader at Hylant.

In practice, this could mean showing greater consciousness of where the captive invests its assets and only working with trading partners that have similarly aligned ESG principles. But Towle stresses a captive can go further than this to help their parent with ESG.

"With the captive as a separate legal entity, depending on how you structure it and the risk you're retaining in the captive, it makes it a unique opportunity to do some innovative things," she adds. "Whether it's write a new coverage line, or use some of the funds in the captive to help support ESG initiatives, the captive can take it to the next level with your strategy."

ESG coverage

Edward Koral, director in strategic risk consulting at WTW, agrees there is much a captive can do to assist with managing a company's ESG risk. Far from just being an ethical concern, Koral recognises there is great downside risk attached to an ESG-related lawsuit or other adverse loss event. The traditional insurance market is unable to adequately cover this risk, he says, and that's where opportunity can arise for captives writing ESG policies tailored to their parent's unique circumstances and principles.

"It often boils down to this: the company knows it will need a large amount of discretionary spending money if a crisis event occurs," Koral says. "This money may be used to reimburse employees for additional subsistence expenses in the wake of a natural catastrophe, to expedite changes to the supply chain, product and/or process redesign, emergency recovery support for the community, and other types of expenses not anticipated in the wording of a conventional insurance policy."

In this way, a captive can play a leading role in determining ESG strategy and response. The challenge for risk managers and captive owners is being able to quantify a corporation's overall ESG risk exposure. Questions include agreeing what would cause a loss, and how one would adjust or even estimate the loss.

"The answers are not straightforward since the definition of corporate social responsibility is a moving target," Koral adds. "A company cannot easily predict what actions it will need to take, or what those actions will cost, in response to an undefined crisis event affecting that company's relationship with employees, the community, the physical environment, and other important constituents such as shareholders, lenders/investors and, more than ever, public opinion and the media."

To overcome this problem, Koral suggests introducing parametric ESG policies to the captive, a solution he fully explains in a later article on pages 25-26.

Regulation

Part of the issue, and why Koral suggests a parametric response, is because perceptions around ESG requirements are ever-changing and becoming more onerous, particularly in the US. Some aspects of ESG are so new, especially around climate change and environmental responsibilities, that it is hard to get common ground on how much is expected of a captive.

> "I've always said it's best to be proactive, not reactive. We've always promoted captives as being at the cutting edge of insurance, so it's important they pay attention to this risk because it's not going away"
> Anne Marie Towle

Regulators are those best positioned to set the standards for ESG requirements and who already set the rules around governance. However, in the competitive world of captive domiciles, it's understandable that no one wants to be seen as setting overly arduous and restrictive ESG rules.

"If some domiciles start to adopt new ESG rules and really enforce it, people might view it as a bit onerous, but it depends," says Towle. "There could be areas where the domicile regulator is just asking questions and raising awareness of ESG practices, without having fines or penalties and going to that type of extreme."

Joe McDonald, director of captives for South Carolina, agrees with such a less onerous approach. "We need to be careful not to overstep our positions as regulators," McDonald says. "We need to set standards in statute and apply those standards appropriately."

Nevertheless, captive domicile regulators around the world are having discussions around how to best encourage captives and their parents to step up their ESG focus. Because, while solvency is the main factor regulators assess when setting standards, McDonald recognises that, in the coming years as ESG matters grow in importance, a clear ESG strategy will most likely complement a good solvency rating.

While there are no plans to introduce new ESG-related regulations, he advises that to have the best chance of long-term success, captive owners and their parents should be giving strong consideration to ESG matters.

"We can already see there are really positive promoters of ESG initiatives in the market, and I think you'll see a lot of those companies begin to separate themselves from other companies," McDonald says.

If such a link between ESG strategy and financial performance does emerge, McDonald says there may be good reason for domicile regulators to consider putting new ESG-related rules in place. For now, though, his view is that a captive which takes ESG seriously shows itself to have forward-thinking and responsible leadership, and this bodes well for future responsible capital management. Still, this matter is only going to rise up the agenda of captive regulators in the coming years.

The more pressure regulators apply among captive owners, captive managers and other service providers, the more isolated those choosing to ignore these matters will become. That's why implementing an ESG strategy now is the best way for captive owners to protect themselves.

"I've always said it's best to be proactive, not reactive," Towle adds. "We've always promoted captives as being at the cutting edge of insurance, so it's important they pay attention to this risk because it's not going away."

THE US AWARDS ISSUE

AN OUTSTANDING CONTRIBUTION

Captive Review honours Chaz Lavelle at the US Awards for an incredible 45-year career and looks to the next generation of talent tasked with filling his giant shoes, in Bailey Roese

Written by
Mark Richardson

When it comes to US Captive tax law, there are a number of landmark moments that have helped shape the state of the industry. And at almost every major victory for captives, there are the fingerprints of one Charles ‘Chaz’ Lavelle.

His contribution cannot be understated. In a 45-year career at Dentons, he has devoted himself to fighting the Internal Revenue Service (IRS) on behalf of captives, being behind two of the five major Court of Appeals victories for captives in the aftermath of the IRS’s 1977 ruling that captives do not provide insurance for tax purposes.

These feats alone would justify his being the recipient of our Outstanding Achievement Award at the 2022 US Captive Review Awards. But his legal mind is not the only reason as to why he’s picked up this award. It’s just as much for everything he puts back into the industry, from his avid support for CICA’s NextGen and Amplify Women initiatives, to his 15 years teaching at the International Center for Captive Insurance Education (ICCIE), his continuous presence on panels educating the industry, and his lobbying efforts through the Self-Insurance Institute of America, Inc. (SIIA).

And this is not to mention just being a genuinely nice guy, always willing to sit down and offer up his time, as I found out when I interviewed the man himself about his award win.

“I greatly appreciate *Captive Review*’s award, but I recognise that, one, I am representative of others who have done as much or more than I have, and, two, I am successful because I have a fantastic team behind me, including Bailey Roese, who is my successor.”

> “This award just encapsulates Chaz’s contribution to the industry. Because, yes, he is a brilliant legal mind who helped the captive industry really get off the ground and helped set these precedents that captive companies have relied on”
>
> Bailey Roese

His modesty is such that to gauge his impact on the industry, it’s easier to talk to those who know him best and have witnessed his work first-hand, such as his 34-year-old former protégée Roese.

“Really this award just encapsulates Chaz’s contribution to the industry,” Roese says. “Because, yes, he is a brilliant legal mind who helped the captive industry really get off the ground and helped set these precedents that captive companies have relied on.

“But he’s also someone who will always give advice to anyone who calls him. He will take the time to explain if you are looking for information. Or if you’re just looking to bounce ideas off somebody, he’ll be there,” Roese adds.

With help and guidance from Lavelle along the way, Roese has in nine years herself become a highly respected tax partner at Dentons.

A young legal talent like Roese could have thrived in all manner of legal disciplines without a shadow of a doubt. That she was lured towards tax law, and in particular following Lavelle's lead specialising in insurance law, must at least partly be credited to Lavelle's infectious passion for a subject which on the surface could appear extremely dry.

An 'infinite Rubik's cube'

So what kept him 'captivated', so to speak, by captive insurance tax for 45 years and counting?

For Lavelle, it's the ongoing puzzle of determining what is insurance for tax purposes, which is made even more intriguing by the fact neither the Internal Revenue Code, nor the IRS, has ever fully defined what insurance is.

"There's a whole lot of grey areas in the taxation of insurance," Lavelle says. "Therefore, you end up with a series of cases that determine whether a particular arrangement is insurance or not. Over time tests develop, but they are all applied to a specific set of facts, and the facts involved in an insurance arrangement are as myriad as there are risks that all the businesses in the universe have.

"So, there are essentially an unlimited number of risks, an unlimited number of ways people can protect those risks. And then the question is, is protecting those risks insurance, or for federal income tax purposes. It's an infinite Rubik's cube."

At 71, Lavelle continues to fight in the corner of captives and other insurance companies, albeit he has in recent years been taking a step back and preparing Roese to take the lead.

However, his passion for the industry, the deep bonds of friendship he has formed, and commitment to offering any help where he can, means Roese expects she and other colleagues will be staying in close contact with Lavelle long after he eventually retires.

"It would be really easy for someone like Chaz to say, 'you know what, I've done this for decades and now it's my time to go. I'm gonna spend time with my family. I'm gonna watch Turner Classic Movies to my heart's content'," Roese adds.

"But instead he is still taking the time to be sure that the torch is going to be passed. He's taking the time to be sure the industry is going to continue to thrive and the next generation of captive insurance professionals are going to have that bridge of knowledge and experience."

TIMELINE OF LAVELLE'S CONTRIBUTION TO US CAPTIVE TAX LAW

1977
IRS Revenue Ruling that captives do not provide insurance for tax purposes. Lavelle takes his first steps into captive tax law

1982
Lavelle's first captive tax case. Lavelle represents a Fortune 75 company and settles in 1983

1984
Landmark trial of the Humana case

1989
6th Circuit (Court of Appeals) victory in Humana, establishing that a 'brother-sister' arrangement satisfies the risk distribution test. It followed two Tax Court opinions against Humana between 1984 and 1989. This was the first loss for the IRS since the 1977 ruling and triggered four more victories for captives over the IRS in the subsequent four years, including...

1993
Federal Circuit victory in Ocean Drilling case, establishing that enough 'third-party' business satisfies the risk distribution test, in a court that any taxpayer could reach

2001
IRS Revenue Ruling that a captive can provide insurance for tax purposes, if done correctly. The ruling cited the Humana case

2002
IRS issues Revenue Rulings setting out broad parameters for qualifying for insurance for tax purposes. These Revenue Rulings were based on Humana, Ocean Drilling and the three additional taxpayer Court of Appeals victories in Sears, Amerco and Harper Group

2010s and 2020s
IRS starts auditing small captives, Lavelle and Dentons representing a very large number of those taxpayers

2021
While not part of the lead law firm, Lavelle and Dentons were involved for the taxpayer in the IRS public concession to Puglisi Egg Farm

Next Gen

And this, it seems, is what Lavelle himself is most proud of when he looks back on his long career. His enthusiasm to support the next generation of lawyers in building their skillset and knowledge about captives, in particular for women who have historically been an underrepresented demographic in this field, is clear for all to see.

The outcome? It makes the industry a more welcoming place for people like Roese, and the many more young men and women who will follow in her footsteps.

"It must be said that Dan Towle at CICA has done an incredible job with two initiatives that I am a huge, huge proponent of – Next Gen and Amplify Women," Lavelle says. "They aim to put young people and women into leadership roles, on committees and on panels.

"I've done what I can to try to open doors for Bailey and she's gone through those. She's done a great job."

Roese has already spoken on the tax panel at VCIA twice, as well as the World Captive Forum, CICA, and Western Regional. She will speak at the Cayman Captive Forum later this year.

"And she's done just a super job. That's not only my personal view, but that's what everybody comes up to me and says," he adds. "I had somebody at VCIA text me and just say it's so inspirational to have a young female up there doing such a great job. That's this industry, and I'm so proud to be part of it. I think it bodes extraordinarily well for the future that we have these talented young people and initiatives that support them to thrive."

Roese has been a beneficiary of these initiatives, but Lavelle points out she is also now a contributor, paving the way to welcome other young people and women into the industry. While more progress is needed, she believes the captive sector already compares favourably on diversity and inclusion against the wider insurance industry thanks to such initiatives and people like Lavelle supporting them.

"It's just really refreshing to be a young person, a woman, who's newly involved in an industry, and to have people like Chaz not only welcoming you but also giving you opportunities to really grow, to learn, to be the person up on the stage," Roese says.

> "Even 40 years from now I don't think I can expect to be anywhere near as brilliant and successful as Chaz, but I've learned so much from him that I try to emulate"
> Bailey Roese

Industry 'legend'

As the new face for the future of captive tax law at Dentons, Roese admits she will have a tough act to follow in Lavelle, who she describes as an industry 'legend'.

Having watched Lavelle in action, though, she has learned from the master and wants to be able to bring plenty of his best traits to her work. "Even 40 years from now I don't think I can expect to be anywhere near as brilliant and successful as Chaz, but I've learned so much from him that I try to emulate," she says.

"I definitely hope to be able to be as generous with my time and knowledge as he has been. And I really like that he takes such a practical approach with his clients where he is really honest with them, and I think this industry really respects that about Chaz. They know that when they call him, he's not going to try to sell them on anything. It very much is here's how we view the law."

It's also Lavelle's ability to communicate complex subjects in an easy-to-understand way, which she says is one of his great strengths she will attempt to replicate. But, while she has been mentored thoroughly by Lavelle, Roese is her own person with her own approach to solving complex problems.

Her interest in captives is derived from the great levels of innovation and creativity she sees in the space, and this is representative of a new generation emerging willing to push the boundaries of what captives can do and the benefits they can bring.

And if there was just one thing to take from Lavelle in this interview it's his belief that Roese, and the next generation of young professionals, must be empowered to bring their own personality to the industry, and the challenges of the future.

"I would truly highly recommend Bailey to do things the way Bailey wants to do them," he says. "She should take from me whatever she finds could be useful for her and pair it with her own ideas, as well as those ideas of others, be they inside or outside the firm.

"She will have some attributes that are better than mine, and hopefully I've got some that she will think are pretty good, and she'll try to incorporate them. But you can't change somebody's style."

It's this attitude to promoting the next generation that will make his industry contribution all the more outstanding long after he retires.

His legacy will live on in the successes of Roese and the successes of all the other young people that choose to enter the captive space thanks to his input.

This is why he deserves our Outstanding Achievement Award and all the praise that comes his way for what he's done for the industry. Congratulations Chaz!

US AWARDS

INNOVATION, SUCCESS, COMMITMENT

The results have been announced for our annual US Captive Awards: here we announce all the winners

Written by
Mark Richardson

The best of the best in North American captive insurance were honoured in August, as we hosted our annual US Captive Review Awards. Making a welcome return as a glitzy in-person event on the eve of the VCIA conference in Burlington, Vermont, many of the sector's biggest names were in attendance, whether they were up for an award or not.

Being held as a physical ceremony, the awards are not just an opportunity for the industry's finest to let their hair down and enjoy a good night out, but an excellent networking opportunity. Many of our 150+ attendees were pleased to use it as a chance to meet up with old friends or business partners based in different states or countries. For others, it was a chance to make some new connections in a relaxed environment and learn more about the nominated companies.

As well as being treated to a delicious three-course meal and pre-awards drinks, attendees were entertained by the host for the evening, Kevin McCaffrey. The stand-up comedian, who has appeared on several national television shows including *The Late Show With David Letterman*, brought the evening to life with his own opening stand-up routine and comic stylings throughout the night, even when things went a little off-plan.

Congratulations go to all our winners and nominees for their achievements over the last year, but especially to Chaz Lavelle, who was honoured with our Outstanding Achievement Award. The award recognised his incredible 45 years in the industry with law firm Dentons Bingham Greenebaum. You can read more about his accomplishments in a profile interview with him and his successor Bailey Roese across pages 17-19, along with a list of all 24 of our other winners on the night in the following pages.

Thanks go to everyone that entered the awards, the judges, and all our sponsors that allowed us to put on such a great evening. We hope you all had a wonderful night and look forward to seeing you all back again next year when we host the Captive Review US Awards 2023!

Gallagher Bassett's Amy O'Brien, vice-president, captive sales

Cheryl Baker, manager, risk management services, Blue Cross Blue Shield of Michigan

Artex's Mary Desranleau, SVP captives, North America, and Ann West (holding award) SVP captives division

ACTUARIAL FIRM
WINNER: Milliman

AUDIT AND ACCOUNTING FIRM
WINNER: RH CPA's

CAPTIVE BROKING SERVICES
WINNER: Guy Carpenter & Company

CAPTIVE COLLABORATION PROJECT
WINNER: Milliman & Hylant Global Captive Solutions

CAPTIVE CONSULTANT
WINNER: Captive Resources

CAPTIVE DOMICILE – LESS THAN $5BN OF GROSS WRITTEN PREMIUM
WINNER: Connecticut

CAPTIVE DOMICILE – MORE THAN $5BN OF GROSS WRITTEN PREMIUM
WINNER: Vermont

CAPTIVE INNOVATION AWARD
WINNER: WTW

CAPTIVE MANAGER – LESS THAN $1BN OF GROSS WRITTEN PREMIUM
WINNER: Hylant Global Captive Solutions

CAPTIVE MANAGER – MORE THAN $1BN OF GROSS WRITTEN PREMIUM
WINNER: Artex Risk Solutions

CAPTIVE RISK MANAGER
WINNER: Blue Cross Blue Shield of Michigan

CAPTIVE SERVICE PROFESSIONAL
WINNER: Amy O'Brien, Gallagher Bassett

CLAIMS SPECIALIST
WINNER: Gallagher Bassett

COLLATERAL SPECIALIST
WINNER: Comerica Bank

Milliman's Mike Meehan, principal, and Amy Angell, principal and consulting actuary

Comerica Bank's Martin Ellis, SVP

Connecticut Captive Insurance Division director Fenhua Liu (holding the award)

(Left to right) Kevin Mead, president, VCIA; Becky Atchison, captive insurance examiner, DFR; Sandy Bigglestone, deputy commissioner, DFR; Brittany Nevins, captive economic development director, State of Vermont; and Dan Petterson, chief examiner, DFR

RiverStone's Matt Kunish, chief business development officer

(Left to right) Zurich NA's Guy Worsey, VP employee benefits solutions; Ed Tyburski, SVP, Zurich financial services; Adriana Scherzinger, head of captive sales and execution; Mary Vienneau, risk engineering director; Kay Eisenstein, AVP captive and reinsurance manager; and Andrew Zoller, head of international and captive solutions

EMERGING TALENT
WINNER: Adam Miholic, Hylant

EMPLOYEE BENEFITS NETWORK
WINNER: MAXIS GBN

ESG CAPTIVE INITIATIVE
WINNER: AXA XL

FRONTING PARTNER
WINNER: Zurich North America

INVESTMENT SPECIALIST
WINNER: Madison Scottsdale

LEGACY SOLUTIONS
WINNER: RiverStone

LEGAL SERVICES
WINNER: Goodsill Anderson Quinn & Stifel

NEXT GENERATION INITIATIVE
WINNER: Arsenal

OUTSTANDING CONTRIBUTION
WINNER: Chaz Lavelle, Dentons Bingham Greenebaum

SOFTWARE SOLUTION
WINNER: Clearwater Analytics

UNDERWRITING SOLUTION
WINNER: Great American Insurance Company

Clearwater's Kami Griner (holding award), commercial sales leader, and Veronica Schmidt, business solutions consultant

RH CPA's Diana Hardy, audit partner and COO

WTW's Peter Carter (holding award) head of captive and insurance management solutions, and Bruce Whitmore, director

CAPTIVES AND ESG

Ed Koral, director of strategic risk consulting at WTW, on how to use your captive to manage the budget impact of ESG risks

Organisations grappling with the challenge of developing a long-term strategy for managing their ESG strategy are being confronted with an ongoing problem. The evolving nature of ESG risk and insufficient agreement on the quantification of the risk means there is no standard coverage available to comprehensively cover all of a corporation's potential ESG-related losses.

Insurance policies often fall short because first-party losses such as property damage, business interruption, extra expense, recall/replacement, weather-related losses and others are difficult to estimate in advance, and equally difficult to measure afterwards. What is especially limiting is that property policies respond only if there is physical damage to owned assets, even as substantial losses may occur without any such damage. ESG commitments can compound that issue since a corporation's ESG-related expenses are often voluntary; that is, they are not the result of a third-party legal settlement or a fortuitous loss that is incurred directly by the corporation itself. Frequently, ESG expenses are paid as a matter of goodwill and duty to the larger community. In the more conventional insurance framework of first-party proof of loss statements and principles of indemnification, those ideals do not trigger any form of payment under insurance policies.

Ed Koral

Ed Koral is a director with WTW's strategic risk consulting group in New York. He has over 35 years' experience in consulting, corporate risk management and insurance brokerage. Koral provides thought leadership and support to clients across a wide range of industry sectors in insurance programme design, efficient use of capital, and developing bespoke insurance and non-insurance solutions for their unique risk profiles.

Evaluate the firm's total risk portfolio

So, what's a responsible corporation to do? How can a corporation maintain social and environmental commitments without wreaking havoc on the stability of its operating budget?

A recent trend is for firms to use sophisticated econometric and actuarial tools to model a truly corporate-wide view of risks – over multiple timelines, across all geographies and operations, and risk types. This initiative can produce a deeper understanding of the true risks to a company's operations and financial health and expressed in terms aligned with financial priorities set by the company's senior management. By broadening management's perspective on risk drivers and viewing them collectively rather than in isolation, modeling the company's risks can help uncover and exploit offsetting benefits that exist within the risk portfolio while also revealing dependencies and compounding effects of adverse events.

And here is where captives fit in. Often at the vanguard of insurance product innovation, captives write risks that are not well-understood by commercial insurance companies, where historical loss data is usually scarce and in a coverage format that is not in widespread use in the insurance industry. Most captives write their coverages on manuscript forms customised to the needs of the insured parent, instead of standardised commercial insurance policy forms.

As the organisations that run into the fire, captives play a key strategic role for organisations investigating their entire risk picture because the net retained risk across all areas may be sequestered and centralised in a captive dedicated to serving as a platform for risk-taking and to allocating capital to that risk.

Parent organisations that are deeply engaged in 'de-risking' their operations cannot afford to overlook ESG commitments and the risks surrounding them because they may either mitigate or compound other related risks that are better understood by financial professionals. Including ESG risks in the captive really does provide a fuller picture and more complete governance in understanding the risks of the organisation.

Consider parametric contracts

Along with this knowledge comes the realisation that external protection is likely needed when ESG expenses drastically exceed expectations. But how can the captive deal with the situations and events where 'loss payments' are difficult to define in advance? What market support is available for organisations looking to budget and plan for ESG commitments? This dilemma may be addressed, at least in part, by instruments known as 'parametric' insurance contracts.

Derrick Easton, managing director of alternative risk transfer solutions at Willis Towers Watson, comments: "We have seen a dramatic expansion in interest in parametric structures from both buyers and risk-takers, because they offer broader coverage than traditional equivalents, respond within days or weeks, and place no constraints on the use of proceeds. This creates a previously unavailable level of flexibility that is critical in allocating funds to ESG initiatives."

Briefly, a parametric insurance contract is triggered by the severity of a pre-agreed event (eg extreme weather, an earthquake, or even a pandemic) or movements in an index (eg excessive or inadequate rainfall, temperature swings). The policy is rated based on the probability of the event using objective and observable measurements and indexes, and not the value or vulnerability of the insured's assets. Claim proceeds are released according to a pre-agreed scale of payment and released through a 'loss certification' process that enforces the concept of indemnity; losses are not 'adjusted' in the conventional sense, so claims are paid quickly after the occurrence of the policy trigger. And importantly, there is usually no restriction on the use of claims payments. In the ESG arena, that can be huge because it enables the organisation to be creative and nimble in dispensing funds in a crisis, making decisions that fit the immediate situation rather than the requirements of an insurance policy issued many months ago.

> "[Parametric contracts'] fast, simple and efficient features make them attractive to an insurance buyer. A corollary of this is that it has made participation by the capital markets in the insurance sector more attractive"
> Leigh Hall

Leigh Hall, senior originator at Munich Re Markets, adds: "[Parametric contracts'] fast, simple and efficient features make them attractive to an insurance buyer. A corollary of this development is that it has made participation by the capital markets in the insurance sector more attractive."

Get started on reducing basis risk

An important concern in parametric transactions is basis risk, which is the chance that the actual loss sustained by the insured will not match the payout available under the contract. Example: a parametric earthquake contract that specifies the location and minimum strength of the earthquake event, but which is not triggered by a given event even though the insured suffered property damage.

So what are the available objective indexes for actuaries or other analysts to correlate with likely required cash outflows on the wide array of ESG risks? This is a great challenge with evaluating ESG risks, and the task can seem gargantuan and even paralysing – making perfection the enemy of the good and creating the temptation to do nothing at all. This need not be the case. It is worth noting that with each passing year data becomes more plentiful, more accessible and less expensive, while the resources for analysing it become more powerful. The technology has finally caught up with the concept. For certain industries a more universal index may be useful, eg passenger flow through an airport could be correlated to a variety of risks that affect their business.

As businesses consider non-direct events that may cause significant disruptions of their operations, there are multiple coverages that are evolving rapidly – eg reputational risk, pandemic, environmental, supply-chain disruption, cyber risk. These in turn depend on unusual and innovative indexes – pronouncements from health organisations, actions of civil authorities, reduction in foot traffic, credit card transactions, passenger volume reduction, etc.

While the elusive 'complete protection package' may still be in the future, a good ESG strategy should involve the captive subsidiary in planning the balance between risk assumption and risk transfer. It is a flexible and useful vehicle for formalising risk-taking, with access to the best and most current financial tools for designing a realistic plan to cope with the risks that accompany ESG commitments, giving those commitments more weight.

RIVER RUNS DEEP FOR CAPTIVE BUYING

RiverStone chief business development officer Matt Kunish talks to *Captive Review*'s Mark Richardson and explains the group's captive acquisition strategy

Gone are the days when putting a captive into run-off and selling it on was seen as a sign of failure. Today, in the wider insurance sector and the captive space, selling a ceased business or portfolio of risks to a specialist run-off buyer is viewed as a viable strategic decision which can offer up gains to all parties involved.

For the seller of the captive, it represents an opportunity to free up trapped capital and divert that capacity elsewhere. In addition, focus and resource can be turned to other areas of the business.

For the acquirer, they can utilise their dedicated claims management expertise to handle claims from legacy portfolios far more effectively and efficiently than most others in the market. This often means they generate a good profit on the claims reserves in the acquired captive book. One such acquirer that has voiced a clear intention to expand its collection of captives in run-off is RiverStone.

RiverStone was first born in the 1990s with the sole aim of providing a quality ongoing claims service to businesses or portfolios put into run-off by insurance behemoth Fairfax during a busy period of large acquisitions by the group. In 2010, RiverStone took the business model out into the wider traditional insurance market by completing a number of legacy acquisitions and loss portfolio transfers.

At this point, while other run-off players were active in the captive space, it was not an area RiverStone ventured into. With generally smaller pools of risks and less valuable claims reserves than larger opportunities of $100m+ in the commercial insurance sector, captives remained outside the group's central appetite.

Matt Kunish

Matt Kunish is the chief business development officer at RiverStone. With over 30 years of insurance industry experience, Kunish leads the business development unit of the acquisitions, actuarial, data science and analytics groups. Prior to RiverStone, he worked at Crum & Forster for 10 years, the last six years as chief actuary. Before that, he was a consulting actuary for Milliman Inc. for five years, working on a variety of consulting assignments in the US and Europe. He began his career as a consulting actuary for Deloitte (formerly Bacon & Woodrow) in London.

Turning point

For Matt Kunish, RiverStone's chief business development officer, he says it was in 2017 when the run-off market hit a turning point and appetites started to shift. After years of strong results among run-off specialists, the market naturally started to become ultra-competitive. Consequently, he says pricing of traditional legacy deals became out of hand, both in the North America and London markets.

"A lot of transactions were going through that we thought were underpriced, which led us at the end of 2017 to realise we needed to look at some other areas," he adds. "During this time, Fairfax was a great parent to have. It's a parent that is in it for the long run, and that is looking far ahead. We weren't looking at private equity timelines where it's five years in and out, so we weren't under pressure to complete a lot of transactions. Then, in 2018, we started looking at the captive space for smaller risks to get involved in."

After a period of research and building connections in 2018, RiverStone made its first foray into captive acquisitions in October 2019, buying both GMPCI Insurance and Seaside Indemnity Alliance in Cayman. The Covid-19 pandemic and the inability to form in-person connections with key players hampered progress a little, but this drought ended in August 2022 with its third move in the captive space – a tentative agreement on a deal for Vermont-based Western P&C.

According to Kunish, the pipeline for more captive acquisitions in the near future is looking good, in part due to the name recognition that RiverStone garnered from 2019 with Cayman-based captive insurers, service providers, as well as regulators. "We're ahead of the curve in Cayman now, we're more well-known and we're seeing opportunities from people we know," Kunish says. "We hope the same will occur now we're officially in Vermont."

Cayman and Vermont will continue to be major focus areas, but Kunish also has ambitions for RiverStone to complete captive deals in Bermuda. He was at the Bermuda Captive Conference from 12-14 September beginning the process of building contacts.

Education

However, it's not just increasing name recognition and building contacts why Kunish thinks it's important RiverStone makes noise in the captive space – it's also about education. While selling a captive to a run-off specialist is more popular than it was, Kunish thinks there is still a lot of work RiverStone and its competitors need to do to ensure captive owners understand all the strategic benefits of taking this option.

"There's a lot of hype around setting up a captive and the beautiful location you visit once a year, but a lot of the time the reasons a captive was initially set up no longer make sense for your business," he explains. "Things change and I think there is a general lack of awareness in the captive industry that there is the option to get out."

Knowing there's an escape route can also give prospective captive owners more confidence to set up in the first place, which is why Kunish thinks the whole industry should be talking about the pros of run-off sales.

Legacy buyers often need to go through either a captive manager, reinsurance broker, or other service provider to reach the captive owner, making it even more important that Kunish builds as many connections as possible and reaches a wide audience with his message.

Part of the message is also about showing to market participants there are all kinds of innovative options on the table when it comes to working with run-off acquirers, which do not mean the captive has to close. "We are trying to dispel the myth that it's only when you're almost insolvent that you have to come to the run-off players," Kunish says. "It can just be about proactively managing the capital that supports the captive."

Active captives can transfer certain prior-year liabilities to the run-off carrier, reducing their capital requirements with the regulator and freeing up capacity to write new lines into the captive. "What we're doing here is a reinsurance transaction, reducing liabilities to make them more capital efficient," Kunish adds.

> "There's a lot of hype around setting up a captive [...] but a lot of the time the reasons a captive was initially set up no longer make sense for your business. Things change and I think there is a general lack of awareness in the captive industry that there is the option to get out"

Appetite

RiverStone's appetite for types of deal and classes of business in the captive space is wide as the group looks to increasingly diversify its book of legacy accounts. Due to the lesser reserves generally held in captives, the group may need to complete multiple captive deals to equate to one single traditional deal. However, with a patient parent in Fairfax, Kunish says this is not a problem and that he is finding there is great quality business held in the captive industry that justifies continuing a captive buying strategy.

"The captives we have dealt with you can clearly see have been very well managed from the outset by the captive owner," he says. "And that's because they have a better understanding of the risk, better risk management and better oversight of claims."

Though RiverStone would welcome larger captive legacy opportunities, Kunish anticipates most deals will be on the smaller end of the spectrum. But what this also means is less downside risk. "From a diversification perspective, we'd rather do multiple smaller transactions that are well-priced and well-reserved than one large transaction, where you could lose a significant amount," he explained.

There is no specific target for the number of captive acquisitions in 2023, although Kunish does expect significantly more opportunities for RiverStone to arise.

And this seems highly likely, thanks not only to the sector's efforts to educate captive owners and service providers on the benefits of legacy transactions, but also simply due to the growing number of captives that have formed in recent years in response to the hard market.

RISING TO THE EVOLVING RISK LANDSCAPE

Supply chain disruption caused by geo-political risks and cyber are two risks that need immediate addressing from captive owners, according to Zurich's head of captive fronting for continental Europe, Joshua Nyaberi, and head of captive services Emea, Apac and Latam, Paul Woehrmann

At the recently held EU Captive Summit in Amsterdam, several captive owners, service providers and other industry stakeholders discussed a broad set of topics. Among these topics was 'Developing best practices for geopolitical risks and supply chain disruption'.

Over the 2017-2021 period, the findings of the World Economic Forum *Global Risks Report* showed that, on one hand geopolitical risks such as interstate conflict with regional consequences have stayed at the top of the rankings in terms of impact. On the other hand, environmental risks such as extreme weather events and major natural disasters have steadily maintained the top position in terms of likelihood of occurrence. These are current realities for most captive owners as they navigate the challenges of today's business.

This combination of environmental and geopolitical risks, which by themselves are both frequent and severe, create a perfect storm for major supply chain disruptions. For this very reason, major supply chain disruptions can no longer be considered or expected to be rare occurrences.

Many captive owners have extensive international operations with complex supply chain arrangements that are prone to the impact of geopolitical events, and we have observed that a number of captive customers faced challenges with their insurance programmes triggered by current geopolitical developments. So, the question we would like to briefly explore is: are there ways captive owners can plan, prepare and build best practices to prevent being caught by surprise?

Joshua Nyaberi

Joshua Nyaberi is head of captive fronting for Europe and also supports the fronting managers Apac and Latam regions. He joined Zurich in 2014 and leads a team primarily based in Switzerland, France and Benelux. He studied finance and accounting at the University of Nairobi, Kenya, and later earned his MBA from INSEAD Business School in France.

Paul Woehrmann

Paul Woehrmann is head of captive services Europe, Emea, Apac and Latam. He's been ranked the third most influential person in the industry by *Captive Review* since 2017, and has also been recognised in the Hall of Fame. He has been with Zurich for 30 years and leads a team of experts located in several countries across the world.

Global events ranging from US-China trade wars, shortages in the semiconductor industry, Covid-19 pandemic and, most recently, the war in Ukraine continue to rattle the global supply networks.

For captive owners with operations in Russia, it will be increasingly difficult to get a partner who can support participation in Russian risks under an international programme. In response to the resulting sanctions regime, some captive owners had to make changes to their large international programmes to ensure compliance with sanction regimes. Options that have been considered include cancellation of local policies, retaining local cover but excluding it from the international programme reinsured through the captive, or buying new stand-alone local policies.

With some international fronting insurers exiting Russia altogether, local coverage in Russia will no longer be issued by 'the usual' partner providing international programmes. This may affect service quality and/or impact the capacity a captive has available from a purely local carrier.

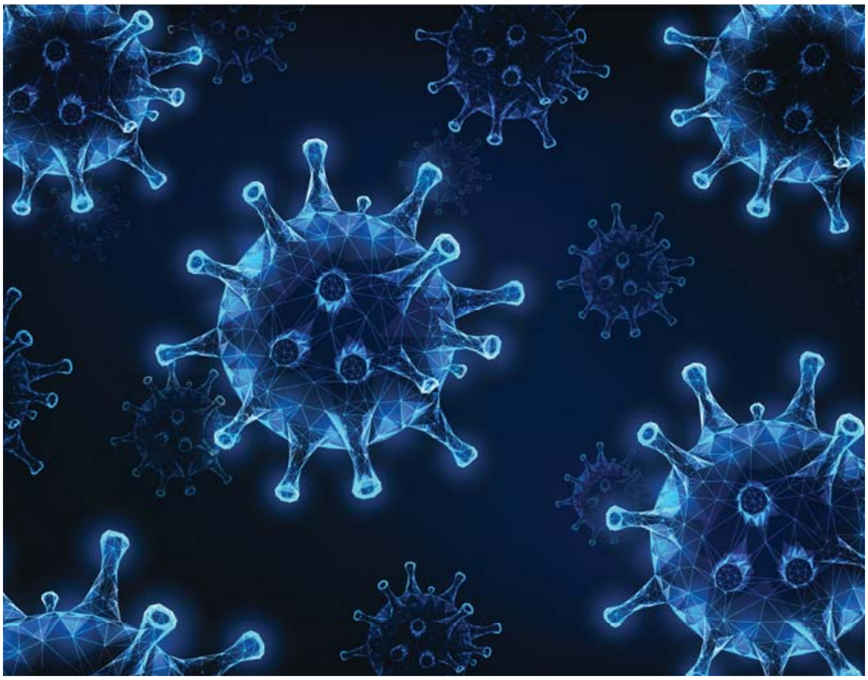
Captive owners can still take steps in managing geopolitical risks and the impact of supply chain disruptions. In this regard, the following might be considered:

- Supply chains have become more and more complex with the advent of globalisation. There is a case for local supply chains or near-shoring key supply arrangements. Supply chain disruptions once again call on organisations not to discard fully the old ways of running operations, such as maintaining buffer stocks in the event of interruptions.

- Concentration risk is a key area of concern and focus as organisations re-adjust their supply chains for robustness and resilience. Diversifying supply bases therefore becomes an urgent priority for companies, industries or governments that want to protect themselves.
- Application of technology helps mitigate supply chain risks by providing enhanced access to data, data exchange on relevant risks, monitoring suppliers and improving visibility across different types of risks and risk events. Technology augments the organisation's posture to anticipate and respond in the event of a disruption.
- Supply chains entail complex interdependencies and therefore require trust among both internal and external stakeholders to ensure a minimally viable operating environment can be jointly developed and maintained.
- Productivity improvements are required to counter or offset the increased cost of production and hence protect margins. Productivity gains may compensate for supply chain strain and allow for seamless order processing.
- Insurance solutions provide more than financial protection against loss or impairment of physical assets. They also protect the balance sheet because uninsured losses cause unplanned cash outlays that deplete liquidity. However, there are challenges in the current insurance market to get coverage that adequately addresses geopolitical risks and supply chain disruptions.

Another area that continues to draw the attention of captive owners is cyber risk and its financing. We observe an increased fronting interest among European captive customers in risk financing for cyber exposures. Since 2019, we have been tracking and analysing cyber fronting requests, showing us the following market picture:

- Submissions stem from diverse sectors, however financial services stands out in terms of number of requests and size of capacity required.
- The proportion of primary layer requests (captive retentions up to $10 million) represents 40% of the incoming requests.
- Many of the active frontings are net cessions and structured as excess of loss.



Broadly, the expectations of the captive customers seeking to place cyber risk in their reinsurance captive include, among others, professional captive fronting services with a distinctive pricing ability, reliable claims management capabilities and fit-for-purpose wording according to the customer's needs. Often this becomes relevant in the context of an international programme to cover all subsidiaries.

As a central risk financing vehicle, a captive can centrally collect and contribute high-quality information on cyber risk incidents and related claims data. In April 2020, we published an insightful podcast in which European captive opinion leaders provided their views that underlined the importance of captives in incubating cyber risk, which in many respects is still in its infancy stages.

Through the involvement of a captive, captive owners systematically receive their own risk data, which is helpful in building up cyber risk insights and in learning from their own loss experiences. These valuable risk and claims experiences could be shared by captive owners with the insurance and reinsurance markets to support risk modelling and pricing. In turn, this could create greater underwriting appetite for risk transfer in favour of captive owners. Potentially, as capacity in the insurance industry remains constrained, cyber insurance-linked securities could be a significant source of capacity for reinsurance captives.

New connectivity capabilities such as application programming interfaces (APIs) will allow fast and transparent data transfer from both the insured to the fronting insurer (primary insurance level) and from the insurer to the captive (reinsurance level). It should enable captive customers to digitally track premium and claims statements on a daily or even real-time basis.

These developments should lead to a point where periodic (eg quarterly) settlements at the reinsurance level become a thing of the past as efficiency in the risk financing and risk transfer process becomes significantly increased.

As a fronting insurance provider with a proven insurance and reinsurance structure, Zurich can significantly increase efficiency with captive customers by availing these new interfaces and thus create added value for the customers.

Zurich has a vast network available for captive owners, with comprehensive global experience on all aspects of managing and utilising a captive. With this knowledge, we can help captive decision-makers to find new strategic options and implement/execute respective solutions.

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