

ESTABLISHING AND MAINTAINING A CAYMAN ISLANDS CAPTIVE

JS de Jager of CSI International Underwriting and Paul Arbo of BDO talk through the ins and outs of the Cayman Islands captive insurance company

Captive Review (CR): Is it difficult to set up a captive insurance company in the Cayman Islands and how are you both involved in the process?

JS de Jager (JDJ): In the modern, highly regulated international business environment, it comes as no surprise that setting up a new captive insurance company in the Cayman Islands is a process that requires high levels of due diligence, expertise and active involvement from all involved. For both the service providers here in Cayman and our international client base it is comforting to know Cayman is at the forefront of international standards when it comes to due diligence and anti-money laundering practices.

What we will usually do here at CSI is that following the initial insurance programme planning discussions and feasibility studies we will take in all the necessary information from you (the client) in rough draft format. Thereafter, we will work further with you and/or your chosen broker or programme manager/administrator to ‘streamline’ the business plan and other essential documents to a point where all parties are satisfied with the quality final product before filing with CIMA.

Paul Arbo (PA): Generally speaking, we are contacted rather late in the set up process, after the insurance manager and/or consultants (brokers, law firm, etc.) have established that a captive structure offers



JS de Jager

JS de Jager joined CSI International Underwriting (Cayman) Ltd. in 2007 and is directly responsible for the management and oversight of an extensive portfolio of captive insurance companies, investment companies and financial management companies. JS currently holds a range of directorships, including hedge funds and investment management companies.



Paul Arbo

Paul Arbo, CPA, CA, ACI, is a partner with the firm of BDO in the Cayman Islands and signs off on over 60 insurance audits annually. Paul holds an ACI (Associate in Captive Insurance) designation from the International Center for Captive Insurance Education, a widely-regarded certification within the industry.

what the client is hoping to accomplish. In fact, we are often one of the last service providers appointed.

That said we have, on several occasions, had the opportunity to consult to prospective captive owners from the earliest set up stages, either as a result of a direct referral from within our international BDO net-

work of firms or through a contact that our Cayman firm has made at one of the various industry events that we have attended over the years. In such cases, we may be called upon for initial conversations about the common uses and advantages of captives in general and, more specifically, of using Cayman as the domicile of choice. If a client has an interest in exploring captives in more detail, we are commonly asked to help shortlist various service providers (insurance managers, law firms, banks, investment managers, actuaries, etc.) to be considered. As auditors of over 60 captive insurance clients and given the wide scope of the annual audit process, we are well-placed to have an appreciation of the capabilities of those other service providers and to lend our thoughts as to a proper fit between them and our client.

CR: What would be the duties of the Cayman Islands insurance manager?

JDJ: CSI, as a licensed insurance manager, is heavily involved in all aspects of any new insurance company from the very start of the process.

Duties of the insurance manager (CSI), among others, will include:

- Incorporation of the proposed company
- Provision of registered office and corporate secretarial functions
- Preparation or assistance with the licence application
- Preparation or assistance in the prepara-

- Preparation and maintenance of accounting records
- Working with the captive's auditor to produce annual audited financial statements
- Monitoring investments of corporate funds
- Liaison with the Cayman Islands Monetary Authority ensuring all regulatory filings are made
- Due diligence coordination and documentation management, including the provision of a money laundering reporting officer
- Ad hoc consultancy services
- Cash and banking services coordination, including letters of credit and timely payment of approved invoices
- Premium billing and tracking
- Meeting preparation and coordination
- Coordination with other service providers

For licensing and registration purposes we will work with you, the client, to develop a substantial three to five year budget forecast including projected income and cost levels to cover all possible income and expense items arising from the insurance business activities.

CR: What would be the duties of the Cayman Islands audit firm?

PA: We are mainly responsible for the performance of the annual financial statement audit which is required by the Insurance Law of the Cayman Islands. Generally speaking, captive insurance companies which hold an insurance licence under this Law are required to file annual audited financial statements within six months of their fiscal year-end. The audit is required to be performed by an approved audit firm which is resident in the Cayman Islands. Our audits are usually performed under International Standards on Auditing but there are occasions where we are required to use US Generally Accepted Auditing Standards.

Our annual audit includes ensuring that the company is in compliance with the various regulations (capital solvency requirements, annual reporting, etc.) put forth by the Cayman Islands Monetary Authority (CIMA) as well as any internal policies (e.g. investment policy, dividend policy, risk management framework) which the company's board and management have prepared and have been approved by CIMA.

Outside of the annual audit, we are



occasionally consulted as to the accounting treatment and/or audit impact of a proposed change in a captive's insurance programme, investment mix, actuarial approach or other significant aspect of the operations. Ideally, this consultation happens before any significant changes are enacted, rather than after the fact.

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CR: Please explain the typical steps in setting up a captive insurance company in the Cayman Islands?

JDJ: The following are the typical steps you will follow to set up a captive insurance or reinsurance company in the Cayman Islands:

1. Work with CSI on initial feasibility analysis for the new captive programme, including looking at variables needed for the business plan such as risk retention levels, types of coverage and limits of coverage
2. Negotiate fronting and reinsurance arrangements (if necessary)
3. CSI meets with the CIMA, if necessary, to discuss the proposed new captive programme.
4. Licence application to be prepared with assistance from CSI. The licence application will include the following:
 - a. The completed licence application form
 - b. Business plan including also the risk management statement

- c. Financial projections for a three to five year period
 - d. Last two years' audited financial statements and/or notarised net worth statement of ultimate beneficial owners
 - e. The acceptance letters from a licensed insurance manager (CSI) and approved auditor in the Cayman Islands
 - f. The acceptance letters from other crucial services providers including but not limited to actuaries, third-party administrators, etc.
 - g. A letter of undertaking as to the minimum capital (usually from shareholder)
 - h. The personal questionnaire, references and due diligence documents as required for each manager, shareholder, director and officer
5. Meet formally with the Insurance Supervision Division of CIMA (client and insurance manager) to present and discuss the proposed captive/reinsurance programme
 6. Submit the completed licence application to CIMA

The Cayman Islands offering also includes the captive insurance company option of a segregated portfolio insurance company (more than one cell writing different types of insurance or for just separating the insureds in different cells).

PA: While we are not usually closely involved in the process outlined above (with the exception of the acceptance letter as an approved auditor, of course), given the depth of our familiarity with the local regulatory regime and most of the other various aspects of captive insurance operations, we are certainly very well-placed to be consulted during many of the steps in the process.

BDO encourages prospective new captive insurance to seek guidance from their appointed auditors as early as possible in order to help ensure a smooth audit in the future. 