

CAYMAN AT THE FOREFRONT

JS de Jager, of CSI, discusses the strengths which ensure Cayman remains a leading global financial centre, and details the steps involved in starting a captive within the jurisdiction

The Cayman Islands have been attracting the best business professionals for many years. Due to this, the world-class infrastructure supporting the Cayman Islands captive insurance business is widely regarded as the standard-setter by the captive insurance and offshore financial industry as a whole.

Through innovation and high-class regulation in the various financial industry fields, including but not limited to banking, company management, captive insurance, funds (hedge funds and mutual funds), auditing and tax, trust services and investment administration, the jurisdiction has been at the forefront of offshore financial services for well over four decades.

Cayman's unique appeal comes from it being a "one-stop shop" for all captive insurance and offshore financial needs. Over the years, the industry and various service providers have formed many close relationships. This makes Cayman an attractive domicile for our international clients as their captive insurance managers have easy direct access to other high-quality service providers, including auditors, tax specialists, investment managers, lawyers and bankers.

A matchless regulatory regime

Cayman's regulatory regime is truly second-to-none in terms of its ingenuity and willingness to listen to and work with captive owners and industry leaders within the jurisdiction. To most, including us, 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



JS de Jager

JS de Jager joined CSI International 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. He currently holds a range of directorships, including hedge funds and investment management companies.

diligence and anti-money laundering practices. The Cayman Islands also signed 36 tax information exchange agreements (TIEAs), as well as intergovernmental agreements regarding the provision of tax information required to be disclosed under UK Fatca, US Fatca and CRS.

Additionally, the jurisdiction fulfils the recommendations of the financial action task force, and is at the forefront of the common reporting standards implementation. And the jurisdiction has an AAA credit rating. Altogether, this combination of factors puts Cayman in a very favourable position for conducting international financial business, and has helped the jurisdiction maintain its position as a leading global financial centre.

Appealing recent legislature and continuing developments

In recent years, new and revised legislature has ensured Cayman's strong position as a choice jurisdiction for captive insurance companies. In January 2015, the Cayman Island portfolio insurance companies (PIC) legislation was passed, along with related sections of the insurance (amendment) law

2013. Current and new captive insurance clients will find many advantages in utilising the recent PIC structure, including the contractual ability between PICs and the PIC having its own standalone board of directors that oversee its specific risk management and corporate needs. Furthermore, the PIC legislation is considered more robust than the incorporated cell company.

During 2017, the local industry will keep working to promote the services that are valued so highly by our clients and envied by many other jurisdictions. We can expect the continual review of pre-existing regulations, but expect the key regulatory developments in this coming year to be more in line with the further introduction of clear policy statements. The financial sector in Cayman (Cayman finance, IMAC) is working closely with the ministry of finance to ensure Cayman stays on top of new trends in the insurance market.

In the broader insurance market, Cayman is also growing in the reinsurance sector, and we also expect the regulator to begin focusing on enhancing the attractiveness of the jurisdiction for reinsurers. The Cayman Islands remain the leading jurisdiction for healthcare captives, with over 30% of the captives in this classification. However, captives in Cayman are increasingly being used for more innovative uses, such as insuring against cyber risk, terrorist threats and environmental pollution.

We regularly look towards creating new and closer relationships with key service providers and companies who are involved in existing or emerging captive structures. Fostering deeper relationships with people



who are routinely part of making important decisions when advising their clients on jurisdictional choices goes hand-in-hand with the procedural developments we have or are in the process of implementing. If we can provide these professionals with a better appreciation of Cayman's value proposition, they will be more likely to advise clients to domicile their captives here.

Setting up a captive in the Cayman Islands

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.

At CSI, following the initial insurance programme planning discussions and feasibility studies, we work with a company's elected broker or programme manager to 'streamline' the business plan and other essential documents to a point where all parties are satisfied with the quality of the final product before filing with Cayman Islands Monetary Authority (Cima).

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 preparation of the business plan of the company
- Preparation and maintenance of accounting records
- Working with the captive's auditor to produce annual audited financial statements

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- Monitoring investments of corporate funds
- Liaison with Cima 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

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 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:
 - o The completed licence application form
 - o Business plan including the risk management statement
 - o Financial projections for a three to five year period
 - o Last two years' audited financial statements and/or notarised net worth statement of ultimate beneficial owners
 - o The acceptance letters from a licensed insurance manager (CSI) and approved auditor in the Cayman Islands
 - o The acceptance letters from other crucial services providers including but not limited to actuaries and third-party administrators
 - o A letter of undertaking as to the minimum capital (usually from a shareholder)
 - o 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. 