

Guernsey remains an attractive proposition

By Peter Niven, Chief Executive of Guernsey Finance

Peter Niven, Chief Executive of Guernsey Finance, says that captive managers continue to view Guernsey as an attractive domicile – and there is new evidence to support the claim.

Current and potential captive owners continue to recognise the attractions of Guernsey as a domicile. How do we know?

First, independent studies show that Guernsey remains the largest captive domicile in Europe and number four globally.

Second, figures from the regulator, the Guernsey Financial Services Commission (GFSC), show how the Island continues to attract new business, particularly in terms of additional cell company licenses being issued.

Finally, newly published independent research reveals that captive owners who use Guernsey recognise the Island's expertise in the sector, its good links to London and the pragmatic attitude of the GFSC. Indeed, these survey results show that Guernsey's decision not to seek equivalence with Solvency II has the backing of owners with captives in the Island.

Taken together, this is strong evidence that Guernsey remains an attractive proposition to current and potential captive owners.

A leading captive insurance domicile

The insurance industry in Guernsey has its origins dating back to the 18th century and the Island's first captive insurance company was incorporated in 1922.

Since then, Guernsey's insurance market has grown to the extent that research from both *Business Insurance* and *Captive Review* recognises the Island as the largest captive domicile in Europe and number four globally.

The strength of Guernsey's captive insurance sector is reflected by the fact that approximately 40% of the leading 100 companies on the London Stock Exchange with captives have them domiciled in the Island.

Guernsey plays host to subsidiaries of global names such as Aon, Marsh and Willis as well as independent, boutique operators such as Heritage Insurance Management and Alternative Risk Management (ARM), providing a holistic environment for insurance solutions.

The Island's insurance industry is complemented by banking, investment and fiduciary sectors and supported by a network professional services, including legal, tax, accounting and actuarial advisers.

Nearly 60% of the international insurers licensed in Guernsey have their parent company located in the UK however the Island's insurance sector is truly international. Firms from across Europe, the USA, South Africa, Australia, Asia, the Middle East and the Caribbean have established captives in the Island.

The Island's insurance sector has seen the value of business increase markedly over the last ten years. In 2003 the industry had gross assets of £13bn, a net worth of £5.3bn and premiums of £2.5bn. Now there are gross assets of £23.4bn, a net worth of £8.1bn and premium written of £3.4bn.

In addition, figures from the GFSC show that the number of licensed international insurance entities has seen a net rise of 5 from the end of 2010 so that by 31 July 2011 the total reached 680, comprising 265 companies, 63 Protected Cell Companies (PCCs), 335 PCC cells, 4 Incorporated Cell Companies (ICCs) and 13 ICC cells.

This is encouraging considering the maturity of our captive industry and the prevailing soft market conditions. In particular, we are seeing especially strong growth in the number of new cell formations.

The Island pioneered the cell company concept when it approved PCC legislation in 1997 and has since also introduced the innovative Incorporated Cell Company (ICC). Our reputation for innovation and expertise in this field is illustrated by the fact that:

- Aon's White Rock Insurance Company PCC Limited was established in Guernsey as the first PCC in the world and since inception it has been used by more than 50 corporations as a cell captive facility and grown to be the largest structure of its kind in the world.
- White Rock Insurance (Guernsey) ICC Limited – also Aon owned – was the first ICC in the world to be insurance licensed.
- Guernsey-based Heritage Insurance Management achieved a worldwide first last year by amalgamating two PCCs – with 17 cells between them – into one.
- In 2011 law firm Bedell Cristin in Guernsey advised Swiss ILS managers Solidum Partners AG on a groundbreaking CAT bond transfer, namely a private transformer of catastrophe risks into \$12.4m of securities in three separate deals through a Guernsey based incorporated cell structure, Solidum Re.

New research results

Strategic Risk has carried out a practitioner survey and published the results in a special supplement which accompanies the September 2011 issue.

The results show that more respondents have their captives in Guernsey than any other domicile; captive owners who use Guernsey recognise the Island's expertise in the sector, its strong links to London and the pragmatic attitude of the GFSC; and Guernsey's decision not to currently seek equivalence with Solvency II has the backing of owners with captives in the Island.

It is interesting to note that captive owners regarded the regulatory environment as the most important consideration in selecting a captive domicile, followed jointly by tax and reputation of domicile. For captive managers, tax was most important, then regulatory environment followed by reputation of domicile.

It is often perceived that captive insurance is simply a mechanism employed by large organisations to limit their tax liability. However, this research shows that particularly the captive owners themselves view tax as only one part of the overall decision making process.

In fact, captives are established for a variety of reasons, including the ability to insure risks that would not be covered conventionally, direct access to reinsurance markets, greater control of premium and providing an internal focus on risk management.

As such, we can see that domicile reputation and the regulatory environment are also key considerations to location choice and therefore it is not surprising that Solvency II is potentially a key issue which could influence domiciliation or re-domiciliation.

I am glad to say this research shows that captive owners using Guernsey are very much supportive of our decision not to currently seek equivalence with Solvency II.

International standards of regulation

Solvency II was due to come into effect from 1 January 2013 but we are hearing is that this is now very likely to be delayed by a year to 1 January 2014. The uncertainty surrounding its introduction and also the implications in practice is causing some angst around Europe.

However, in Guernsey, we have opted for certainty. The Island is not part of the EU so we are not required to adopt Solvency II and our Government and the GFSC have issued a joint statement to say that currently the Island doesn't have any plans to seek equivalence under Solvency II.

Solvency II has been designed to address systemic and group risks within commercial insurance markets but these are risks not generally faced by Guernsey-based international insurance companies, where there are a large proportion of captive insurance companies. Therefore, as things stand, equivalence could potentially burden Guernsey insurers with additional costs and render currently effective captive business plans uneconomic.

Bermuda and Switzerland (and indeed Japan) are adopting a different stance. These countries are in the first wave of equivalence applications but are doing so primarily not for their captives but to protect their international commercial reinsurance industries.

They appear to be on track to meet the equivalence requirements but Bermuda in particular is seeking to mitigate the effects on their captive insurance business. Yet, it appears that even if they do mitigate the effects to some extent then their regime will still have to become more onerous than at present to be considered equivalent. We continue to monitor these developments closely.

Guernsey will continue to meet the standards of the International Association of Insurance Supervisors (IAIS) – the IMF has commended the Island for having high levels of compliance with the 28 insurance core principles of the IAIS – but its proportionality principles mean that we will provide a more attractive environment for captive owners and other niche insurers.

There has already been a very positive response from clients and potential clients. Indeed, our proposition may prove attractive for captive owners and their insurance vehicles currently based within EU domiciles, such as Dublin and Luxembourg – our two major competitors in Europe, and especially where they are writing business outside the EU.

Certainly local managers are reporting an upswing in inquiries and this further supports the view that Guernsey remains an attractive proposition to many current and potential captive owners.