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Many health care systems are ahead of proposed reforms in the key areas of safety and quality of health care, and those with captives have already taken steps towards economic efficiencies, by releasing risk financing savings back into their core business of health care and into quality initiatives. There is some recognition that health care reform will present new risks, and may transfer existing risks to new parties.

The list of emerging risks is lengthy. Under-funded municipal services threaten the success of loss prevention and damage control activities in the community. Few business continuity plans contain an invincible planned response to a pandemic, terrorism, intrusive computing etc. Clinical and technological medical advances both eliminate and introduce risks.

More and more frequently, technological advances provide new proofs of cause

and effect that create and shift liabilities for damages and outcomes.

Raising the survival rate

What is it that makes a captive well-suited to catering for emerging risks, while the commercial insurance market is still figuring out those risks?

The captive is a special purpose entity. It has a select consumer base with particular requirements, and a focused business plan. The captive is regulated in a risk-based manner, and this provides the ability to adapt to the dynamics of its environment and that of its owners and insureds. The captive is relatively free to design the insurance cover that it provides. It can when necessary provide coverage whereby its obligations are limited to a certain pool of assets, which facilitates 'building the bank' for risks with a high degree of uncertainty.

In short, the captive can influence its owner/insured's chance of survival in a

CAYMAN UPDATE

world of changing and developing risks which are difficult to identify and quantify, and which may have a major impact on its business, unless they are faced.



Georgetown, Cayman

In a world of changing and developing risks, captives will continue to fulfill a valuable role for the surviving corporate species.

"Not everything that is faced can be changed. But nothing can be changed until it is faced." (James Arthur Baldwin)

LATEST NEWS

Backing the Future

Kane Cayman is proud to be making a US\$20,000 donation to the Scholarship Foundation in December 2011.

In 1994, the Insurance Managers Association of Cayman (IMAC) formed a separate Scholarship Foundation to assist in the post high school education of Caymanian students. Using contributions from IMAC, its members and associate members, and numerous Cayman captives, the Foundation annually provides a full 4-year scholarship for overseas, tertiary education of one and sometimes two deserving applicants.

To date, the Foundation has raised US\$1.6m of which US\$1.1m has been paid out and the remainder set aside to fulfill commitments. Having supported a sizable alumni, the Foundation is currently supporting 11 full-time students at Universities in the USA, Canada, the UK and New Zealand. For more information visit www.imac.ky and view <http://www.youtube.com/imacscholarshipfund>.

Kane on the Move

Kane Cayman has reserved office space in Willow House, Cricket Square. Currently under construction, the building is due to open in the last quarter of 2012. In the meantime, from November 2011, Kane will be located at The Pavilion in Cricket Square.

This is an exciting move for the Kane Cayman team. The upper floor of The Pavilion has been designed as an executive area with client facilities and meeting rooms, while our team will occupy the lower floor.

Cricket Square straddles the two major optic fibre rings servicing George Town, and more importantly the two rings servicing the new Government office building and the George Town Hospital. These are always the first to be restored in any power outage, short or long-term.

For more information about Cricket Square, visit <http://www.cricketsquare.com> or visit us at The Pavilion when you are next in town.

Kane (Cayman) Limited

Kane (Cayman) Limited (Kane Cayman) is part of Kane, the largest global independent insurance manager. Kane Cayman is a leading provider of captive management and insurance-linked securities administration services. Should you require any further information on Kane Cayman's services or would like to meet with a member of the Kane team, please contact:

Linda Haddleton:
Managing Director
E: linda.haddleton@kane-group.com
T: + 1 345 914 2261

Kevin Poole:
Manager
E: kevin.poole@kane-group.com
T: +1 345 914 2265

Liz Frederick:
Head of ILS
E: liz.frederick@kane-group.com
T: +1 345 914 2258

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An Assured Future for Captives - Facing Emerging Risks



"It is not the strongest of the species that survives, nor the most intelligent that survives. It is the one that is the most adaptable to change."
(Charles Darwin)

The pace of change in the business world is exponential. The commercial insurance industry has not always proven superior in its responsiveness to change. However, the alternative risk industry can be said to have achieved a better track record in this regard. Having an alternative risk vehicle in a corporation's armory may well influence its chance of survival in a world of constantly changing and developing risks which are difficult to identify and quantify, and which may have a major impact on its business – emerging risks that the commercial insurance industry may be slow to recognize and cater to.

We are familiar with the challenges faced by the insurance industry in responding in an adequate and timely fashion to risks such as asbestosis, underground pollution, toxic waste, mold and other risks that were once emerging risks.

Understanding emerging risks

Common features of emerging risks resonate with the valid motivations for many captive formations:

- commercial insurance coverage is not available
- coverage is available but not affordable
- available coverage is undermined by narrow definitions and broad exclusions

Availability of coverage can be restricted in this way either because the industry has suffered initial bad loss experience, or because the risks are too difficult to identify or quantify. Emerging risks share the following characteristics:

- a high level of uncertainty – they may eventually prove to be phantom risks, with little or no impact
- there is little information available – frequency and severity are initially difficult to assess or forecast
- the commercial insurance industry is not taking a consistent approach to them

"What makes a captive well-suited to catering for emerging risks, while the commercial insurance market is still figuring out those risks?"



Linda Haddleton is Managing Director of Kane (Cayman) Limited

So, does a corporation wait to find out whether an emerging risk is something, if not to plan for, at least to be prepared to adapt for?

Prepare to adapt - health care reform

By way of a present day example, already we can see widely disparate corporate views on the impacts of health care reform, from those believing it will be proven unconstitutional and will just go away, to those accepting that reform must come, either in the proposed form or an alternative form, because the economics of the present system are simply unsustainable. **(continued on page 4)**

Building on firm foundations

Linda Haddleton, Managing Director, and Kevin Poole, Manager, discuss recent developments in both the Cayman insurance market and at Kane Cayman

What are your roles at Kane Cayman?

Linda: I am Managing Director of Kane Cayman and am involved in all aspects of the business, including client management and business development. We have a highly motivated team and a strong control and compliance culture. This makes my day-to-day role relatively straight forward. Beyond this, I look to optimize the talent of the team to grow our business in size and quality. This requires keeping our vision of Kane as the insurance manager of choice in sight, and investing in appropriate resources and knowledge management. My role is more exciting than at any time in my career, because the business we have built in Cayman is core to the newly expanded Kane Group, and we have much to offer clients and prospective clients.

Kevin: As a Manager, I supervise a team of client account managers to ensure our established high standards of client service are maintained in line with established controls and attend a number of client board meetings each year. I also assist with the development of new business and work with prospective clients.

Cayman has witnessed a strong increase in captive formations in 2011 compared to 2010. What has contributed to this?

Kevin: During 2009 and 2010, the economic downturn saw companies being cautious about allocating capital to start-up operations, while their focus was often on more pressing matters than insurance. While economic pressures persist, companies have refocused on cost efficiency and insurance is a key area in this. The forecast return of the hard market may also be contributing to some companies positioning themselves accordingly.

Cayman's market reputation has continued to fuel growth, while Bermuda's position on Solvency II equivalency may also have led some prospective captive owners to select Cayman. Government has also supported the industry through numerous initiatives, including 'Friends of Cayman', a group of key captive industry stakeholders set up to provide recommendations to Government. This demonstrates the strength of Cayman's public/private partnership that is instrumental in attracting new business.

Linda: Business organizations already in the captive world have been far-sighted. It is remarkable that others have followed only when pressed by short-term economic difficulties – but fortunately for them the road to more optimal risk management and financing has been paved by earlier innovators.



Linda Haddleton

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A bill to amend Cayman's insurance law was recently passed in the Legislative Assembly. What will this mean for the market?

Kevin: It's important to understand the background to this amendment. After Hurricane Ivan in 2004 it became clear the law as it applied to the domestic market needed to be updated. In addition, following regulatory assessments by institutions such as the IMF, it was also clear that, while Cayman complied with international standards set by the IAIS, some standards needed to be formalised either in law or through sector-specific guidance.

Following a comprehensive review based on a consultative process involving all stakeholders, the law was passed in September 2010; the regulations supporting the law are currently awaiting approval.

Linda: The Cayman Insurance Law has remained relatively unchanged since it was passed in 1979. It has ensured a very high success rate among Cayman licensees, which is what regulation is all about. The most recent revision, pending enactment of the regulations it defers to, provides more transparency around CIMA's risk-based regulation of Cayman captives.

Significantly, it distinguishes between related and unrelated business not only in terms of beneficial ownership and control, but also commonality of risk management initiatives across the licensee's insureds. This satisfies international regulatory standards without altering the regulatory model that underpins Cayman's captive success.

In terms of the risk transfer mechanisms representing the new Class C licensee, the law points the regulator to the essential features that make them sustainable: collateralization, limited recourse, sophistication of the institutional parties to the transactions etc, and which also lend this licensee class to risk-based regulation by CIMA.



Kevin Poole

“ Our complete independence has enabled us to build close working relationships with introducers of new business and we have grown through referrals and recommendations which clearly demonstrates our standing in the market ”

In September, Cayman signed its 26th Tax Information Exchange Agreement. How important are TIEAs to the captive sector?

Kevin: TIEAs arose out of the OECD model on exchange of information on tax matters and the need to address harmful tax practices. It is vital that Cayman is at the fore in securing these bilateral agreements, showing its commitment to complying with international standards and countering 'tax haven' claims. Some TIEAs have also created competitive advantages such as the level playing field created by Cayman's TIEA with Canada, which saw the end of any advantages enjoyed by Barbados, the traditional home for Canadian captives.

Linda: The current publicity around such agreements is welcome, but they are not entirely new. Cayman has had a TIEA with the USA since 2001, which was preceded by a Mutual Legal Assistance Treaty between the countries dating from 1990. Such agreements not only exist but are commonly used. Cayman takes its international obligations seriously, and is recognized by the OECD and FATF for not only keeping pace with international standards, but for taking a leadership position in international co-operation to resolve criminal tax evasion, money laundering and terrorist funding.

The Kane team is one of the most established in the Cayman insurance market. What factors have contributed to this longstanding position?

Kevin: A client census conducted in 2009 indicated that above all our clients value the quality of service and responsiveness of our team. We have managed to minimize staff turnover by recruiting well-qualified individuals who are either Caymanian or have residency rights, ensuring continuity of service. Our entire team is located in Cayman. In addition, our client service team represents a broad range of backgrounds, including accounting, insurance and regulatory.

We have been consistently ahead of the curve in developing new business opportunities, and in addition to our captive management expertise we are the most highly regarded administrator in the ILS market, with over 15 years of sector experience.

Our complete independence has enabled us to build close working relationships with introducers of new business and we have grown through referrals and recommendations which clearly demonstrates our standing in the market.

Linda: While our independence is important, not being broker-owned also means you don't have a ready pipeline of prospective clients. Traditionally, our new business sources have primarily been existing clients, their brokers and consultants through referrals. The result is that every single member of staff is charged with business development, because providing service continuity, certainty and excellence creates our new business opportunities.

How has Kane evolved its service offering to ensure it meets client demands?

Kevin: Client needs are always at the forefront of our activities. Since becoming part of Kane we have been able to commence a number of initiatives that will enhance our service offering, including our move to new premises and our IT and communications strategy, which are being designed with client requirements in mind.



Georgetown Coastal Road, Cayman

Linda: We now have a wider talent pool to draw upon across the Kane Group, and an environment in which initiative is transparently valued and development opportunities for staff are very real. Staff engagement is obvious, and beneficial, to our clients. I believe we demonstrated to our clients through a period of uncertainty that their interests were of paramount importance to us, and we have come through this with 100% staff and client retention. Our clients deserve the best, and this remains our objective.

Linda Haddleton: Managing Director
E: linda.haddleton@kane-group.com T: + 1 345 914 2261

Kevin Poole: Manager
E: kevin.poole@kane-group.com T: +1 345 914 2265