

# BERMUDA CAPTIVE INSURANCE

Captive Vehicles, Regulation, Tax

June 2015



# TODAY'S SPEAKERS



**Rochelle Simons**  
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Association



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# CAPTIVE INSURANCE

- > What is a captive insurance company?
- > Key reasons to set up a captive/how it works
- > Bermuda: Key facts and Figures
- > Structure of a captive insurance company
- > When to set up a captive
- > Bermuda Healthcare Market

# WHAT IS A CAPTIVE INSURANCE COMPANY?

## *DEFINITION AND KEY FEATURES*

A captive insurance company is an insurance company whose primary purpose is the financing of the risks of its owners:

- Insurance cover is only available to the parent and affiliates of the captive
- Its owners/participants are usually not insurance companies
- It is a licensed insurance company and operates under a different regulatory system than commercial insurers
- Insureds generally require less policyholder protection than the general public

# STRUCTURE OF A CAPTIVE INSURANCE COMPANY

## *COMMON CAPTIVE STRUCTURES*

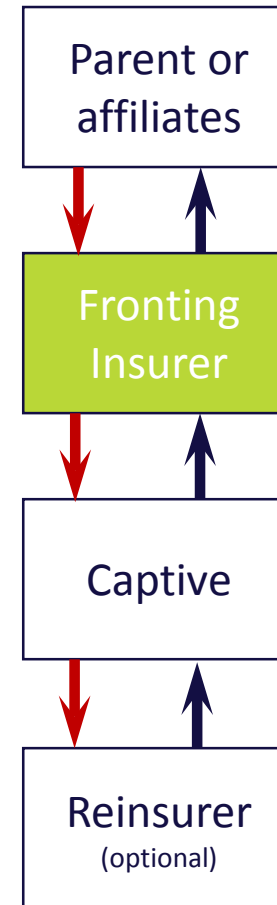
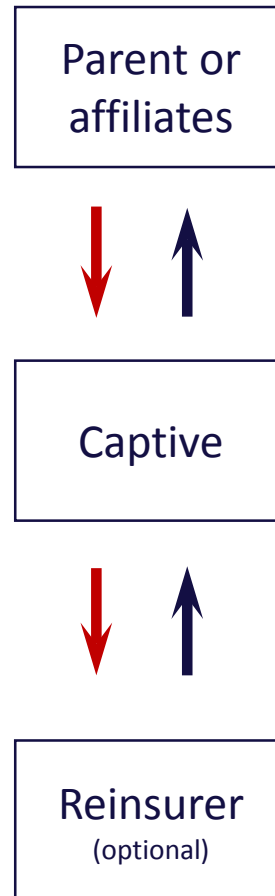
- Single Parent Captive (Pure)
- Multi-owner / Group Captive
- Segregated Account Company (*or protected cell company*)

# STRUCTURE OF A CAPTIVE INSURANCE COMPANY

## COMMON CAPTIVE STRUCTURES

### Single-parent captive

- Owned by one parent and insures the risks of its parent or affiliates only (i.e. related business)

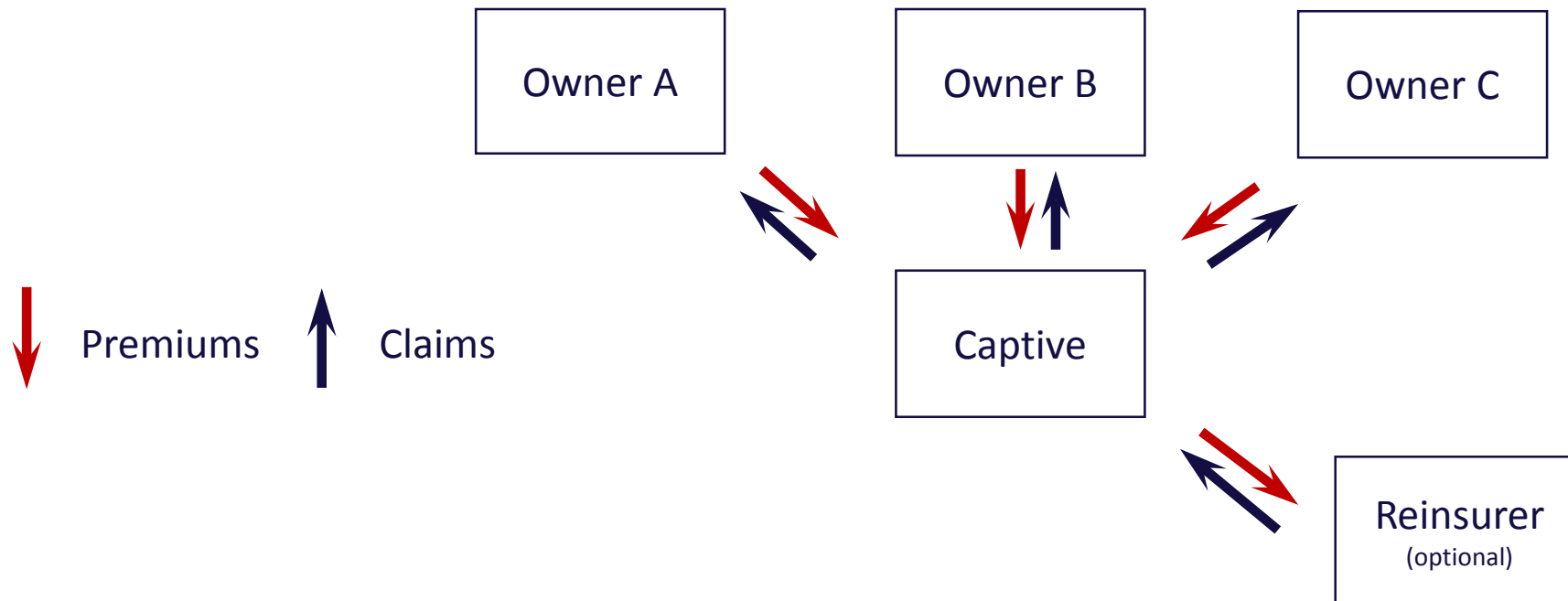


# STRUCTURE OF A CAPTIVE INSURANCE COMPANY

## *COMMON CAPTIVE STRUCTURES*

### Multi-owner/group captive

- Owned by multiple parents and insures the risks of all owners. Owners are typically companies operating in the same industry or trade association and want insurance cover for the same type of risks

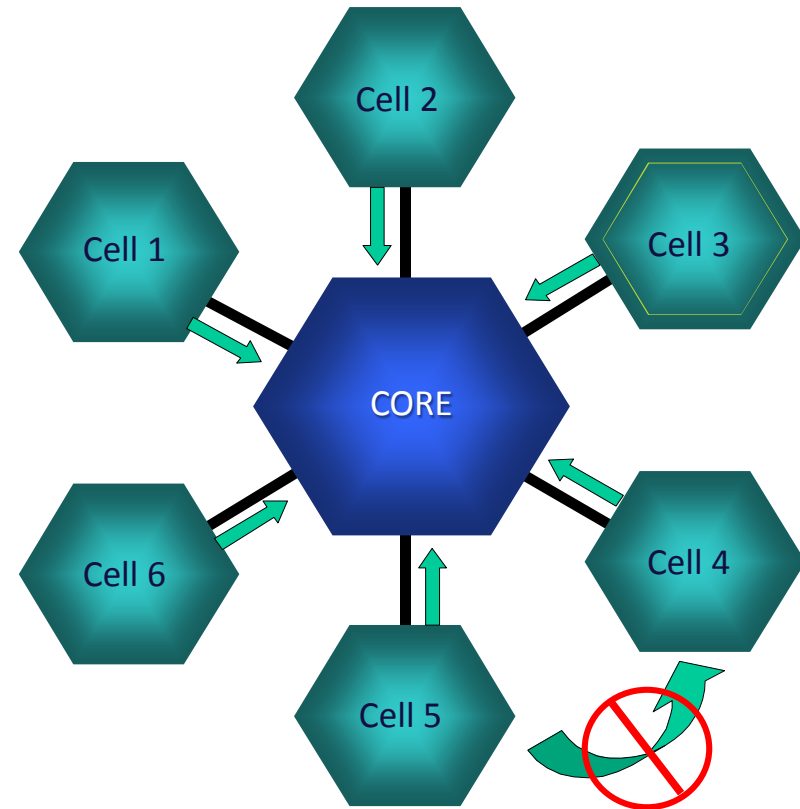


# STRUCTURE OF A CAPTIVE INSURANCE COMPANY

## COMMON CAPTIVE STRUCTURES

### Segregated account company

- Each cell insures the risks of its owner and the owner invests assets that are segregated from other cells
- The core does not transact any insurance business but handles the admin functions
- There is no risk-sharing between the cells





# KEY REASONS FOR A CAPTIVE



# KEY REASONS FOR A CAPTIVE

1

## COST REDUCTION

- Reduces overall costs of the parent's insurance/risk management programme
- Any underwriting gains and investment income are retained by the parent
- Parent benefits from its own loss experience: does not pay a premium based on industry-wide losses or perceptions

# KEY REASONS FOR A CAPTIVE

2

**COVERAGE:  
ACCESS TO  
REINSURANCE**

- The parent can tailor the insurance policies for its specific needs and risks, providing greater flexibility and control
- Established to provide access to the reinsurance market
- Access to preferential pricing from reinsurance market
- Potential to earn ceding commission from reinsurers

# KEY REASONS FOR A CAPTIVE

3

CASHFLOW:  
INVESTMENT  
INCOME

## Investment income is retained by the parent

- Benefit from the lag between paying premiums and payout of losses, earn investment income and possibly reduce or deferred tax

# KEY REASONS FOR A CAPTIVE

4

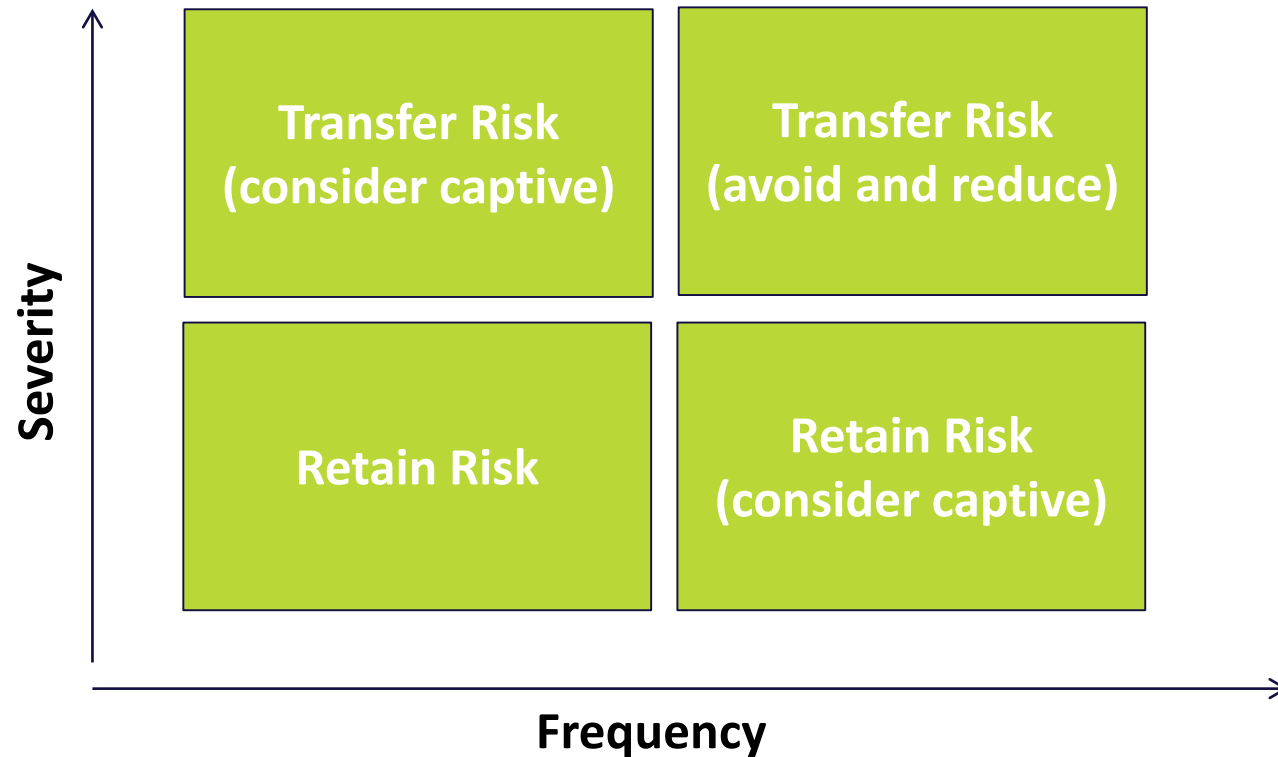
**CONTROL:  
ADMINISTRATIVE  
TOOL**

- The parent can tailor the insurance policies for its specific needs and risks, providing greater flexibility and control
- Can help bring a focus to losses and loss prevention within the parent's overall culture
- Successful captives become an integral part of the Enterprise Risk Management programme

# WHEN TO SET UP A CAPTIVE INSURANCE COMPANY

## *FREQUENCY AND SEVERITY*

Risks usually fall into one of the following categories:



# WHEN TO SET UP A CAPTIVE INSURANCE COMPANY

## *WHEN DOES A CAPTIVE MAKE SENSE?*

- Insurance programmes are significant premium size
- The company has high deductible limits
- Good loss experience and degree of loss-control capability
- Significant lag between loss occurrence and settlement
- Desire for greater flexibility in programme design
- Anticipates hard market or currently experiencing hard market
- Desire to obtain coverage for non-traditional exposures for which commercial insurance is expensive/not available

# BERMUDA

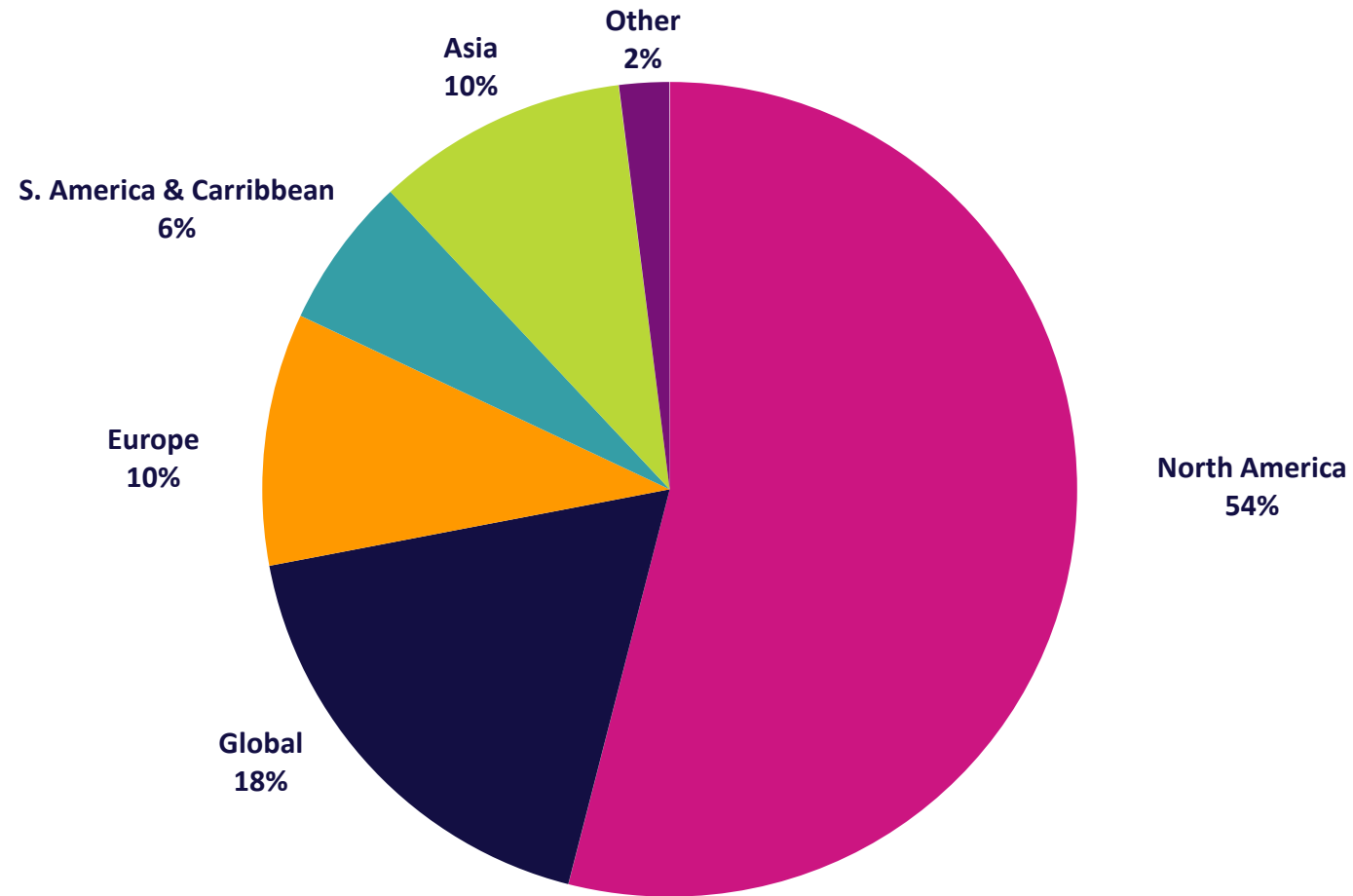
## *KEY FACTS AND FIGURES*

- Largest and most established captive domicile
- Over \$20 billion in Captive premiums written annually
- Stable political and economic climate
- Flexible and pragmatic insurance regulation
- Direct access to the reinsurance market
- Robust insurance knowledge base
- Depth of experience across geographical region and industries

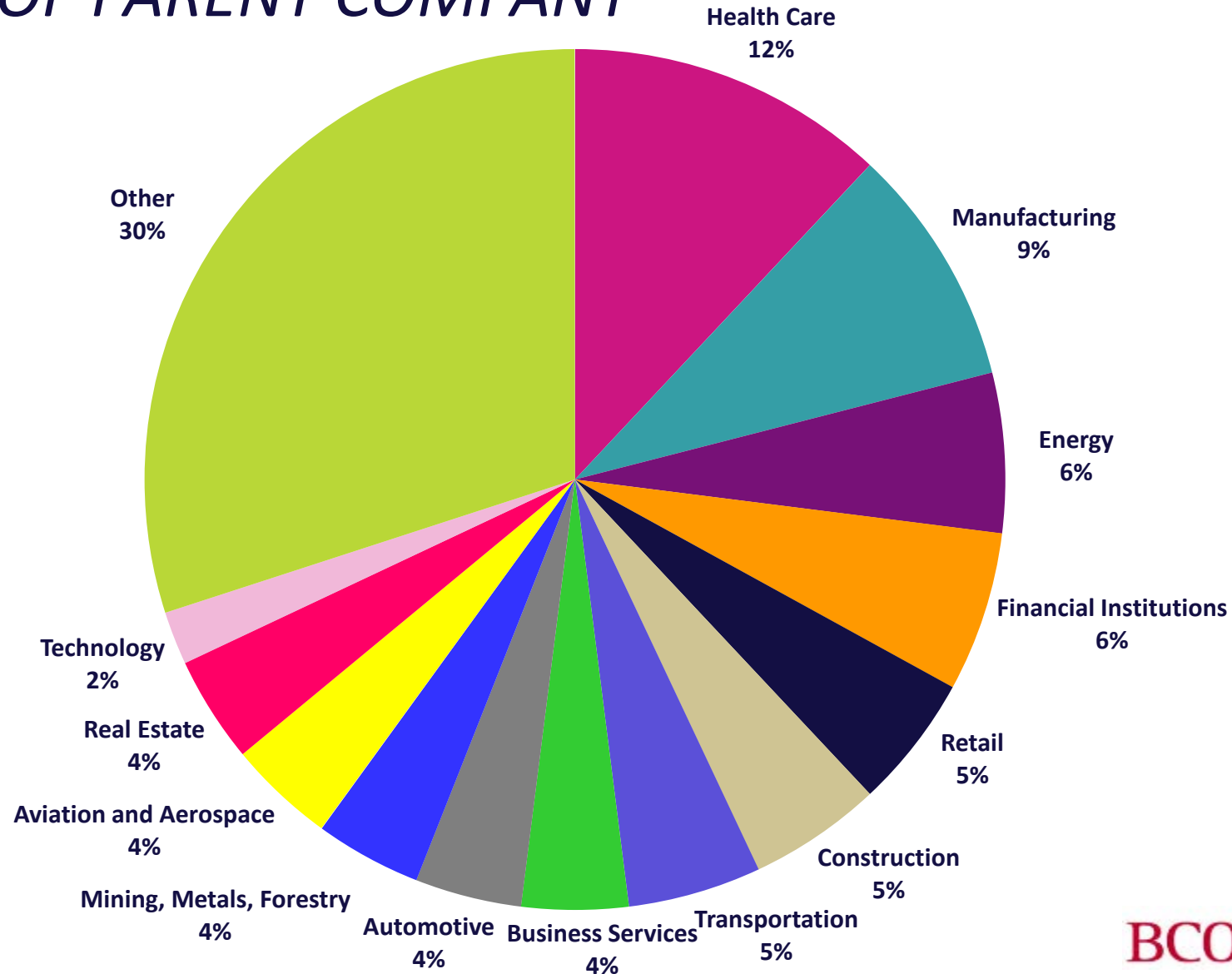


# BERMUDA

## *PREMIUMS BY LOCATION OF UNDERLYING RISK*



# BERMUDA INDUSTRY OF PARENT COMPANY



# BERMUDA HEALTHCARE MARKET

## *EXCESS REINSURANCE MARKET*

- Leading provider of healthcare coverage.
- \$400mln in healthcare capacity provided by over 10 carriers.
- Proven track record of paying claims.
- 40 plus insurance professionals specializing in healthcare related insurance services.

# BERMUDA HEALTHCARE MARKET

## *HEALTHCARE CAPTIVES*

- Approximately 90 captives owned by healthcare sponsors
- These 90 captives represent 10% of the licensed insurers in Bermuda
- A significant portion of these captives write medical malpractice liability coverage (along with GL, Workers Comp, and Property programs)
- Many of the Bermuda captives purchase a portion of their excess medical malpractice liability coverage from Bermuda based reinsurers
- Bermuda medical malpractice liability premium volume is excess of \$1.3b annually
- Bermuda service providers and the Bermuda regulator have significant breadth and depth of experience with the risks faced by healthcare organizations



# CAPTIVE REGULATION

Leslie Robinson

*Assistant Director, Corporate Authorisations*

*Bermuda Monetary Authority*



# OUTLINE

- > Overview of the Bermuda Monetary Authority (BMA or Authority)
- > Licensing Service Standards
- > International Information Exchange
- > Captive Legislation
- > Captive Regulation
- > Statistics

# BERMUDA MONETARY AUTHORITY OVERVIEW

- The Bermuda Monetary Authority is the integrated regulator of the financial services sector in Bermuda
- Established in 1969 by an Act of Parliament
- Functions independently from Government, but often advises the Ministry of Finance in matters pertaining to financial services



# BERMUDA'S CAPTIVE LEGISLATION

- Companies Act 1981
- Insurance Act 1978
- Insurance Accounts Regulations 1980
- Insurance Returns and Solvency Regulations 1980
- Segregated Accounts Companies Act 2000
- Guidance Notes
- Code of Conduct
- Also see: [www.bermudalaws.bm](http://www.bermudalaws.bm)



# INSURER CLASS STRUCTURE

- **General Business Insurers**
  - Class 1, 2, 3 – Captive Classes
  - Class 3A, 3B, 4 – Commercial Classes
- **Long-Term Business Insurers** (annuity, life, some accident & health)
  - Class A, B – Captive Classes
  - Class C, D, E – Commercial Classes
- **SPIs** (insurer fully funds liabilities through a debt issuance or some other approved financing mechanism)

# MINIMUM SOLVENCY MARGINS

## General Business

Class of Insurer	Class 1 100% Related	Class 2 <20% Unrelated or Multi- owned	Class 3 20% to 50% Unrelated
Greater of:			
a) Minimum Statutory Capital & Surplus	\$120,000	\$250,000	\$1 million
b) Premium Test: First \$6 million of Net Premium Written	20%	20%	20%
Net Premiums Written in excess of \$6 million	10%	10%	15%
c) Loss Reserve Test: Loss and Loss Expense Reserve	10%	10%	15%

# MINIMUM SOLVENCY MARGINS

## Long-Term Business

Class of Insurer	Class A 100% Related	Class B <20% Unrelated or Multi- owned
Greater of:		
a) Minimum Statutory Capital & Surplus	\$120,000	\$250,000
b) Asset Test: Total Assets	0.5%	1.5%

# BERMUDA CAPTIVE REGULATION

- Captive vs. Commercial
- Risk-Based Approach
- Role of Principal Representative and Insurance Manager
- Pragmatic approach to regulation
- Practical, business-savvy approach
  - Creative
  - Responsive to business needs

# LICENSING PROCESS – SERVICE STANDARDS

- Application to incorporate company:
  - Can have same day response
- Application for insurance license:
  - Can be done simultaneously with incorporation.
  - Completed applications received by 5 p.m. Monday, are reviewed and responded to by 5 p.m. Friday
- Final registration and issuance of license:
  - Upon approval of application and receipt of all registration documentation, issuance of license can take up to three business days

# HOW BMA INTERACTS WITH SERVICE PROVIDERS



# BERMUDA CAPTIVES: BY THE NUMBERS

- 800 active captives as of 31<sup>st</sup> December 2014
- Region of Beneficial Owner Captive Stats, for year ended 2013:

	No of Licences	Gross Premiums	Total Assets	Capital & Surplus
North America	493	\$25.9 billion	\$87.0 billion	\$36.3 billion

- Market Statistics by Company Type:

	No of Licences	Gross Premiums	Total Assets	Capital & Surplus
Healthcare Captive	43	\$1.3 billion	\$3.4 billion	\$1.2 billion



# TAX

> Overview of key U.S. tax considerations



# OVERVIEW OF KEY U.S. TAX CONSIDERATIONS

## Key issues from a U.S. tax perspective:

- Deductibility of premiums paid to captive
- Deductibility of loss reserves in calculation of captive's income
  - Reasonable estimate of future losses and loss adjustment expenses
- Insurance contracts and insurance company status
  - Sufficient risk transfer and distribution (i.e. true shifting of risk)

# OVERVIEW OF KEY U.S. TAX CONSIDERATIONS

## Key issues from a U.S. tax perspective:

- Controlled foreign corporation (“CFC”) provisions
  - Certain U.S. shareholders taxable currently with respect to their share of captive income
  - Eligible insurance companies may elect to be treated as U.S. corporations for tax purposes (sec 953(d))
- U.S. trade or business issues
- Federal excise tax
  - 4% on direct insurance (non-life)
  - 1% on reinsurance
  - 1% on life insurance



Attending the Vermont Captive Insurance Association (VCIA) Conference on August 11–13, 2015?  
Be sure to visit the BDA booth #60.



# QUESTIONS?



@investBermuda #BDACaptive

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Post questions in webinar chat

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