



The secret to our success

Anthony Travers of Cayman Finance explains why the Cayman Islands has weathered the financial storm so well

The captive insurance industry continues as one of Cayman's quiet success stories. Still ranked number two in the global offshore standings, it epitomises the maxim "as number two we try harder" and continues to thrive. Remarkably, throughout the recession, the Cayman insurance industry has maintained its rate of growth with the modest assurance of a mature financial industry.

When it comes to healthcare captives, Cayman continues to rank as the leading jurisdiction – a position it has maintained for more than two decades. Our jurisdiction is now home to 729 captive companies overall, with total premiums of \$7.51bn and total assets of \$42.36bn.

In addition, and one of the keys to the overall standing of the industry, Cayman hosts a highly developed insurance management infrastructure, well populated with experienced insurance professionals. Cayman has 33 fully staffed, licensed insurance managers actively engaged in providing the complete range of insurance-related services. Furthermore, in terms of the highly technical legal and accounting infrastructure that is necessary to structure the catastrophe bond vehicle, we find that Cayman is again the leading domicile. Since the first catastrophe bond launched in Cayman in April 2007, the popularity of these regulated and completely transparent

vehicles has taken off, climbing to the current \$7.7bn listed on the Cayman Islands Stock Exchange (CSX).

Getting it right

So what is Cayman's secret? Critics of the offshore jurisdiction would be well advised to look at Cayman's industry as a case study in how to get it right. Cayman shines in the captive insurance industry by doing the simple things consistently and although moving with international standards, doing so in a manner that is true to its core philosophy.

Most importantly, in Cayman our industry is operated in a fully regulated and transparent manner with a focus on flexible, but relevant regulation. This statement is likely to raise the eyebrows of those who believe that regulation must be overbearing, intrusive and inflexible to be effective.

Cayman's approach has created an industry that has developed a consultative relationship with the regulator and the result is a business-friendly, appropriately regulated system that has been notably free of the failures that cyclically characterised, for example, the heavily regulated US domestic banking and insurance industries. Appreciating the time and knowledge required to reach this level of efficiency, the Cayman Islands Monetary Author-

ity (CIMA) has actively participated in setting international regulatory standards and sharing best practices for insurance globally. It was also a founding member of the International Association of Insurance Supervisors (CIMA sits on the Market Conduct sub-committee, the Pension Reform sub-committee and is a lead validator on the international Multilateral Memorandum of Understanding – MMOU) and the Offshore Group of Insurance Supervisors.

Cayman's tax pledge

By comparison, the position in a number of US states looks less sympathetic. One US state in particular has opened its doors to the captive industry, but has, for various reasons, found it necessary to outsource its regulatory function. Comparing this to Cayman, where our developed regulatory regime has worked as it ought to (as shown, for example, by the fact that not a single financial institution failed in the Cayman Islands as a result of the financial crisis), we conclude that there exists unjustified mischaracterisation as to both the strength and credibility of the Cayman regulatory regime.

It is ironic that the main source of competitive pressure for Cayman's captive industry emanates from the onshore captive domicile states in the US, which caught on to the fact that lower taxes attract business



conversely the reduction in the cost of capital provides more coverage and more reasonable premiums for the insureds, and particularly those working in high-risk industries, where commercial insurance costs would be prohibitive or make coverage unavailable.

Throughout the financial crisis, Cayman has remained true to its core philosophy and has rejected all suggestions to introduce direct taxation. This fundamental continues to underpin the jurisdiction's attraction and Cayman is now unique among the offshore financial jurisdictions in not applying corporate income, capital gains or indeed payroll taxes.

national organisations such as the OECD that see a pan-global tax and the end of tax competition as the end game.

In addition to signing exchange agreements, Cayman has just introduced amendments to the Insurance Law (2010), which have taken into account recommendations made by the International Monetary Fund during its last review of Cayman. The takeaway points from the update to the legislation are these: it has allowed for two new categories of insurance companies, effectively creating new markets for class B insurance companies; it has strengthened international co-operation and CIMA's enforcement powers; it has formally

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opportunity, more employment opportunities for their residents and thereby generate higher tax revenues. That momentum received a boost over two decades ago when domestic changes to US tax law denied tax deductibility for reserves. That, in turn, occasioned the re-domiciliation of a number of Cayman captives and a good deal of commentary about the imminent demise of the offshore captive insurance industry. No doubt growth was affected, but the position today indicates that rumours of our demise were grossly exaggerated. Indeed, as onshore regulation has developed in a manner that is increasingly restrictive (and post-AIG is likely to become more so) the trend has been reversed and now favours the more intuitive and case-by-case regulation that is the hallmark of the Cayman regime.

This shift of favour has taken place despite the claims that tax-neutral jurisdictions like Cayman, which do not add an additional layer of taxation to the transaction, are somehow competing unfairly. Reducing or minimising the tax burden on an industry which assumes its own risk, and which has developed by recognising that increased economic efficiency improves the ability to eliminate pricing inefficiencies of commercial insurance markets, is a core fundamental of a successful and competitive insurance product. Taxation increases the cost of capital by making less of it and

Agreements and amendments

The Cayman regulatory regime continues to evolve on the international front. In taking the steps to implement a transparent tax regime, the signing of 20 Tax Information Exchange Agreements (TIEAs) in accordance with the Organisation for Economic Co-operation and Development (OECD) initiative has provided competitive advantages for the development of new markets in, for example, Canada. Cayman and Canada signed a TIEA in June 2010, and as the increased transparency provided by Cayman has become incontrovertible, any question in the minds of the Canadian public and Revenue Canada that Cayman is a credible jurisdiction with a legitimate place in the financial world has been allayed.

This dynamic has been repeated in important new areas for market expansion including Australia, the UK and Scandinavia. This sits well alongside the regulator-to-regulator disclosure that results from the full International Organization of Securities Commissions (IOSCO) membership accorded to Cayman, and renders suggestions about non-transparent offshore jurisdictions unsustainable when levelled at Cayman. No doubt these mischaracterisations persist, but on analysis they are found to be rooted either in blame-deflection by domestic politicians, regulators or inter-

recognised the different types of insurance entities and has instituted different regulatory levels to each, following a risk-based approach to regulation.

In a world where it appears that all logic has been exorcised from the concept of regulation, this is a refreshing result. Most importantly, the 2010 update to the Insurance Law has outlined a strategy for attracting reinsurance business to Cayman, which is a welcome addition to the basket of Cayman financial services.

If I might indulge in a little crystal ball gazing, I remain confident in saying that the stars are well-aligned for the continued growth and sustainable development of Cayman's insurance industry. ☺

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