

BERMUDA CAPTIVE INSURANCE UPDATE

David J. Doyle – July 2009

Bermuda continues to maintain its dominance in the captive insurance world. Whilst the general media coverage of Bermuda insurance companies is mostly concentrated on Bermuda's large publicly-listed Class 4 and Class 3B commercial insurers, it is the captive insurance sector which has been, and continues to be, the mainstay of Bermuda's insurance "industry".

There are currently more than **1,140** licensed captives in Bermuda with combined total assets of over **\$84 billion** writing over **\$19 billion** in annual gross premiums. The global captive market continues to expand with Bermuda maintaining its position as the world's largest domicile.

The Bermuda Monetary Authority ("BMA"), in conjunction with the Bermuda Insurance Managers Association ("BIMA") has collected data¹ from Bermuda insurers in respect of the 2008 financial year, which data provides a very interesting and comprehensive survey of the size and composition of the captive insurance market in Bermuda.

In this age of increased financial and regulatory transparency, it is noteworthy that there is no other captive jurisdiction in the world that has pulled together and disseminated the type of market data that is available in Bermuda.

Overview of Bermuda Captives

Types of Captives

Bermuda has a three tier captive insurance classification system: Class 1 captives are single parent companies writing only the exposures of their parents or affiliates(s); Class 2 captives are single parent or multi-owned/held companies that have the ability to write unrelated risk up to 20% of gross written premiums; and, finally, Class 3 captives are companies which have the ability to write over 20% of their total gross premium in unrelated risk.

Wholly-owned/single parent or "pure" captives (Class 1 insurers) continue to be the most common kind of captive formed in Bermuda followed by association captives and group captives (Class 2 insurers) which include agency captives and captives writing "connected" business. The most significant increase in the captive area seen in Bermuda in recent years has been the formation of rent-a-captives (typically registered as Class 3 insurers), many of which are also registered as segregated accounts companies.

Ownership of Bermuda Captives

About 71% of Bermuda captives (814 companies) are owned by companies located in North America, with 14% (162 companies) owned by European based companies and the balance (173 companies) owned by companies domiciled in other regions of the world.

¹ The Author would like to commend Mr. Marcelo Ramella and Mr. Traver Alexander at the BMA and also BIMA for their efforts in pulling together the 2008 data and thank them for their kind permission for the use of some of it herein. The statistics mentioned in this article are based on provisional figures for 2008. It is anticipated that in due course the BMA will publish a final report on the 2008 financial year on its web site.

Financial Information

Based on the filings prepared for the 2008 financial year, Bermuda captives held total assets of over **\$84 billion** with Class 2 companies holding **\$40.59 billion**, Class 1's **\$18.09 billion** and Class 3's **\$25.44 billion**.

Loss Reserves

The 2008 data shows that statutory capital and surplus of Bermuda captives exceeded loss reserve provisions. Under Bermuda regulation, the minimum statutory capital and surplus must be at least 10% (Class 1 and 2) of the loss reserve provisions and 15% for Class 3 captives. The data shows that Class 1 captives have significantly exceeded 100% of the loss reserve provisions and in the case of Class 2 and 3 captives the percentage has never been less than 60 % in recent years.

Written Premiums

In 2008, Bermuda captives wrote approximately **\$20 billion** in gross premiums ("GWP"). This is broken out as follows: Class 1: **\$4.41 billion**; Class 2: **\$8.26 billion**; and Class 3: **\$7.11 billion**.

Reinsurance

The Bermuda market has consistently retained three quarters or more of its total GWP utilising about one fifth to one quarter of the GWP to purchase reinsurance coverage.

The data shows that Class 1 and 2 captives have tended to retain close to the market average and above the market respectively, with Class 2 captives in particular maintaining a high rate of retention in recent years. In contrast, the rates of retention for Class 3 captives have fallen below the market average.

Where does the risk originate

The majority of the risk assumed by Bermuda captives originates from North America; however, whilst North America continues to be the most significant region in terms of business origin, other regions including Europe, the Caribbean and South America also make up increasingly important business locations for Bermuda's captive book of insurance.

Lines of Business

Many captive companies reinsure other insurers in order to accept all or a portion of the risk associated with certain policies where the primary, or original, policy must be issued by a (fronting) carrier licensed in that jurisdiction or where the coverage requires active insurance services. It is estimated that Bermuda captives wrote over **\$6 billion** in gross premiums for "fronted business" in 2008 which represents about **35%** of all insurance and reinsurance business written by Bermuda captives.

In terms of the breakdown by line of business written, in 2008 Bermuda captives wrote an estimated **\$12.87 billion** in **casualty** business, **\$6.34 billion** in **property** business and financial and all other lines of business amounted to some \$600 million. Interestingly, Bermuda captives wrote a significant majority, **65%**, of its premiums in casualty business, about **32%** in property and **3%** in other lines.

Drilling down into the lines of business, within the casualty coverage, the most significant casualty lines of business are general liability, workers' compensation, products liability, auto liability and medical malpractice.

The property coverage line is broken out as between property damage and business interruption, all risks to equipment, marine hull and cargo, aviation hull and cargo, and product warranty.

Conclusion

In summary, 2008 saw modest growth in gross written premiums in Bermuda with continued regional diversity of risk. The 2008 data underscores the stability in the balance sheet positions of Bermuda's captives with nearly two-thirds of their assets held in cash and quoted investments and with capital and surplus well in excess of Bermuda regulatory requirements.

The competition amongst the world's captive domiciles for new and existing captive insurance business has never been greater but, given the depth and experience of Bermuda's professional service providers coupled with a knowledgeable and responsive regulator and a sensible and effective regulatory environment, Bermuda should continue to maintain its status as the world's domicile of choice for captive insurance business.

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This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information.

About Conyers Dill & Pearman

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