

CAPTIVE | REVIEW

Bermuda 2008



Blue skies ahead

Talk of a stormy global market has not affected Bermuda's status as the world's premier captive domicile

A multifaceted insurance market

Carl Daly of Paget Re discusses Bermuda's rent-a-captive industry and why remains the market's benchmark



Carl Daly is president and chief underwriting officer of Paget Re, a rent-a-captive company within the ACE Group. Daly, who has over 30 years' experience in the insurance industry, is responsible for the general management of the ACE Group's rent-a-captive operations.

PAGET RE provides rent-a-captive facilities to a global clientele. Paget's president, Carl Daly, spoke to *Captive Review* recently about the island's rent-a-captive services and the advantages they can afford potential captive owners.

Captive Review (CR): What benefits does a rent-a-captive offer the prospective captive owner over other available self-insurance options?

Carl Daly (CD): When a client comes to insure its risks through a vehicle it controls, it must first decide whether to buy said vehicle or to rent it. Increasingly, the complexities of forming a single parent captive are significant enough to sway the decision in favour of using a rent-a-captive. The costs involved in using a rent-a-captive are usually lower than incorporating a single parent captive but this is not the main benefit. The simple fact that a client is not setting up a subsidiary reduces the governance burdens considerably and allows the client to benefit from that other commodity in limited supply – time. Moreover, the client does not have to worry about having the necessary expertise in-house to run the captive as management services are all part and parcel of the rent-a-captive structure. Clients are increasingly concerned with the number and complexity of subsidiaries they have, particularly non-operating

company, financial subsidiaries. Investors reward simplicity and transparency. With a rent-a-captive approach versus a single parent-owned captive, companies can both retain risk efficiently and keep their subsidiary structure less complicated and focused on their core business.

CR: What are the various structures of rent-a-captive available in Bermuda, and which types of clients are they appropriate for?

CD: When I arrived in Bermuda in 1980 the rent-a-captive industry was already thriving. The prevalent structure at the time required participants to hold non-voting preference shares. In turn, profits for each programme were distributed by paying dividends to the named preference share holders. Rent-a-captive facilities of the time did not offer legal segregation of accounts. The traditional structure, although still in existence, has been surpassed in popularity by rent-a-captives formed under the SAC legislation. These facilities are typically owned by insurance companies or insurance brokers. The programme structures found in rent-a-captives today are as numerous and varied as those found in the wholly-owned captive market. Programmes can be structured to insure risks directly, where legally permitted, or as reinsurance of a licensed fronting insurer. Participants can fully retain the risk or pur-

chase reinsurance. Segregated accounts can be owned by the insured or by a third party who produces and controls the business. There is no doubt that the use of rent-a-captives is growing. Ownership of segregated accounts is no longer just for the North American market, it is now international. I see the US-based mid-market account still benefiting from rent-a-captives but I also see large corporations and multinationals selecting the rent-a-captive route. US-based managing general agents will continue to utilise rent-a-captives but so will their peers from around the world. A rent-a-captive is also the ideal vehicle to use if you are in need of a short-term solution to solve an immediate risk financing problem. In such a situation you may not have the time, or indeed the desire, to incorporate your own captive. Using a rent-a-captive means a client can insure its risks in a segregated account in a matter of days or weeks. The risks can remain in the rent-a-captive as long or as short as the situation requires.

CR: Do you think Bermuda is likely to introduce ICC legislation? What do you think would be the main advantages of this?

CD: The Segregated Accounts Companies Act was enacted in 2000 and has since been amended twice. I have no doubt that Bermuda will continue to improve the leg-

isolation as and when it is necessary and will keep developments such as this in other jurisdictions under active review. However, the beauty of the Bermuda legislation is that it is proven to be effective in practice and provides participants with what they want – a secure alternative to forming a wholly-owned captive. In my opinion, there is no compelling reason, at this point in time, for Bermuda to amend its legislation to permit incorporated cells.

CR: Why choose a Bermuda rent-a-captive over one available in other offshore jurisdictions?

CD: The number of domiciles increases every year, and they all have their pros and cons. Bermuda however, is still the market leader and the world's largest captive and rent-a-captive market. It is also the only domicile that has a truly multifaceted insurance and reinsurance market and benefits from an infrastructure built up over 60 years in the international insurance market.

CR: What sets your offering apart from others available in the rent-a-captive market?

CD: Paget is named after a parish in Bermuda and is proud to be a member of the ACE Group, a company that has been headquartered in Bermuda since 1985 and which has grown to become one of the strongest and most respected global insurers. There is no doubt that Paget benefits from ACE's ability to effectively manage global insurance programs. ACE is a licensed insurer in over 50 countries and provides access to a further 100 countries through agreements with other, non-affiliated companies. Paget also benefits from the depth of knowledge and experience that can be found within ACE, whether it is in providing its underwriting expertise and administrative capability, or its claims management and risk control services. Most importantly, Paget adheres to the ACE Group standards with respect to compliance.

CR: Does fronting come bundled as a matter of course with your rent-a-captive offering?

CD: No, we do not only offer our service to ACE clients. At Paget Re we certainly believe that our main competitive advantage is being part of the ACE Group but



recognise that ACE is not the perfect fit for every risk.

CR: I understand you have just incorporated a rent-a-captive named after another Bermuda parish, Pembroke Reinsurance Inc. Can you elaborate?

CD: Although named after a Bermuda parish, it is, in fact, a Delaware-licensed protected cell captive. We chose Delaware based on a review of their captive legislation, tax structure and regulatory environment. The fact that a preponderance of US corporations are registered in Delaware was also a positive factor. The reason for forming an onshore facility was simply to provide clients with greater choice and flexibility. Depending upon client preference or other factors, a US-domiciled protected cell captive may be a client's preferred way to retain their risks. In choosing the Bermudian name, we wanted not only to recognise ACE's heritage but also the part played by Bermuda in the alternative risk market in general.

CR: What makes the SAC the vehicle of choice for rent-a-captives in Bermuda?

Do you believe this trend will continue?

CD: At the moment the Bermuda SAC model is the best product available. Knowing that the concept is written into law provides buyers with the necessary level of additional security that they need to make a decision. The old adage of giving the customers what they want applies to the world of rent-a-captives as well.

CR: What can we expect from Bermuda's rent-a-captive market over the next 12 months?

CD: Even with the softening market conditions, I expect the number of rent-a-captive participants to increase in Bermuda over the next 12 months. I also see a greater diversity in the type and size of risks being written, as well as seeing companies from a greater number of emerging economies taking advantage of the Bermuda facilities. Also, should an external event cause the cost of risk to rise sharply globally, I can envision significantly increased activity in the rent-a-captive arena. One of the greatest benefits of a rent-a-captive is their 'ease of entry'.

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