GIBRALTAR: THE CAPTIVE DOMICILE FOR THE EU

Michael Ashton, of the Finance Centre, Government of Gibraltar, gives his thoughts on what makes Gibraltar an attractive EU domicile for captives

Gibraltar is a long established European Union (EU) captive domicile with many years of experience in running and managing captive insurance companies. Gibraltar has a vibrant and growing insurance sector which has grown from just 13 licensed insurers in 2000 to the 55 insurers currently licensed to write new business. In 2011 the total gross premium income written by insurance companies in Gibraltar was £3.2bn and these companies held assets of over £7.5bn. Collectively, the captive insurance companies accounted for almost £500m of the £3.2bn written in 2011.

Unlike certain other European financial centres which are predominantly captive domiciles, the majority of the insurance written in Gibraltar is non-life, with motor the dominant class of business. Gibraltar motor insurers currently write over 10% of the total UK motor market, utilising Gibraltar's EU membership which confers passporting rights in insurance, insurance mediation and reinsurance across all EU and European Economic Area (EEA) countries. Household names such as Arriva, Dixons, Severn Trent, and Tate & Lyle have all chosen Gibraltar as a domicile for their EU captives.

Choosing an EU captive domicile

A major consideration for a new captive owner when choosing a European location is whether to establish the business inside or outside of the EU. The capital requirements within the EU are more onerous than offshore locations but captive owners wanting direct access to EU markets are prepared to invest to take advantage of the operating flexibility and benefits that an EU jurisdiction such as Gibraltar offers.

MICHAEL ASHTON has worked in the insurance industry for over 20 years. He spent 15 years in the Lloyd's Market in a number of senior management roles including COO of ACE Global Markets, at the time, the largest insurance syndicate at Lloyd's. Michael is a qualified chartered accountant.

What Gibraltar has to offer:

A competitive timeframe for the authorisation and licensing of a new insurance company.

The Financial Services Commission (FSC) is Gibraltar's financial services regulator and one aspect of its work is to monitor the extent to which Gibraltar legislation and supervision complies with European Union obligations. The FSC undertakes to process insurance applications for authorisations in timeframes that are well below the statutory six month requirement. The service level standard for insurance companies is 18 weeks and provided an applicant makes a full and comprehensive submission with all accompanying documents, it should be possible to establish a licensed insurance company within six months.

There is general consensus that the FSC is an accessible regulator and that requests for changes to a licensed insurance company's business plan are reviewed in a timely yet robust manner. As regulation becomes increasingly more onerous for insurance companies and the industry demands swifter decisions in an ever faster and competitive business environment, the ability to be able to access an insurance regulator is a key factor in the choice of an insurance domicile.

A wide range of insurance expertise and skill sets.

Gibraltar insurance companies write life, non-life and captive business and therefore the insurance community has the skills and connections to assist captive owners with the front-end solutions required in writing direct third-party business.

This is an increasingly important aspect for captive owners when choosing a captive domicile or deciding on how best to maximise the capital they have employed within the captive. There are eight licensed insurance managers in Gibraltar including two of the three largest global insurance managers together with independent companies.

These managers play a key role in supporting the captive owners and assisting them in evolving and developing the insurance operations of the captive including:

- **Risk management** – the importance of integrating the captive within a group's overall risk strategy should not be underestimated. The captive can offer an effective focal point for the collation, management and dissemination of insurance information, particularly where global programmes are managed via the captive rather than different countries or regions independently purchasing their own insurance protections.
- **Direct writing** – Captive owners are increasingly looking to maximise capital value and one way in which they can do so is to widen

the use of their existing captives to write direct business. Thus an energy company may write boiler insurance. Subject to regulatory approval there may be opportunities to write insurance for sub-contractors in owner-controlled programmes, insurance policies for joint ventures or insuring employee benefits such as medical benefits, personal accident and permanent health insurance. In addition to providing an opportunity to write additional revenue, the ability to write direct third-party owner business reduces the need for fronting arrangements. Thus leakage of income to the fronting company and the need for funds to be tied up with the fronting company's security requirements are both reduced. Importantly, in a world where responsiveness is a key business requirement the ability to make swift decisions to react to changing market conditions is paramount. The captive can quickly introduce changes to products and rates without the need to go through a fronting company's compliance department.

• **Behavioural change** – There is no doubt that changing employees' behaviour can lead to better risk management and lower claims frequency. Captive owners are increasingly employing more sophisticated methods to maximise the value of their captives within the overall risk management of a business. Rather than operating the captive in a passive manner whereby higher claims frequency in one particular year leads to higher premiums in the subsequent year, the "insurer" is taking a more active role in contributing to better risk management. One captive in Gibraltar has recently agreed to fund half the cost of a training programme within the wider business. Changes that incentivise future behaviour rather than penalise past performance are increasingly deployed to achieve better risk management and thus lower the overall cost of risk.

The professions supporting the Gibraltar insurance market

Three of the 'big four' audit firms have operations in Gibraltar as do a number of other leading accountancy firms and there are also independent local firms. Insurers' legal requirements are well served with a wide choice of well qualified legal practitioners and 16 banks and building societies are currently authorised by the FSC. Two major UK banks and two major Swiss banks offer a comprehensive range of products and services to the Gibraltar insurance sector. One of the Swiss banks, a traditional private bank, has expanded beyond what many would consider the usual territory of a private bank with a local team of equity and fixed income specialists that carefully analyse the needs of an insurer before structuring an investment strategy to meet its liquidity requirements.

Such institutions are experts in their field and fully understand the regulatory environment with which insurers need to comply. This extends to preparation for Solvency II and the complex future which insurers will face when it comes to maximising investment returns and risk. Thus Gibraltar can provide new captive owners with an in-depth and truly world class investment process and methodology as part of the overall professional services "package".

Protected Cell Companies (PCCs)

Three of Gibraltar's captives are protected cell companies (PCCs) which collectively manage 32 cell companies. In addition, there are two PCCs writing life insurance business. Gibraltar was the first EU jurisdiction to offer protected cell companies legislation in 2001 and as a result, Gibraltar PCCs are widely used. The innovative nature of the PCC has led to one insurance manager creating almost 50 cells and its PCC is the largest in the EU, providing solutions for both cell captives and fronting cells.

There is a market requirement for EU captives that can (i) cede European risks where the parent is not licensed to write direct insurance in Europe and (ii) access reinsurance markets. Gibraltar expects to build on its reputation as a gateway to the EU in the future.

The cost efficiencies of using a cell captive, as opposed to a standalone captive, together with the continuing uncertainties surrounding the implementation of Solvency II and its impact on the formation of new EU-domiciled captives in recent years, is likely to ensure Gibraltar's existing PCCs continue to expand over the next few years.

In summary, Gibraltar's insurance expertise, speed to market and the professional services that support the insurance sector make it a very attractive EU insurance domicile for new captive insurance companies and PCC cells.

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> MICHAEL ASHTON, GOVERNMENT OF GIBRALTAR