

# ***Offshore But Not Off the Table: Why Offshore is Still a Viable Option***

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## *The offshore advantage*

With more than 5000 captive insurance companies operating globally, more than 75% are formed in domiciles out side of the country of incorporation of the insureds.

Why is that?

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## ***The offshore advantage***

We believe the primary influencers of where a captive insurance company is established is based on the following factors:

- Expertise of regulatory environment
- Expertise of service provider community
- Structural flexibility
- Taxation
- Ease of access to reinsurance markets
- Risk manager preference
- Insurance broker preference
- Reputational risk to the sponsor
- Reputational risk of the domicile

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## ***The offshore advantage***

Expertise of regulatory environment – for the significant offshore captive domiciles, the quality and experience of regulation is high

- Why is it important – been there/done that – expertise in your types of program
  - Cayman Islands – health care
  - Bermuda – property/casualty/liability
  - Barbados – Canadian risks
  - Global reputational risk
  - Bermuda was granted Solvency II equivalency

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# ***The offshore advantage***

## Regulatory environment (cont'd.....)

- **Regulatory duplicity – is the captive regulator the traditional insurance regulator?**
- **Regulatory reporting burden – NAIC?**
- **30+ domestic domiciles – where are the regulators coming from**

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## ***The offshore advantage***

Expertise of service provider community – for the significant offshore captive domiciles, the quality and experience of the service provider community is high

- The legal community has deep experience in captive insurance
- The captive managers are affiliates of the significant insurance brokers/large independent captive managers
- Are the large accounting firms represented – do they have specialist resources?
- How many captive insurance clients does your lawyer, captive manager or auditor have?

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## ***The offshore advantage***

Structural flexibility – most of the significant offshore captive domiciles provide a number of structuring options

- Separate enabling legislation/regulatory environment for specific types of insurance companies
- Segregated accounts company legislation
- Incorporated cell legislation
- Restrictions on cell sponsors
- Related party investment flexibility
- No requirement for a 24 hour demand note
- Speed of response to legislator/regulatory developments, changes and needs
- Risks that might otherwise be uninsurable?

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## ***The offshore advantage***

**Taxation – most of the significant offshore captive domiciles provide the ability of the insurance company to be taxed at the either the entity or shareholder level**

- **Offshore captive domiciles offer low or no entity taxation**
- **Domestic captives are generally “per se” corporations and subject to two levels of taxation**
- **Some offshore captives have the ability to elect to be taxed as either a U.S. corporation or not at all**
- **Shareholders may be subject to tax currently (CFC/RPII CFC/PFIC rules) – familiar taxation for businesses operating in partnership or S Corporation form**



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# ***The offshore advantage***

## **Taxation – Continued**

- **Group captives and risk sharing pools are often facilitated**
- **Offshore domiciles generally do not impose premium taxes**
- **Offshore domiciles are one step removed from the Internal Revenue Service**
- **Can be a significant issue if non U.S. parties involved**

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## ***The offshore advantage***

Ease of access to reinsurance markets – significant reinsurance markets are available offshore

- Bermuda offers a significant reinsurance market
- Cayman is home to a number of global reinsurance companies

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## ***Presenters***

**Damian Pentney**

*Audit Partner – PwC Cayman Islands*

*damian.pentney@ky.pwc.com*

*+1 345 914 8622*

**Richard E. Irvine**

*Offshore Tax Leader – PwC Caribbean Region*

*richard.e.irvine@bm.pwc.com*

*+1 441 299 7136*

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# *Questions*

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