



BARBADOS: INSURANCE DOMICILE OF CHOICE

Sir Trevor Carmichael, Q.C. at Chancery Chambers, discusses the systems within Barbados which make the island a choice insurance domicile

Barbados's introduction of captive insurance legislation in 1983 was a recognition that its economic diversification required a well-regulated and competitive captive insurance sector. For inasmuch as the jurisdiction had continued to experience a long tradition of a vibrant and transparent domestic insurance industry, it was only natural that a foray into this new product line was a *sine qua non*. This history of domestic insurance in the jurisdiction was supported by major local companies with strong global reinsurance partnerships, as well as a local supervisory framework which gave strong support and guidance to all the elements within the insurance market.

At the dawn of the new captive insurance industry, the jurisdiction was able to benefit immediately from the arrival of some of the world's largest insurance and reinsurance entities as they chose to set up local subsidiaries and affiliates. This immediate action by prestigious entities such as Swiss Re and the new Energy Insurance Mutual was predicated not only on the jurisdiction's treaty transparency and potential utilisation, but also as a result of its insurance history and overall reputation for good governance. Gradually, more entities have emerged with parent companies not



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only in the United States, but also in Canada, Mexico, Venezuela, Colombia and Panama, as well as from within other more multilayered jurisdictional structures. In most cases, Barbados's double tax treaty network, as well as the transparency and trust of the jurisdiction, are the key facilitating reasons for this choice.

Ease of establishment

It is the usual practice to make a tentative application for the licence by way of submitting basic preliminary information to the Financial Services Commission which should include the following: the licence application form duly completed; a business plan of the proposed company, both narrative and numbers; proforma projected financials for the company's first four years of operations; a list of the company's proposed directors including their full names; date of birth; place of birth; business experience; occupation; citizenship and other directorships held; Articles of Incorporation; and Financial Statements of the parent company. Upon the approval of these documents in the form of an application, permission is given to incorporate the company. It will normally take about two to three weeks for this approval to have been given to the applicant.

Permission is later given to incorporate the company whereupon it is capitalised and the Auditors' Certificate and Opening Balance Sheet presented. In submitting these documents along with the previous required items, the practice is to submit a copy of the proposed management agreement and the application and licence fee of BDS\$20,500 (US\$10,250). The licence will then be automatically granted. The



full process may take between three to four weeks after submission to the service provider of all relevant information and if the application is clear cut; if there are no potential obstacles; and if the proposed entity is a viable one. The fees payable to Government on formation are BDS\$780 (approximately US\$390). There is also a fee payable to the auditors for confirming the balance sheet and rendering the statement to the Financial Services Commission. While the minimum capital requirement is BDS\$250,000 (approximately US\$125,000), it will naturally help the application if the company is capitalised with more than the bare minimum. The company will be required to maintain certain solvency levels and appoint a Resident Representative to ensure such solvency to the Financial Services Commission. The company's Barbados Manager will generally provide this function.

The segregated cell company

Barbados further enhanced its legislative framework, specifically in respect of insurance services, to provide for both the ability of a body corporate to establish and maintain separate accounts, and also the establishment of segregated cell companies (SCCs). It has developed a legislative model in keeping with the well-established principles of Barbados corporate law with insurance sector specific safeguards in

accordance with prescribed and accepted international prudential standards of regulation. Hence, there are regulations for the protection of investors, the protection of policy holders, the protection for persons to whom a fiduciary duty is owed

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by the insurance supplier, as well as the assurances as regards the integrity and stability of the insurance system. The specific purpose intention in respect of the development of SCCs was the ‘rent-a-captive’. Barbados’ legislative amendments were therefore intended to allow and encourage the establishment of the offshore ‘rent-a-captive’ insurance vehicles without the need for the creation of detailed creditor/insulated series shares.

The recent resurgence in the Rent-A-Captive is represented by a company with minimum capital and surplus requirements but which is licensed to ensure that each cell transaction may be under letter of credit, capital, reinsurance or some other form of acceptable guarantee. Indeed, the

Barbados legislation allows for the creation of legally separate cells without recourse to the other cells or to the core of the company. Some of Barbados's recent insurance cellular structures have also readily recognised the importance of Credit Ratings

since they provide a fair opinion of an insurer's financial strength and ability to meet its ongoing insurance policy and contract obligations. Such a rating is enhanced by its market penetration often reaching more than one hundred thousand insurance industry professionals directly from the Credit Rating Agency; and thousands of financial professionals worldwide by way of news vendors such as Reuters and Dow Jones. As

the insurance industry and capital markets continue to merge even closer, the value of rating remains a key component of the new rent-a-captive structures which the jurisdiction continues to attract.

Canada reaffirmed

Barbados remains poised to benefit from its well-established insurance tradition, its strong regulatory ethos of trust and transparency as well as a long business and cultural history with Canada. For not only is Barbados the third largest recipient of Canadian foreign direct investment, but their mutual legendary tax treaty relationship has been a boon and benefit to both jurisdictions over the many years of cooperation and collaboration. ☺