

SUN SHINES ON BARBADOS

After Barbados was recognised as the fifth largest domicile in the world, and fastest growing offshore domicile in our 2022 World Domicile Update, Kirk Cyrus, managing director at SRS Barbados, talks to *Captive Review* about the enduring appeal of Barbados for captives, and how it will keep growing this year

Captive Review (CR): Where will the main areas of captive growth for Barbados and the other Caribbean domiciles be in the next few years? In terms of lines going into the captive, the types of new captive being created, the sectors of the parent creating the captive and its location?

Kirk Cyrus (KC): The most recent industry statistics from the Financial Services Commission highlight that 50% of captives in Barbados are Canadian-parented, and along with the USA account for approximately 74% of total licensees. These entities have been insuring traditional property and casualty (P&C) exposures but, in recent times, risks associated with environmental liability, product recall, weather and various business risks have been included.

Most of the business plan discussions post-pandemic have centred around providing coverage for supply chain disruptions and the cost of cyber-attack and fraud due to changes in working arrangements, notably cyber, as well as directors and officers (D&O) liability.

From a US perspective, there has been the establishment of private placement life insurance utilising segregated cell companies and offering private placement variable annuities for global investors (individuals and institutions).

In other instances, licensees have been reinsuring fixed annuity contracts for US residents fronted by admitted insurers in the US. Prior to this, licensees were providing personal financial protection in the form of disability insurance as multi-generational welfare, disability and long-term-care policies.



Kirk Cyrus

Kirk Cyrus is the managing director of SRS Barbados. He has over 20 years of experience in the Barbados captive management industry. In this role, Cyrus oversees a portfolio of 30 companies and nine staff, all located in Barbados. He is responsible for business development and management of SRS's captive and insurance management business.

The use of captives in the estate planning realm is therefore a developing theme. Latin America remains a market of interest, not least because several Canadian multinationals, with captives, have significant mining interests in that region. The outbound investment to Barbados from Latam has largely been in the form of short-tail P&C. Startups from Latam have been in the form of segregated cell companies driven by their preference for ease of setup and reduced ongoing costs, while Barbados has also witnessed an interest in the licensing of commercial entities with Latam beneficial ownership seeking to provide capacity to the region.

CR: Why do you think captives are still attracted to Barbados?

KC: The Barbados brand has been built around its sound business environment, facilitated through a continuously expanding double-taxation treaty network. Barbados has long-standing treaties with Canada, the UK and the US.

The country has however, been actively

seeking to expand its international business activity within Latam. Apart from treaties with Mexico, Panama and Venezuela, there have been various stage discussions for double-taxation treaties with several other Latin countries within the region including Brazil, Colombia, Chile and Costa Rica. The country's recognition within Latam as a captive jurisdiction continues to grow, with its incorporated cell company legislation attracting interest among the owners of privately held conglomerates in Latam.

Apart from this, the country is cited as having a sound infrastructure with a depth of service providers including experienced insurance management companies, banks, investment companies, auditors and lawyers. This business environment is supported by right-sized regulation and governance, an educated and experienced local workforce, along with low-cost and capital obligations and flexible solvency requirements. Additionally, there is no restriction on the type of insurance business that can be underwritten. What Barbados offers captive owners is certainty of legislation, transparency and regulatory compliance within a framework of international best practice.

CR: What are the main threats to the offshore Caribbean and Bermuda domiciles?

KC: The main threat remains the perception by the Organisation for Economic Co-operation and Development (OECD) and members of the European Union that the region is being used by large multinationals to shift their revenue to reduce

their tax liability, and by individuals to engage in illegal activities.

Barbados remains on the grey list of the OECD's Financial Action Task Force (FATF) in relation to perceived weaknesses in its anti-money laundering and counter-terrorism financing and PF framework. The ability of the country to remedy this perception continues to be the biggest near-term threat to its global insurance sector.

The FATF flagged the establishment and resourcing of a new compliance unit under the country's AML authority for designated non-financial business and professions supervision; a greater demonstration of access to beneficial ownership information regarding legal arrangements; and reducing the backlog of criminal cases including money-laundering prosecutions as the specific deficiencies of concern.

The ability of the country to quickly address the perception that it could become unwittingly involved in the misuse of companies, trusts, foundations and other types of legal arrangements leading to money laundering, corruption and illegal activities is paramount.

From late 2018, Barbados has invested heavily in the convergence of its domestic and international taxes to do away with perceived 'ring-fencing' and 'special regimes' as a result of the BEPS Action 5 peer review of the country by the OECD's Forum on Harmful Tax Practices (FHTP).

This was in addition to the digitisation of processes, permits and records to specifically ensure transparency of beneficial ownership information with respect to legal 'persons' and business arrangements. The EU has similarly imposed widespread economic substance requirements on International Financial Centers (IFCs) as a pathway to a global OECD standard.

The presumption is that business transactions must have a substantial purpose other than simply the reduction of tax liability, as well as an economic effect other than reducing taxes in order to qualify for the tax benefits that it provides.

In Barbados, resident companies engaged in 'relevant activities', including captive insurance, are now required to satisfy an economic substance test. The test involves an assessment related to the extent to which the company is being directed, managed and controlled in Barbados; the level of relevant activity; and the ability to demonstrate the nature of this core generating activity (ie insurance).



It is clear that increasing regulatory oversight to satisfy the requirements of the OECD and EU is increasing the cost of running a captive insurance business, apart from adding further non-insurance complexities to business operations.

CR: How will the growing competition of new domiciles worldwide affect Barbados and the other offshore Caribbean domiciles?

KC: Barbados' principal source market remains mainly Canada. Licensees have existed for almost 40 years in some instances, reflecting a model that has clearly worked and likely to do so unless there are significant legislative and regulatory changes in either Canada or Barbados.

The challenge is therefore in securing business from regions other than North America in instances where there are newer domiciles both onshore and internationally competing for the same business. It will be difficult, if not impossible, for new domiciles to quickly replicate what established domiciles have secured and safeguarded for many decades.

In Latam, for example, captive insurance market penetration is low as many of the countries (eg Brazil, Chile, Colombia, Mexico and Peru) do not allow non-admitted insurance and require double fronting, which consists of a local carrier and registered reinsurer.

This has led to a race to seek non-traditional captive insurance solutions and

domiciles. It is instructive that many of these registered reinsurers in Latam originate outside of the region and the hemisphere. This is instructive that there will continue to be a challenge for Barbados and the Caribbean domiciles to wholly dominate these type of new captive insurance business opportunities.

CR: What factors do you think will most affect the Barbados captive industry in the coming years?

KC: Barbados has had a long history of political and economic stability. Together with an excellent education system and sound infrastructure, it offers an attractive environment for the provision of global financial services, including captive insurance management services.

The growth in the alternate risk financing space has been led in recent time by the establishment of segregated cell companies. This has allowed bespoke insurance solutions without captive owners having to deal with the complexities of running their own insurance company. The next steps for Barbados should be the further development of a legitimate reinsurance market, as well as providing an enabling environment that allows risk financing initiatives to interact with the capital markets. This has to be achieved through informed legislation and regulatory oversight to allow the domicile to take advantage of new opportunities. 