



SIIA CONFERENCE EXPERTS LOOK AT 2023 TRENDS

Written By Caroline McDonald

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With a widening knowledge of captives and a greater need for them in an ever-changing environment, businesses and a growing number of insurance industry professionals are looking to captives for long term stability for their risks.

At SIIA's 2023 National Conference, Oct. 8-10 in Phoenix, Arizona, industry experts will discuss different areas and trends in the captive insurance industry. Results of SIIA's 2023 Captive Survey will also be released.

Some preliminary observations of conference panel experts are discussed below.

EMERGING TRENDS

Bailey Roese, partner at Dentons Bingham Greenebaum LLP, who will serve on the panel for Emerging Trends in Captive Insurance, believes that captives are a well-established and valuable risk management tool.

“We are still seeing a lot of growth in the captive space,” she said. “I’m getting tons of calls.” This includes cyber and errors & emissions policies as well as growth in traditional coverages like general liability and property-casualty.

In the past, Roese said, “We had a niche of small captives, but we’re getting calls from larger insurers that want to form a bigger captive, so that speaks to the increased interest in captives.”

Their interest, she said, is partially driven by the hard market and the economy, “and certain lines of coverage disappearing in Florida and California, due to the extreme climate events we’re having.”

In hard-hit areas, insurers are pulling out of certain markets, because of extreme weather events and wildfires. “State Farm announced in January that it is stopping property coverage in Florida and has also exited the market in California,” Roese said.

This has led more companies to explore options to self-insure. “Captives are one of those options,” she said. “In the big picture I think there will continue to be a trend of more captives formed for property lines of coverage, and anything that is difficult to get in the commercial market for a consistent premium.” Added to that is the growing number of exclusions, Roese said.

Another trend, she noted, is the move away from § 831(b) captives – which have been targeted by the Internal Revenue Service – towards § 831(a). “It’s not clear whether the IRS will finalize rules surrounding § 831(b) captives as is or with some tweaks,” she said, “but we might see companies looking harder at whether they want to set up an § 831(b) or exit the one they have.

As it stands, she said, the only way to exit one “is to get a private letter ruling from the IRS, or they can wind down the captive. I think we will see people considering that. They can then start fresh with an § 831(a).”

Overall, “It’s an exciting time to be in the industry, it’s going to continue to grow,” Roese said. “It’s such a creative industry and people are always striving to answer questions, and it moves faster than the commercial market in response to emerging risks. It’s a great option for a lot of industries and businesses.”

UNDERSTANDING CAPTIVE STRUCTURE

Jeff Fitzgerald, vice president, employee benefits at Innovative Captive Strategies is a member of the panel, Understanding Captives: Structure, Risk and Ownership, which will discuss major issues facing captive owners, brokers, and captive management firms.

“While captive owners are more knowledgeable than they have been in the past,” he said, “The brokerage community is now the bigger driver of people’s participation in captives.” Brokers, he said, “are much more aware of captives as an option and more comfortable presenting them to their clients.”

Informed brokers know that captives are a viable option, “and for some clients it’s the primary option,” Fitzgerald said.

The vast majority of growth in the captive space, he added, has been through smaller groups moving into group captives. “Five or 10 years ago, the questions were about the captive—is it sustainable, is it something I can trust, what happens if we have a bad year?” he said, “Now, I hear that somebody who is already looking at one type of captive wants to know how it compares to another.”

The current situation is, less about explaining the basics of the captive, “and more about comparing what else is out there in the captive world or in the larger self-funded world,” Fitzgerald said.



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Traditionally the type of captive used is determined by the type of risk that it will cover, he said. “Captives are a broad term that covers a lot of risks, a lot of different opportunities and a lot of industries.”

Currently, most people’s conception of a captive is very specific to their past experience. “So, one of the things that’s interesting on the SIIA captive committee is that we have two very related, but individualized groups that we try to support,” Fitzgerald said.

One group are those involved in the medical stop loss fund management, “The others are what we call enterprise risk captive arrangements, which is really more about balancing the risk that individual companies face, that they can’t find in the marketplace,” he said.

He noted that the two populations are both using single captives and are both self-insured, “but the risks up front that they are being used for are very different.”

So, the first questions he asks those considering a captive, are “What is your concern, your pain and your frustration?” He said. “And then seeing if there is a captive out there that can solve it, or that we can create for them.”

DOMICILES AND REGULATION

When considering regulation or a domicile, Fitzgerald said, the domicile’s location doesn’t make a big difference. Some domicile meetings, for example, are

beneficial, but attendance at every meeting isn’t a necessity.

The most important thing, he said, is how well the regulator understands what the captive is set up to achieve, “because there are multiple ways these issues can be looked at.”

Most importantly, he said, is that “most people, including regulatory bodies and many in the insurance agency world don’t understand self-insurance.”

So, while self-insurance is broader than the captive world, “it all is under the same umbrella. Self-insurance has been around for a long time,” Fitzgerald said.

“There are multiple risks self-insurance can cover and the majority of the time, once somebody does self-insure, they are appreciative that they did,” he said. “So, the more the larger population, including regulatory bodies, agencies and the general public, understands that there is a self-insurance option for them, the more the perceptions of captives can be clarified.”





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SIIA CAPTIVE SURVEY

SIIA's 2023 survey results will be released at the annual conference in October. The survey is designed to increase knowledge and understanding of the captive insurance industry.

Questions for service providers include the areas of interest in captive use, types of and numbers of structures formed most, numbers of closures, areas of growth, numbers of captives redomiciled and where they are domiciled.

Questions for captive owners include how they first heard of captives, how many captives they have set up for business, the risks covered, the type of captive formed, whether they were able to find coverage for their risk in the commercial market, and their board meetings.

Prospective owners' questions include the company's gross revenues, number of employees, hurdles encountered when looking at a captive and unusual risks that insurers cannot or will not cover.

HIGHLIGHTS FROM SIIA'S 2022 SURVEY

- Captive formation growth significantly outpaced captive closures, with survey results showing positive signs for the industry.
- A sharp increase in the average number of captives under management was shown, reflecting growing confidence in the captive model.
- A wide range was seen in the total captive premium amount, raising questions about the disparity.
- 36% of captives reported COVID-related claims in the past year.
- The average COVID-related claim amount was down.
- IRS audits were slightly lower.
- Roughly 40% of respondents had clients settle with the IRS.
- 66.7% of respondents reported adding staff in the past year—including a significant number of legal specialists. ■

Caroline McDonald is an award-winning journalist who has reported on a wide variety of insurance topics. Her beat has included in-depth coverage of risk management and captives.