

Getting back in the game

Singapore has been relatively static as a captive domicile for some years now, but recent activity from Asia is bringing it back into the limelight

By Gavin Bradshaw

The Asia-Pacific region seems to have been bereft of any real captive hub since Singapore's incorporations started dwindling in 2004/05, possibly as a result of maturing captive markets in Japan and Australia. However, with incorporations apparently picking up again in Singapore and other domiciles making a concerted effort to target the Japanese, Malaysian and, potentially, Chinese markets it seems that competition may have truly re-entered the Asia-Pacific captive market.

Elsewhere in the region, New Zealand and Vanuatu have also made names for themselves as captive domiciles. However, New Zealand's respectable clutch of 22 captives might not extend past the domestic market if the current draft of its insurance regulation does not provide sufficient supervisory guidelines for foreign-owned captives.

Vanuatu, on the other hand, while very much open for all business with a pan-regional handful of clients, appears to have experienced slow growth since it incorporated its first wave of captive companies.

Vic Pannuzzo, managing director of Marsh Management Services Singapore, expects a possible 10% growth in Singapore's captive numbers in 2010/11, despite some natural wastage of captives in run-off. "We're incorporating three captives at the moment and I think we will probably have a couple that will run-off and will be wound up this year," he says.

Pannuzzo adds: "The encouraging sign is that a lot of those new incorporations are coming from Asia. We will always get captives out of Australia but it is quite mature and is slowing down. I think now Asia is starting to take up some of the slack."

Marsh appears to be getting captive enquiries from across the region – Australia, Hong Kong, Japan, Malaysia, Singapore, Taiwan, Thailand – and from a range of traditional pure captive prospects in the energy, healthcare, mining, construction, transportation and chemicals industries.

Bright future

Although captive growth in the Singapore market slowed last year relative to the two preceding years, Aon also remains optimistic about the market in 2010. "Part of it has certainly been the economic crisis because you need to commit to capital, which is difficult in times of crisis," says Daniel Koepfer, managing director of Aon Insurance Managers (Singapore).

Only half of Aon's Singapore captive clients are from Australia, the rest coming from Europe, Asia and Mexico. Koepfer has recently been setting up captives for two Mexican clients, who have previously favoured domiciling in Switzerland, as many offshore domiciles are blacklisted in Mexico.

He says Aon is also seeing much more interest from Asia, despite commercial insurance premiums remaining relatively cheap, across a similar range of industries as well as utilities and manufacturing.

Koepfer says: "What is slowly shifting in Asia is an increased awareness of risk management issues; I think that's probably the biggest driver.

"For instance, if you look at China, the mainland is very difficult because premium is very low, but you have got more Chinese companies expanding abroad."

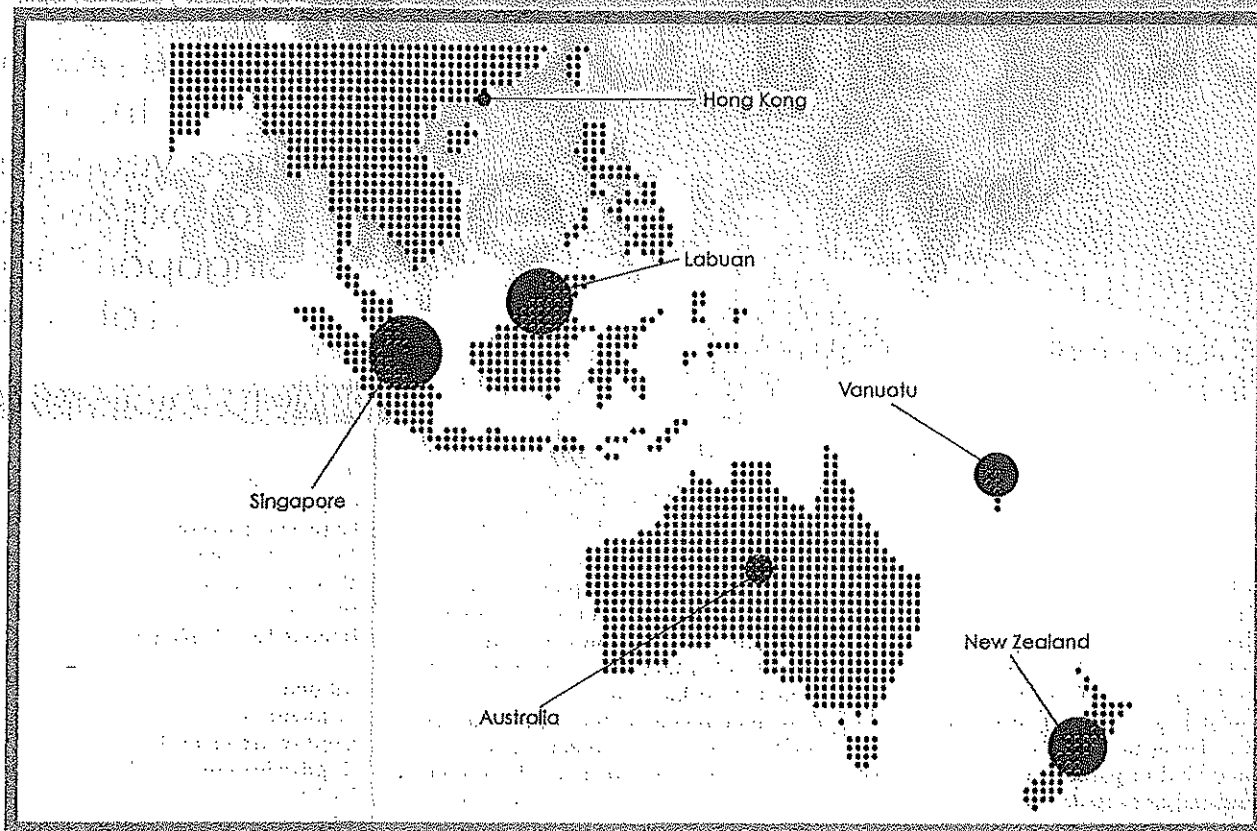
The value of the captive for such prospects, he says, is therefore in insuring non-Chinese risks rather than operations on the mainland. "A few years back we had a lot of interest but nothing happened. Now we are doing more feasibility studies and setting up [captives]," Koepfer adds.

Marsh's Pannuzzo says that while the company has a few Chinese-owned captives under management, it is largely a question of ownership by default. "For example, if a Chinese conglomerate has acquired a large mining company in Australia and it now owns a captive, the captive continues to be used," he says.

However, Pannuzzo adds: "We have still got quite a way to go with the Chinese; the regulations in China make it a bit difficult. You may have to get permission to set up an offshore insurance company and that probably extends to captives – and there are some restrictions on reinsurance. It does not mean it can't be done, but there's still a lot of discussion that has to go on."

Aon's Koepfer adds Korea, the Philippines and Hong Kong to the list of prospective client countries. "Japan is differ-

ASIA-PACIFIC



ent because it is a very mature market," he says. "We do a lot in Japan but they would typically not domicile in Singapore because of tax reasons. They would go to Hawaii, Switzerland, Sweden and Micronesia as an upcoming domicile."

Aon not only has a captive management presence in the Federated States of Micronesia (FSM) but has also licensed its first captive there for a "big Japanese client". It also manages one captive in Labuan in collaboration with a local partner.

The company maintains a presence in New Zealand and Australia, but Koepfer is not optimistic about the potential for growth in these jurisdictions. "In New Zealand there is still a lot of uncertainty with regard to the legislation, which doesn't help," he says.

New horizons

New Zealand seems determined not to be outdone, however, having licensed one new captive in 2010, Unison Insurance, and received "numerous enquiries" from Australia, Japan, New Zealand and some Pacific Islands, according to Peter Lowe, president of the New Zealand Captive Insurance Association (NZCIA) and practice leader of Willis Risk Solutions.

NZCIA's aspirations for the New Zealand captive sector are ambitious – it sees

the domicile as a credible competitor to Singapore and Labuan for overall Asia-Pacific business. "Growth in the past three years has far exceeded Singapore and Labuan. In the past three years 10 new captives have been added in New Zealand," says Lowe.

While Lowe concedes that the mainstay of New Zealand captive business is likely to continue to be New Zealand and Australian prospects, he believes that as the domicile matures the Asian market will become a large part of the business base.

"New Zealand has free trade agreements with Australia, Singapore and China and there are discussions on expanding the agreements with more Asian countries," he says.

However, Pannuzzo believes New Zealand appears to have "closed the door on captives" following recent regulatory reforms. The Insurance (Prudential Supervision) Bill is currently being debated in the New Zealand parliament and is expected to be approved in June 2010.

While this is viewed by some people working in the captive market as a potential brake on the jurisdiction's captive growth, Lowe is upbeat about the likely outcome. "This bill is expected to clarify the rules and regulations around captives and further the development of the industry in New Zealand," he says.

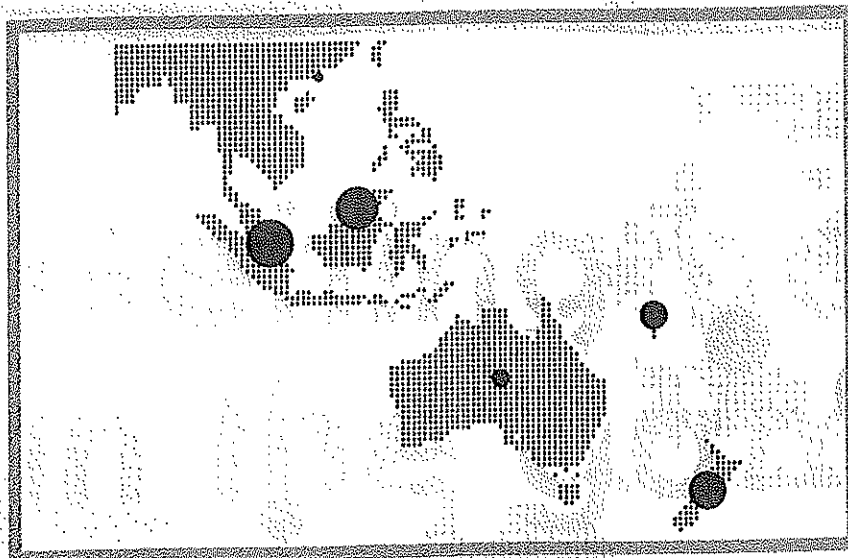
MICRONESIA

While Japan is considered to be a mature market for captive prospects, there are still businesses there looking to set up captives. The Federated States of Micronesia (FSM), an archipelago in the North Pacific comprising 607 islands divided into the states of Chuuk, Kosrae, Pohnpei and Yap, has made a pitch for Japanese captive business by designing its captive law and regulations in alignment with Japan's tax system.

In December 2009, the FSM also signed into law provisions for its Multiple Corporate Captive (MCC) structure, as well as provisions for issuing captive management licences.

Under the FSM captive law, MCCs are described as one or more corporations who are organised, or have the intent to organise, as a group of corporate captive insurance companies.

So far, the FSM has managed to tempt Aon Insurance Managers to set up an office in the region so it can tap into the Japanese captive market, as well as the Japanese-owned Micronesia Insurance Management Company.



Time to tweak

The other jurisdiction in the region, which rarely gets a mention these days, is Hong Kong. As a direct writing centre for the Chinese mainland it has enormous potential but has only two licensed captives. Hong Kong is therefore in need of some kind of paradigm shift before that potential is realised.

"There has got to be an alignment of interest and objectives between the internal revenue people and the insurance regulator," says Pannuzzo. "The regulator wants to attract captives but at the moment the tax authorities are not providing any tax concessions for captives."

Singapore could also use a few tweaks if it is to capitalise on its existing captive base. Both Koepfer and Pannuzzo are keen on the prospect of protected cell company (PCC) legislation being introduced but discussions at a regulatory and legislative level on that issue appear to have stalled.

"There is already a cell captive market in Asia, so I guess [Singapore] has missed the boat on that but I think there are still a lot of Asian companies that are structured in a way that a PCC structure would be quite valuable," says Pannuzzo.

Koepfer points to the captive tax exemption as another potential area for development. "At some point, I think Singapore needs to let us know whether the 10-year tax exemption is going to be expanded further," he says. "They need to signal to the market whether that is going to continue or not."

Pannuzzo believes a licensing regime more in line with that of Bermuda would aid Singapore's captive market expansion, sending a serious message to all domiciles. "It doesn't have to go as far as different classes for traditional captives, those writing unrelated party risk and third party captives, but I think it needs to be seen to be doing something to show that we are continuing to develop the captive landscape here," he says. **CR**

LABUAN

Labuan, which recently overhauled its financial services legislation, adding provisions for licensing protected cell companies within its insurance act, has made an effort to turn itself into the pre-eminent captive domicile for the Asia-Pacific region and even has plans to be a global player.

It has a long way to go to catch Singapore, but the enactment of its new laws on 11 February will have given the domicile greater credibility by formalising the separation of the regulator, the Labuan Financial Services Authority (Labuan FSA), and promotional body, the Labuan International Business and Financial Centre (Labuan IBFC). Labuan FSA (formerly the Labuan Offshore Financial Services Authority) has also moved out from under direct control of the Ministry of Finance, with licensing power being devolved to the insurance regulator.

The jurisdiction is hoping to attract insurance business from the Chinese mainland. The Labuan IBFC also has plans to set up an office in China in the mid-term.

The Labuan IBFC has received approval from the Shariah Advisory Council (SAC) of the Labuan FSA for its proposal for takaful (shariah-compliant) captives, putting it ahead of its potential rivals among the Middle East captive domiciles.

“New Zealand's captive growth in the past three years has far exceeded Singapore and Labuan”

DOMICILE STATISTICS

Hong Kong
 Captives: 2
 Captive premium: HK\$582m approx
 Captive tax rate: 16.5% on profit
 Minimum capitalisation/surplus: HK\$2m
 Licence fee: HK\$22,600

Labuan
 Captives: 30
 Captive premium: \$3.8m approx
 Captive tax rate: 3% of net profits or RM20,000
 Minimum capitalisation/surplus: Pure/group – RM300,000; rent-a-captive (RAC) – RM500,000
 Licence fees: Pure/group – RM10,000; master RAC – RM13,000; subsidiary RAC – RM3,000

New Zealand
 Captives: 24
 Captive premium: Not disclosed
 Captive tax rate: 30%
 Minimum capitalisation/surplus: \$500,000
 Licence fee: \$1,000

Singapore
 Captives: 63
 Captive premium: \$747.1m
 Captive tax rate: Captive tax exemption available on application
 Minimum capitalisation/surplus: Not less than \$400,000
 Licence fee: \$5,000

Vanuatu
 Captives: 9
 Captive premium: Not disclosed
 Captive tax rate: 0%
 Minimum capitalisation/surplus: General business – \$100,000; life/long-term business – \$250,000
 Fees: Company formation: annual fee \$500; insurance licence; application \$250; annual fee \$2,000

The good, the bad and the lucky

Mary Chmielowiec of PointRight tells medical captives to rethink their underwriting policies if they want to remain competitive in today's uncertain market

It is a collision course: nursing homes take on sicker patients to meet challenging financial goals, while traditional insurers respond to a soft market by offering irrational premiums. What's a captive to do? For starters, re-examine underwriting tools. It is relatively easy for an underwriter to differentiate facilities with the highest risk from those with the lowest risk. Real rewards, however, abound with the ability to confidently sort out those facilities that fall in the middle. While it is not always easy to separate the good, the bad and the lucky, it is possible to perform a more refined analysis with a high level of certainty. To accomplish this task requires critical insight and a new perspective on what constitutes actual risk.

Traditional underwriting analysis

The big five risks are no mystery: elopement, pressure ulcer, falls, neglect, and wrongful death. While every nursing home strives to minimise these risks, incidents still occur. To minimise exposure, insurers assess facilities based on past-loss history, geography, staffing levels, and other broad outcomes measurements. Too often, this limited scope produces premiums that overcharge the best risks, while offering the worst risks a bargain rate. In fact, there is a 10-fold increase in the costs associated with the best and the worst facilities. Such a wide gap is difficult to cover with higher premiums, so the necessary pricing adjustments for high risk are never severe enough.

A step beyond

A more sophisticated analysis can assist captives in separating the 'low risk' from the 'just plain lucky'. Start with a broadened investigation looking at critical indirect measures that, collectively, speak volumes about the quality of care provided. For example:

- Pneumonia immunisation rates. Universal best practice is for 100% of all residents to be immunised. If immunisation rates are too low, what other best practices are not followed?
- Pain management. Most residents experience pain. Is pain being documented, measured and treated? Nothing upsets a family more than unmanaged pain.
- Percentage of residents with advanced directives. Many long-stay residents are nearing the end of their life. Is the family prepared? Are expectations managed properly?
- Complaints. Whether substantiated or not, complaints should be managed aggressively.
- Survey response rates. There is a statistically significant correlation to higher risk when employee and family survey response rates are low.

Also, look for evidence of a culture that supports open and honest dialogue. While difficult to measure, collaboration and dialogue between the certified nursing assistant (CNA), registered nurse (RN), resident, family and facility leadership provide an important layer of protection against future risk.

Advantages of analytical tools

Remember, adverse events are not always the result of negligence. Even the best facilities experience claims. That being said, with access to more sophisticated

“With access to more sophisticated underwriting tools, captives can achieve lower loss ratios by right-pricing premiums”

underwriting tools, captives can achieve lower loss ratios by right-pricing premiums and confidently walking away from bad risk. Analytical tools equip captives with the ability to provide specific risk management guidance and assist their insureds with targeted risk-management programmes that will safeguard against future losses. By harnessing additional knowledge, captives gain the critical insight necessary to accurately underwrite those facilities that would mistakenly be rejected on the basis of geography or past loss experience.

Risk versus rain

It is a fallacy to assume that risk, like rain, falls evenly across all facilities. In fact, the reality proves to the contrary: a large component of risk is predictable. Unfortunately, the nuances that differentiate the 'truly good' facilities from the 'just lucky' go undetected in a traditional approach to underwriting. However, with access to sophisticated analytical tools it is possible to improve underwriting performance and differentiate your captive in today's increasingly competitive insurance market. CR

Mary Chmielowiec is the executive vice-president for insurance with PointRight, a company committed to improving the quality of care in long-term and post-acute settings by providing information-based clinical management tools and services to providers, payers, regulators, suppliers and consumers.