

# GUIDE TO CAPTIVE INSURANCE COMPANIES IN THE CAYMAN ISLANDS

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## PREFACE

This Guide is a summary of law and procedures relating to the establishment and operation of a captive insurance company in the Cayman Islands. It should be read in conjunction with the Appleby “Guide to Companies in the Cayman Islands”.

We recognise that this Guide will not completely answer detailed questions which clients and their advisers may have; it is not intended to be comprehensive. If any such questions arise in relation to the contents, they may be addressed to any member of the team, using the [contact information](#) provided at the end of this Guide.

### **Appleby**

Cayman Islands  
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## 1. CAYMAN ISLANDS – JURISDICTION OF CHOICE

The Cayman Islands is a jurisdiction recognised worldwide as an international financial centre of the highest calibre. Leading financial institutions, Fortune 500 companies and private and public businesses from across the globe have chosen Cayman as their jurisdiction of choice for many reasons, including the following:

**Reputation:** due to its well established legal system, stability and strong financial services industry, the Cayman Islands have a reputation as a high quality offshore centre.

**Flexibility:** the Cayman Islands have the advantage of progressive “leading edge” legislation, developed in consultation and collaboration with industry stakeholders.

**Central time location:** the Cayman Islands’ central time location (GMT-5) is ideal for organisations operating their businesses from Asia, Europe and the Americas.

**Tax neutrality:** Cayman has no capital gains, income, profits, corporation or withholding taxes (whether on the offshore vehicle or on holders of securities issued by such vehicle). If the offshore vehicle is incorporated as an exempted company it can obtain an undertaking from the Cayman Islands Government that it will remain tax-free for a 20 year period and in the case of exempted trust or an exempted limited partnership the period is up to 50 years. Investors in Cayman vehicles must always obtain advice on the impact of taxation in the jurisdiction in which they are tax resident before investing.

**Speed:** once all necessary information, including “know your client” documentation, is gathered and verified, a Cayman Islands company can be incorporated within a day.

**Availability of world-class professional services:** Cayman has a wealth of lawyers, accountants and other service providers with renowned expertise.

**Trustworthy and reliable legal system:** Cayman Islands law, derived from English common law and supplemented by local legislation, ensures that Cayman Islands entities are internationally understood and accepted. The Cayman court system is well developed with appeals ultimately going to the Privy Council in London.

**Compliance culture:** the Cayman Islands has long been committed to implementing best international practices and is compliant with the anti-money laundering and anti-terrorist financing requirements of the Organisation of Economic Cooperation and Development (OECD) and Financial Action Task Force. Cayman is on the OECD “white list” and has entered into a multitude of tax information exchange agreements.

**Stable and business-oriented government:** the Cayman Islands are a British Overseas Territory and have a history of stable government, committed to promoting the financial services industry.

**Sensible and proportionate regulation by the Cayman Islands Monetary Authority (the Authority):** the Authority’s mission is to regulate and supervise the financial services industry in order to maintain a first class financial system. The Authority’s focus is on safeguarding the interests of investors in, and customers of, regulated institutions from undue loss. The Authority has regard to international standards and the need for operational freedom by financial services providers, with the focus on maintaining a dynamic and competitive industry.

**Exchange Controls:** there are no exchange control regulations in the Cayman Islands. As such, money and securities in any currency may be freely transferred to and from the Cayman Islands.

With this extensive portfolio of advantages, it is unsurprising that the Cayman Islands has established itself as a leading offshore financial centre.

## 2. REASONS FOR ESTABLISHING AN INSURANCE CAPTIVE

Captive insurance companies are insurance companies established with the objective of insuring (or re-insuring) only certain risks, typically those originating with a particular corporate group or a specific industry. A “pure” captive is one that insures (or re-insures) only its own parent and affiliates, and is by far the most common form of captive insurance company.

The reasons for establishing an insurance captive include the following:

- A captive can provide insurance or reinsurance on a more cost effective basis because its overheads are usually less than those of a traditional insurance company. Also, if a risk is insured through a properly structured captive incorporated in a tax neutral jurisdiction, there will usually be a degree of tax saving, either in relation to premiums paid to the captive or in respect of the captive’s own investment income.
- A captive can be used to obtain insurance in respect of risks which may be uninsurable in the traditional market, or insurable only at prohibitive rates.
- Premiums charged by captives usually reflect the risk profile and claims history of the relevant client/parent. As such, a well-managed company with a good claims record is able to enjoy the benefit of its own successful risk control strategies to a much greater degree than would be true in the traditional market.
- A captive provides its insured parent or client with direct access to the re-insurance market, which in turn provides a more flexible range of insurance products and lower premium rates.
- The insured parent or client can take advantage of the captive model to improve its cash flow by tailoring the premium payment schedule to meet its own requirements.
- A captive allows its insured parent or client to retain profits that would otherwise be earned by traditional commercial insurers. It can therefore convert a cost centre into a profit centre.
- A captive provides its insured parent or client with a measure of control over the investments into which the premiums of the captive may be made.

These commercial advantages have resulted in the tremendous popularity of captives, as evidenced by consistent growth both in terms of the number of captives and the value of their portfolios.

The Cayman Islands is second only to Bermuda in terms of the number of offshore captives licensed.

## 3. ESTABLISHMENT AND LICENSING

### 3.1 Types of Licence

There are four categories of licence that enable a company to carry on insurance business in for from the Cayman Islands:

- Class A (**domestic**)
- Class B (**captives**)
- Class C (**special purpose insurers**)
- Class D (**reinsurers**)

Class B captives are divided into sub-classes based on the percentage of net written premiums originating from the insurer's related business:

- Class B(i): 95% or more related business;
- Class B(ii): more than 50% related business;
- Class B(iii): 50% or less related business with annual net earned premiums less than \$16,400,000;
- Class B(iv): 50% or less related business with annual net earned premiums equal to or greater than \$16,400,000.

Class B insurers generally carry out non-domestic business. However, domestic business may make up to 5% of net premiums written (or more if the Authority specifically permits).

### 3.2 Minimum Net Worth

All licensees are required by statute to comply with statutory minimum net worth requirement. For Class B insurers, the capital requirements are between \$100,000 and \$600,000, depending on the type of insurance written (general or long-term) and the sub-class in question.

The Authority may require additional injections of capital to increase the minimum net worth depending on the volume of annual premium anticipated, the level of risk to be assumed and the nature of any reinsurance as set out in the business plan referred to below. The statutory minimum net worth is usually satisfied by paid in capital. Any additional net worth requirements imposed by the Authority can sometimes be satisfied by means of letters of credit and in exceptional circumstances by promissory notes or other security but the Authority's approval to such alternatives is becoming rare. Any letters of credit, promissory notes or other security must be in a form acceptable to the Authority.

### 3.3 Business Plan

Each application for a licence must include a business plan, which must give the fullest possible information with regard to the proposed activities of the licensee. In particular, this should cover the following:

- classes of business to be written;
- premium volumes;
- proportion of business to be reinsured;
- nature of reinsurance program and details of reinsurers;
- retention of net premiums and maximum liability per risk and in aggregate;
- maximum liability per risk or occurrence;
- details of any "fronting" arrangements.

Any change after licensing in the business proposed in such business plan requires the prior approval of the Authority. A licensed insurer is required every year to provide the Authority with a certificate certifying compliance with the business plan and Insurance Law and regulations. Such certificate is generally signed by the auditors, local insurance managers or such other person as may be approved by local authorities.

### 3.4 Local Management

A Cayman insurance company must have a registered office in the Cayman Islands at which the statutory corporate records are kept. This service can be provided by a local law firm, accounting firm, trust company, insurance manager or other corporate management company.

Each application for a licence must designate a locally licensed insurance manager at whose office full business records will be kept. This requirement can be waived only in exceptional circumstances, usually where the insurer maintains permanently in the Cayman Islands a principal office and staff.

Every licensed insurer is also required by law to nominate at least one individual resident in the Cayman Islands to accept service of legal proceedings on behalf of the insurer. This service can be provided by a representative of a law firm, accounting firm, trust company, insurance manager or corporate management company.

### 3.5 **Officers, Directors and Shareholders**

Each applicant for an insurance licence is required to have at least two executive directors and is required to show that it is controlled and managed by persons that are fit and proper. In determining whether a person is fit and proper the Authority will consider all relevant circumstances, including the person's:

- honesty, integrity and reputation;
- competence and capability; and
- financial soundness.

All directors, officers and managers (including changes after licensing) must be approved by the Authority.

Generally, all shareholders (including any new shareholders or any changes in shareholding after licensing) in a Cayman insurance company must be approved by the Authority. The Authority also requires annual accounts for each major shareholder that is a body corporate, together with similar accounts for the parent body, where appropriate.

### 3.6 **Long-term Business**

Licensees contemplating carrying on long term business whether domestic or off shore are required to nominate in the application for the licence an actuary and to prepare annually an actuarial valuation of their assets and liabilities.

### 3.7 **On-going Requirements**

An insurance company must appoint independent auditors whose written acceptance to such appointment must be included in the application for the licence. Audited accounts must be submitted to the Authority annually. The audited accounts must be signed-off by a local auditor recognised by the Authority.

### 3.8 **Government and Establishment Fees**

The government licence fees are payable on the granting of the licence and annually thereafter prior to 15th January. A captive is normally established as an exempted company. In addition to the licence fees covered above, a government incorporation fee will be payable on the incorporation of the captive as an exempted company. These fees are payable on a sliding scale depending on the authorised capital of the company. A full breakdown of current fees can be provided on request.

## 4. **SEGREGATED PORTFOLIO COMPANIES**

The Companies Law allows for segregated portfolio companies.

A segregated portfolio company may be registered as having segregated portfolios of assets, which may be traded independently and which, during the life of the company and on liquidation, are protected from creditor claims arising with respect to liabilities of other segregated portfolios or the company generally. A

segregated portfolio of or within a segregated portfolio company does not constitute a legal entity separate from the company.

Segregated portfolio companies may be used for rent-a-captives, which allow a company that does not wish to establish its own captive to “rent” a portfolio from an established captive. The benefits of this approach (in comparison to a company establishing its own captive) include (i) that the operator of the existing captive is likely to have greater experience in managing the captive and (ii) that the costs of administering the existing captive are likely to be significantly less than those of a new captive due to economies of scale.

There are several other purposes for which segregated portfolio companies may be used, including for life assurance purposes.

## 5. CONCLUSION

The Cayman Islands is a leading offshore captive insurance domicile, and is the leading jurisdiction for health care captives in the world. This success can be attributed to a number of factors, not least a flexible, modern and sensible regulatory regime for insurance companies generally and captives in particular. With the wealth of local expertise available, in the form of lawyers, directors, insurance managers, bankers, accountants and related service providers, Cayman looks to grow its strength in this area.

For more specific advice on Cayman Islands captive insurance companies, or insurance companies generally, we invite you to contact:

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For the convenience of clients in other time zones, a list of contacts available in each of our jurisdictions may be found [here](#).