

# British Virgin Islands in the spotlight

The foundations are firmly in place to maintain the BVI's longstanding position as one of the leading captive jurisdictions, says Martin Cooke of Hyperion Insurance Management

Recent years have seen a proliferation in the number of domiciles in the captive arena. Prospective captive owners are now faced with a plethora of options, both offshore and onshore. Owners not only have to give consideration to choosing a suitable service partner (note the choice of words, partner not provider) from a rapidly increasing pool of 'specialists', they now also have a growing list of domiciles to choose from.

Ranging from the longstanding establishment to the rookies and the reinvented, each has its unique advantages and disadvantages. The right service partner should be able to guide the prospective owner through this complicated maze, emerging on the other side with a domicile that not only matches the clients' ambitions, but affords them with them the optimum means of achieving them.

As any experienced manager will attest, one of the most important factors of a feasibility study is the choice of jurisdiction. For example, why should a client choose Montana over Anguilla? Why the Cayman Islands over Vermont, and perhaps a question more relative to this article, why the British Virgin Islands (BVI)?

Religious teachings tell of how the wise old man built his house upon the rock. Such foresight can be likened to choosing a domicile for a captive. Such as the house built on the sand, while a captive can be established expeditiously with very few questions asked, it is equally important that owners look at the jurisdiction in its entirety, and not just one particular service area to help to ensure the longevity of the project.

The BVI is a British overseas territory. It is self-governing, with a legal system based on UK common law. The laws of the BVI are robust, however, given the status as a leading offshore finance centre, the laws are also very modern, dealing with company law, insolvency, banking law, trust law and insurance.

Furthermore, the BVI has long been established as a major financial service centre, with a strong presence in the investment fund and corporate services sectors as well as insurance.

For example, the jurisdiction is one of the world's premier company incorporation domiciles, with sophisticated infrastructure in place to ensure a smooth and efficient incorporation process. Figures show that more than one million companies have been established in the BVI, with approximately 50,000 new companies incorporated each year.

With regards to securities and investment business, the BVI is the second largest fund domicile globally. At the end of 2013, 2238 funds were registered and licensed by the BVI Financial Services Commission.

From an insurance standpoint, in excess of 400 captives have been licensed in the BVI since the enactment of the Insurance Act (1994), which has been enhanced and updated to the Insurance Act (2010).

From a regulatory standpoint, the BVI has implemented the highest standards of transparency, accountability and information exchange, as set out by the Organisation for Economic Co-operation and Development, the International Monetary Fund and other regulatory bodies. As a result, the extent and scope of local regulation generally exceeds that of most other offshore (and indeed onshore) jurisdictions.

In fact, the BVI is extremely well regarded by a number of international bodies. Our regulators remain active members of the Caribbean Financial Action Task Force (FATF) and played a prominent role in the working group that revised the FATF's anti-money laundering recommendations.

Some domiciles within the offshore industry have been tarnished of late with various tax avoidance/money laundering claims from the global powerhouses of Europe and the US. However, it is important to note that most offshore captives with a US parent generally make a 953(d) election. This means that they have elected to be taxed as if they were a US entity, ensuring full taxation transparency.

It is obviously essential for regulators and insurance managers in any jurisdiction to ensure that capitalisation is sufficient to support the net written premium and exposure levels attributed to the captive, particularly when third parties are exposed. However, for the likes of smaller captives, particularly those qualifying as 831(b) captives, the non-discriminatory requirements of offshore domiciles can have a significant impact on a risk manager's feasibility assessment.

Cost-efficient operating expenses and the absence of direct corporate taxes and premium taxes give us a clear and distinct advantage over our competitors. Other benefits of doing business include the fact that, while BVI-based board meetings are encouraged, they are not mandatory.

Likewise, just as owners have a number of BVI-based audit practitioners of international standing to appoint, they are also able to apply to the BVI Financial Services Commission for 'non-BVI' audit firms to be admitted. Banking assets are not required to be held in BVI facilities, enabling the client to maintain the strong banking relationships it has already built through years of business.

The BVI prides itself on the strength of its service providers. These include all of the leading offshore law firms and big four accounting practices, together with other experienced services providers and insurance managers, providing the jurisdiction with a strong service platform for its clients.

The fee structure remains competitive and significantly lower than many of its offshore and onshore peers.

There are also plans underway to implement a tiered licence fee structure to ensure that fee levels are directly linked to an insurer's or reinsurer's size and ability to pay. These are expected to be implemented in late 2014.

In summary, the BVI is well-positioned to compete in the international financial services arena, primarily as a result of its ability to combine commerciality with adequate regulatory controls. With an active insurance managers association ([www.bviaim.org](http://www.bviaim.org)), ensuring constant communication between the private sector, the BVI Financial Services Commission and legislators, the foundations remain firmly in place to maintain the BVI's longstanding position as one of the leading captive insurance jurisdictions. **CIT**



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