

While the fund industry is currently the principal recipient of insurance solutions, there are a plethora of alternatives for which insurance can be used on a day to day basis in financial centers across the globe.

The future

Insurance coverage is not limited to the standard products we experience in everyday life or the forms mentioned above, which have grown in prominence in recent years.

One such line of cover that is experiencing more use in the offshore world is the use of political risk insurance. To give an example of a typical consumer, a mining corporation can be assisted with expropriation and conflict concerns in Africa through the purchase of political risk insurance. The assets or investments of the corporation in this politically unstable country can be insured, thereby maximizing the potential of the client's investment against unpredictable events, and making the foreign venture more attractive to the client's bank.

The same Cayman incorporated mining corporation may also experience risks such as an import/export embargo, the non-payment or non-delivery of pre-paid goods, a license cancellation or an unfair calling of on-demand contract bonds. The use of trade credit insurance can be sourced to alleviate these exposures.

With African economies growing through the discovery of natural resources, the same Cayman mining corporation may have mines and employees in hostile locations. The employees of organizations that have high profiles, or that work with sensitive information or technology, are often at risk. Kidnap and ransom insurance protects organizations against the costs that can arise when an employee is seized, seized for ransom or the subject of extortion. Insurers can provide consultation, medical and emergency travel assistance services, and the necessary experience and resources to assist the client in resolving these episodes successfully. Furthermore, an additional layer of security is provided by purchasing the kidnap and ransom insurance through an offshore vehicle.

Insolvency activity in both jurisdictions is at an all-time high. In support of their work, there are several products available to insolvency practitioners which can aid their endeavors. The aforementioned directors and officers cover can be amended and tailored for directors taking on roles for contentious matters. Similarly, 'after the event' (ATE) insurance is becoming an increasingly explored option, using the concept of insurance to cover the legal costs and expenses involved in litigation. Whilst ATE can be used in any type of litigation and by either a claimant or a defendant, it is normally used by claimants cover the legal costs which a claimant must pay to a defendant when a claim is unsuccessful. ATE provides the insolvency practitioner with a useful tool in being able to make a premium payment in advance and then issue the various disbursements to investors/creditors, therefore negating a requirement to hold funds in escrow.

With such a high volume of company incorporations and the use of Cayman companies in corporate structuring, it is natural to see the law firms undertake mergers and acquisition work. As Cayman offers flexibility, efficiency and certainty, Cayman is a very attractive jurisdiction for cross-border M&A deals. The ability for practitioners to offer transactional liability insurance products, underwritten by some of the largest insurance markets in the world adds further substance to the Cayman offering.

Transactional liability insurance transfers the risks associated with a merger, acquisition or recapitalization into the insurance market. A single policy can provide cover for a diverse number of risks including taxation, environmental and contingent liabilities. Traditionally the product has been used to mitigate risks and facilitate deals, however increasingly it is used to provide a range of competitive advantages to a buying or selling party. The types of insurance as-

sociated with transactional liability include:

- Representations and warranties
- Specific tax liabilities
- Specific environmental liabilities
- Litigation buy out
- Portfolio policies

The policy can be bought by either the buying or selling parties. A seller policy sees the liability incurred when selling a business insured by providing protection against future financial obligations that may arise from legal proceedings following a breach of warranty.

A buyer policy insures a buyer for a loss that they may suffer following a breach of a warranty; the policy can be accessed directly with no need to involve the seller.

By purchasing insurance products that meet their various risks and exposures, anyone forming an offshore business company is able to create a further layer of "mind, management and control" that is often sought and required.

International life insurance products for trusts

The use of trust instruments by both high-net worth individuals and businesses is becoming commonplace in the global trust and estate planning industry. This in itself creates a growing need for a range of complementary insurance products, particularly life-related products.

From a family estate planning and wealth management viewpoint, life insurance often forms a significant part of any overall structure, offering the beneficiaries a means of settling any estate taxes and other associated liabilities and expenses in the event of a death.

From a more corporate standpoint, whilst the trust structure might provide the ability to disengage the trustees' management responsibilities for the underlying businesses held by the trust (i.e. bypassing the "prudent man of business rule"), and presenting the directors of a business held under a trust instrument the ability to continue to make the key decisions to allow the business to be maintained without unnecessary and unqualified involvement from a trustee. Unfortunately, what the trust may not be able to do is completely circumvent other estate and liquidity issues that arise as a result of the death of a shareholder.

By introducing life insurance into the equation, we may be able to create a means of providing a fair and equitable payment to the shareholders family that simultaneously results in the shares of the business transferring to the other shareholders.

Future growth - working together

The continued collaboration of the private sector across all industry sectors is imperative if the jurisdiction is to continue its evolution and growth.

While insurance is clearly not the only means of cross-selling we have at our disposal, it does suitably highlight how we might change a client's perception of the offshore world from one of a functionary incorporation center to one of a value-added, professional business center that can service all of their corporate, wealth and estate planning needs – including the procurement of the different types of insurance products mentioned in this article, sourced directly from Cayman through internationally experienced insurance professionals that fully understand the associated risks and the suitability of cover.

In Cayman we recognize that our products are merely our tools. We also appreciate that innovation and sophistication are the driving forces of success. Thankfully, Cayman's unique set of service providers from all industries remain committed to working together to constantly improve our offering and ensure that the Cayman Islands remains a leading financial services provider for many years to come.

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