

## Chairman's Report

### The British Foreign and Commonwealth Office ("FCO") Backed Report Says No to Direct Taxes in the Cayman Islands

In the fourth quarter of 2009, the FCO requested that the Cayman Islands Government appoint an independent external commission to undertake a detailed economic assessment of the options for and the impact of changes in revenue sources, as well as changes in spending and public sector entitlements that would ensure the long term fiscal and economic health of the Cayman Islands.

As reported in a press release by Cayman Finance Ltd, the Miller Commission conclusion emphasised that the introduction of **direct taxation is not a viable option** and that there needed to be a focus on cutting public sector spending.

The Miller Commission was comprised of three members:

1. Mr. James Miller, a former member of President Ronald Reagan's cabinet and who enjoys an international reputation for integrity and technical competence in all fiscal matters.
2. Mr. David Shaw, who served as a Member of Parliament in the United Kingdom for 10 years, and was the UK parliament representative to the European parliament committee meetings on single market and financial services regulation.
3. Hon. Kenneth Jefferson, the Financial Secretary of the Cayman Islands who facilitated the work of the other two commissioners by providing various materials that were requested;

*IQ - April 2010*

however the report was written by Mr. Miller and Mr. Shaw.

The complete report is accessible on the Cayman Islands Government website – [click here](#).

### Cayman Islands Continue to Demonstrate Transparency

On March 25, 2010 the Cayman Islands Government announced that it will conclude a further 16 tax information exchange agreements ("TIEA") with several G-20 jurisdictions of economic significance to the country, in addition to the 14 TIEAs already in place. A breakdown of the identified 16 pending TIEAs was as follows:  
Australia – To be signed in Washington, D.C. on March 30th.

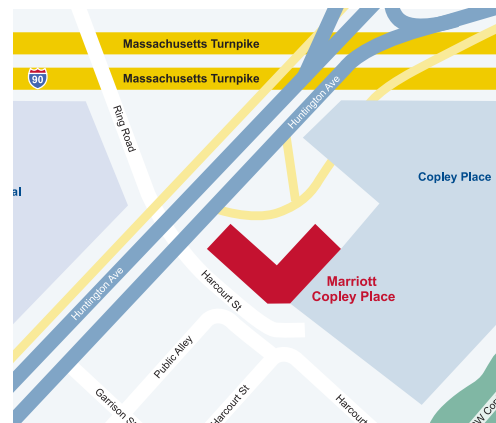
Aruba, Canada, Germany, Italy, Mexico and South Africa – Agreements have been reached and finalized by the Cayman Islands. They are with the signatory countries for their authorization process and confirmation of signing date.

9 additional OECD/G-20 countries – Negotiations are in various stages.

### RIMS Annual Conference and Exhibit – April 25 – 29, 2010

The RIMS Annual Conference and Exhibit at the Boston Convention and Exhibition Hall is from April 25 – 29, 2010. The Cayman Islands Government is an exhibitor for this conference, at which a large delegation of IMAC full and local associate members attend to provide support. The Cayman Islands Government booth is number

1313, so if you are in attendance at this conference, please ensure you stop by and visit. In addition, the Cayman Islands Government is hosting a reception during the conference on Monday, April 26, 2010 from 6 pm to 8 pm in The Atrium Room of the Boston Marriott Copley Place. See the directions below:



### Annual Canadian Captives & Corporate Insurance Strategies Summit – June 8 – 9, 2010

The annual Canadian Captives & Corporate Insurance Strategies Summit at the Metropolitan Hotel Toronto is from June 8 – 9, 2010. IMAC is an Association Partner of this event and as such, members of IMAC are entitled to a 10% discount on registration fees. A delegation from the Cayman Islands will be in attendance at this event. For more information visit the Strategy Institute website – [click here](#).



# Chairman's Report continued

## CIMA Overview

Over the last 35 years the Cayman Islands have matured into one of the world's largest international financial centres and the second largest captive insurance domicile. As the primary financial services regulator, the mission of CIMA is to enhance the economic wealth and reputation of the Cayman Islands by fostering a thriving and growing, competitive, and internationally recognised financial services industry, through appropriate, responsive, cost-effective and efficient supervision and a stable currency.

To this end, CIMA enforces robust regulatory laws along with working closely with home supervisors on regulatory co-ordination and implementation of pragmatic and effective regimes for group supervision and coordinated crisis management. Thus, the framework within which CIMA operates addresses key elements and principles as outlined by the International Association of Insurance Supervisors ("IAIS"), as well as by maintaining active membership with international standard setters in the insurance sector such as:

- *Offshore Group of Insurance Supervisors (OGIS) since 1993*
- *IAIS since 1995*
- *International Organisation of Securities Commissions (IOSCO) 2009*
- *Caribbean Association of Insurance Regulators (CAIR) 2009*

Additionally, the Cayman Islands holds the number one position worldwide for healthcare captives. This sector continues to be the primary class of business, while the second largest sector provides workers'

compensation coverage. The Cayman Islands captive insurance industry is composed mainly of companies emanating from North America. Nonetheless, the next most important geographical source is the Caribbean and Latin America, collectively.

Enhanced international cooperation and collaboration will undoubtedly continue to assist in safeguarding the interest of the jurisdictions which fall within the "offshore sector" and "the Caribbean" and as this is of paramount importance to the Cayman Islands, CIMA consistently commits both time and resources to actively participate in international initiatives.

[www.imac.ky](http://www.imac.ky)

Did you know that all issues since September 2008 of IMAC Quarterly are available online on IMAC's website on the Press Room page? In addition, on this Press Room page are other publications such as the Oxford Economics Economic Benefits of the Financial Services Industry in the Cayman Islands, the Newton Media Cayman Captive magazine and the new Cayman Captive Forum 2009 post conference publication produced by KPMG entitled "Key Themes from the 2009 Cayman Captive Conference".



[www.cimoney.com.ky](http://www.cimoney.com.ky)

Did you know that the Cayman Islands Monetary Authority ("CIMA") issues a quarterly publication called "The

Navigator"? This publication provides the latest developments and initiatives at CIMA and it is available on CIMA's home page of their website [www.cimoney.com.ky](http://www.cimoney.com.ky)



## Cayman Islands Health Services Authority Funding for Child Psychologist



Many of the Cayman Islands captive clients have expressed an interest in becoming more involved in the Cayman Islands community, particularly from our healthcare captive clients, which have expressed a desire to provide assistance to the Cayman Islands Health Service Authority. The following is an opportunity for those clients. If you need any further details or wish to make a donation, please contact [william.forsythe@caymancaptive.ky](mailto:william.forsythe@caymancaptive.ky). As the primary provider of healthcare services in the Cayman Islands, the Health Services Authority has the most complete array of children and adolescent health services. These include inpatient and outpatient paediatric services, specialized mental health services, including child psychiatry, and school-based health services.

At present, the Health Services Authority's Accident & Emergency is the only facility on the island for referral of child abuse victims. A single trained clinical child psychologist

currently provides support to the unit and conducts outpatient clinics.

With population growth and the present economics which has impacted many families, the rate of children with exposure to physical/sexual abuse or assault, or witnessing domestic and family abuse has steadily increased, requiring expansion of our services to:

- *provide training to School Health Staff in the identification & treatment of child abuse;*
- *provide trained staff in forensic evidence-gathering and analysis of sexual abuse victims and perpetrators;*
- *provide professional training for medical personnel;*
- *expansion of services for a specialized unit with multi-disciplinary personnel in child abuse; as well as*
- *education, treatment and counseling for identified victims and family.*

Initial funding is required to address the more immediate need for:

- *advanced training and certification of clinical staff in the appropriate diagnosis and treatment of children with symptoms of physical/sexual abuse;*
- *counseling services to minimize the pain and trauma experienced by abused children;*
- *forensic data gathering and analysis to increase the successful prosecution of offenders;*
- *counseling to assist families in providing safe and nurturing homes;*
- *development of statistical data to better inform public policy to prevent child abuse; and*
- *recruitment of a Child Psychologist & a Forensic Interviewer.*

## New Hospital for Cayman Islands Announced

Indian cardiologist Dr. Devi Shetty revealed that his planned \$1 billion, 2,000-bed medical tourism hospital in Cayman would likely be operational in mid-2012 and will break ground in January next year. The first phase of the Cayman Narayana Health University, which will include 200 beds, will be staffed by 800 employees, with 160 being Caymanian.

The tertiary-care hospital, which will be built in three or four phases, will cater primarily to American patients travelling to the Cayman Islands for cardiology, orthopaedic, cancer and major general surgical procedures. The Cayman-based hospital would offer healthcare to Americans at 60 per cent less than the cost they would pay in the US.

The Cayman Islands government has harkened the medical tourism project as the dawn of a third pillar in Cayman's economy, along with the financial services and leisure tourism.

## PKF Cayman Launched to Strengthen Cross-Border Service and Global Coverage

PKF Cayman, a Cayman-based accounting and business advisory firm, today announced that it has commenced operations under its new name reflecting a new affiliation with, PKF International. The firm has previously traded under the name Baker Tilly Cayman.

PKF International is the 11th-largest international network of legally independent accounting firms with 245 member and correspondent firms in 125 countries, and aggregate fees of more than \$2 billion.

PKF Cayman Managing Partner, Ben Leung, said, "We conducted substantial research and determined that the PKF network was a great fit for us. Our new relation-

ship with the PKF family of firms is all about client service as we share our resources and plan together to achieve significant growth."

PKF Cayman will add depth and expertise to the PKF network. The firm has enjoyed strong growth since its inception in October 2007 and serves many clients who require global support for audit, tax and consulting services. "The talented professionals in our Cayman office provide clients with the highest quality of service and now, together with the talents of professionals throughout the PKF network, we are positioned to be the clear choice for growing companies seeking true global excellence," Leung said.

PKF Cayman is one of the premier

accounting and business advisory firms in the Cayman Islands. PKF Cayman has a wealth of experience auditing offshore vehicles, in particular hedge funds and captive insurance companies. PKF Cayman are committed to providing clients with a responsive, knowledgeable and professional service. Delivery of this commitment has helped the firm achieve significant growth in Grand Cayman.

Please visit [www.pkfcayman.com](http://www.pkfcayman.com) and [www.pkf.com](http://www.pkf.com) for more information or contact:  
Ben Leung, PKF Cayman,  
345-945-5889  
[bleung@pkfcayman.com](mailto:bleung@pkfcayman.com)

# Cayman Islands Speakers at CICA Conference

On March 8-10, 2010, I attended the CICA conference in Orlando, Florida and co-presented the topic "Collateral Alternative during a Credit Crisis" along with Peter Rapciewicz from Chartis, and Mike Ramsey from Wells Fargo. The panel was moderated by Robert Quinn of Wells Fargo, and we discussed the various forms of collateral (Funds Withheld, Letters of Credit and Collateral Trusts). Discussions centered on the background and mechanisms of each alternative, the perspective of the insurance carrier in regards to the various forms of collateral, and the role and responsibilities of the captive manager in the collateral process. The session was very well attended showing that collateral alternatives are still a prevalent topic for the insurance industry. The age old question always seems to be: "What type of collateral should be posted?" After all, each option has variations in costs, benefits and investment returns. Well, first you'll need to determine: the acceptability of each alternative to your carrier, the associated costs of each alternative, whether your preferred bank is NAIC approved, whether investment limitations are an issue for your company, how timely the collateral can be put into place and whether there are any special considerations (i.e. one or more of the following: cash flow considerations, requirement for special legal language, necessity for back to back letters of credit, need for separate collateral alternatives per member/line of business/carrier). Perform this analysis and you will determine the best collateral option for your particular circumstance. After all, the objective is effectively post collateral in an efficient manner. So

what's the answer? Well... that depends. But I can tell you that the best alternative will be the one that offers you the most benefits for a reasonable cost and is acceptable to both you and your insurance carrier.



**Monique Jackson, Senior Vice President of Global Captive Management, and Vice-Chair of IMAC.**

From March 6-10, 2010, the Head of Insurance attended the Captive Insurance Companies Association (CICA) Annual Conference. He participated in the panel discussion held on March 9 titled "Captive Redomiciling: Is now the time. The presentation was delivered and covered areas such as offshore and onshore requirements, legal requirements, tax issues and some statistical support on redomiciliations. Of interest were that:

1. Every domicile is suffering a downturn in formations but there were no recognizable trends in redomiciliations to on-shore.
2. The tax, regulatory and cost advantages of offshore versus onshore still remain although not as apparent as

once before.

3. A new IRS tax provision called "Check The Box" may positively affect offshore captives.

In terms of panel questions, it was interesting to see that the questions primarily involved reputation, tax, regulation, secrecy provisions and money laundering. To some extent, these issues were countered by highlighting the co-operative international efforts of the Cayman Islands, the need for people to recognize the difference between press speculation and fact, and also by raising the issue of what is offshore? Is it an island like Australia, or a low tax regimes such as Ireland, or a high secrecy regime such as Switzerland, or a problematic money laundering regime such as could be inferred by the French Government trading with Iraq despite United Nation trade sanctions during the 1990's. It was recognized by the audience, as raised by the Panel Coordinator from Washington D.C., that the definition of offshore is not clear and that fact is often confused in the press arena.



**Gordon Rowell, Head of Insurance Supervision, Cayman Islands Monetary Authority.**

# Forum Committee Report

The Forum Committee has already commenced organization for the 18th annual Cayman Captive Forum to be held November 30 to December 2, 2010 to be held at The Ritz-Carlton, Grand Cayman.

The key note speaker will be announced at a later date. The committee has received numerous requests from individuals to be content speakers at the conference, so the educational sessions will continue to be superb. Speaker submissions will be evaluated at the Committee's April and May meetings, and everyone who submitted a topic will be contacted to let them know whether they were successful or not.

The committee has contacted all 2009 major sponsors and are extremely pleased that most have committed to continuing their sponsorship in 2010. KPMG is once again committed to being the Main Sponsor of the event, to which we are grateful for their continuing support. There are additional sponsorship opportunities available, so if anyone is interested,

please contact William Forsythe at [william.forsythe@caymancaptive.ky](mailto:william.forsythe@caymancaptive.ky). It appears that subscriptions for exhibit booths will once again exceed the available supply; hence the exhibit booths allocation policy will be implemented. All successful exhibitors will be contacted soon regarding their booth allocation. Those that were not successful will be put on a waitlist should anyone cancel prior to the conference date.

Forum attendees from 2009 were surveyed and based on the overwhelming majority of their responses, the format of the conference will continue the same as the prior year with the pre-forum tutorial sessions on Tuesday afternoon, followed by the opening networking reception. Wednesday and Thursday will consist of full day agendas, with evening networking receptions. The Thursday evening networking session will be the signature event on the beach at The Ritz-Carlton, and wrist bands will again be used for entrance to ensure that everyone who is entitled to attend can have a splendid evening. Those who may be interested in only

attending this signature event will be able to register for it online in June.

Finally, on-line registration for the conference will commence on Friday May 28th for those IMAC full and associate members who are also captive owners. Registration for the remaining IMAC full and associate members will commence on Tuesday June 15th, and for nonmembers, registration will commence on Wednesday June 30th. Details will be advised by emailed invitation to all members with details on our website.

If you wish to stay at The Ritz-Carlton, reservations for the Cayman Captive Forum rate will not be accepted until June 4th, and only then for attendees who are registered as full forum registrants. If you are not yet an IMAC member you can join now – [click here](#) and then click on the "membership application form".

All indications are that we are in line for another great conference in December, and we look forward to seeing both our returning attendees as well as first time attendees.

## Donations to Charities



The speakers at the December 2009 Forum kindly agreed to nominate one of three charities to receive a monetary donation in lieu of the customary small gift that we give each speaker in appreciation. The total amount raised was US\$4,000 which was given to St. Leonard's Hospice (in UK) Cayman Hospice Care and the IMAC Educational Scholarship Fund.

*L-R Conor Jennings IMAC Marketing Committee Chair, Kathleen Cushman Cayman Hospice Care nurse, and William Forsythe IMAC General Manager.*

# Comments from Anthony Travers



*Chairman of Cayman Finance Ltd.*

Whilst the taxpaying public and corporations in many G20 jurisdictions are battling the effects of the increased taxation, in fact international capital is starting to flow once again, hedge fund returns are up ticking. And so it is useful to take a hard statistical look at how Cayman's financial services industry has fared through the crisis

One of the easiest figures to get a handle on is the number zero – the total number of banks and financial institutions that failed in the Cayman Islands during this latest financial crisis. Perhaps Gordon Brown and Alasdair Darling are simply badly briefed, but there is no statistical basis for the suggestion that instability exists within the Cayman Islands regulatory regime and their criticisms of it are ill founded. No doubt, without the power to print money like their UK and US counterparts the Cayman regulatory authorities are simply not in a position to bail out private enterprise, and therefore require a more risk-adverse and prudent set of operating guidelines to be practiced by the Cayman banking sector. If we allow the facts to get in the way of the negative PR for just a moment, we find the strength of the Cayman banking industry well evidenced by deposits and interbank bookings, now tracking at \$1.795 trillion which is slightly behind the peak of \$1.9 trillion recorded in September 2007, but still a healthy overall figure considering the global climate in which this sector has been operating and considering that there have been zero depositor losses.

Registered investment funds fell from 9,870 as at December 2008 to 9,523 at the end of 2009, but are still well ahead of the 8,751 funds in 2007. A new growth trend is evidenced - January 2010 figures show 147 new fund authorisations and only 58 terminations. This compares quite favorably

to the 106 authorisations and 39 terminations seen in January 2008 and is on target with the natural attrition trends experienced in the healthier market periods of years past.

These Cayman Islands fund statistics are surprisingly being used by some, who doubtless believe their own PR, to suggest major outflows of fund business are occurring from Cayman. In fact the drop is around 4% and after the worst financial crisis in a century this seems more like a sign of a strong fundamental belief in the jurisdiction. And where did the 4% go? There is no evidence they went anywhere other than into liquidation as a result of poor investment return and certainly not to Dublin where if we make a like-for-like comparison, we find that Irish domiciled funds fell from 5,025 to 4,627 over the same period, which is more than double the Cayman decrease. It must be also pointed out that the Irish, to boost their numbers, include sub-funds in their calculations, whereas in Cayman sub-funds are not included. More interestingly, Irish fund listings fell from 1,605 to 1,270 during this same period, which is a loss of greater than 20 per cent and consistent with the general malaise affecting the Irish economy.

In the insurance division, the story is brighter yet with the Cayman Islands Monetary Authority (CIMA) reporting the 2009 number of total insurance companies (including both domestic and international insurers) at 815, which is up 10 from year ending 2008 and 22 over the 2007 total of 793. Captives specifically have experienced gains over this period, rising to 780 at the end of 2009 from 765 in 2007. The assets held in the captive insurance industry have risen from \$36.8 billion in 2008 to \$44.7 at the end of 2009, an 18 percent increase. By contrast, the largest jurisdiction for the captive

insurance industry, Bermuda, reports 1,140 captives holding \$84 billion in assets, which is down from their 2007 report of 1,149 captives holding \$88.8 billion in assets. Cayman, the second largest domicile for captives, continues to obviously gain ground against its major competitor.

Overall, these numbers are strong and prove the resilience of Cayman's financial services industry and suggest that Cayman structures are essential to the global flow of capital – a key to economic recovery everywhere. The question that has not yet been asked given the strength of the capital flows through Cayman is the extent to which the protectionist elements of both the HIRE Act 2010 in the US and the European Funds Directive will have the unintended consequence of drying up the flow of funds from Cayman to the US and Europe at a time when the funding requirements of both are increasing not decreasing. The more logical consequence of the most recent iteration of the European Funds Directive is that rather than Cayman Hedge funds wishing to move to the EU, fund managers who wish to continue to run a hedge fund properly must move out of the EU.

The recession has not completely leapfrogged the Cayman Islands as transactional volumes have decreased as no doubt have assets under management (we await the latest CIMA figures). The business community as a whole has had to downsize accordingly. Streamlining into leaner operations is to be expected as part of a normal business cycle and so too Government must downsize the public sector expenditure. But, in what has hopefully been the most trying financial period our generation will have to face, the Cayman product has shown extraordinary fortitude, exhibiting both strong demand and staying power.

## Technical Update

For the benefit of IMAC members and associate members, KPMG presents a quarterly summary of the key industry and technical accounting issues that are impacting captives and their boards of directors this year.

### Joint IASB and FASB insurance contract project

The objective of this project is to develop a common, high-quality standard that will address recognition, measurement, presentation, and disclosure requirements for insurance contracts. Specifically, this project is intended to improve and simplify the financial reporting requirements for insurance contracts, eliminate numerous pieces of current US accounting literature that add to the complexity of accounting for insurance contracts and provide investors with more decision useful information.

The International Accounting Standards Board (IASB) and the US Financial Accounting Standards Board (FASB) are expected to address a variety of topics in their exposure draft due to be issued in May 2010. The most notable change will be the use of the "building blocks" to measure the combination of rights and obligations arising from an insurance contract. The publication of the final standard is expected in June 2011.

### Measurement model of Insurance Contracts

The measurement objective should portray a current assessment of the insurer's obligations. The Boards have jointly agreed on the fundamental building blocks of the measurement model for insurance contracts. These include considerations of:

1. The unbiased, probability weighted average of future cash flows expected to arise as the insurer fulfils the obligation.
2. The time value of money.
3. An explicit risk adjustment for the uncertainty about the amount and timing of future cash flows.
4. An amount that eliminates any gain at inception of the contract.

The Boards have made significant progress in their efforts to complete the measurement model, and the proposed changes to the presentation of the financial statements. There is a clear commitment by the Boards to move forward on the project; however they have been unable to achieve a consensus on the application and recognition of margins, discounting, unearned premium and unbundling. It is also unclear at this phase of the project what the overall effect will be on the results and presentation of an insurer's financial statements.

For more information please contact:

#### Alan Morris

Director  
+ 1 345 949 4800  
alanmorris@kpmg.ky

#### David Watt

Senior Manager  
+ 1 345 949 4800  
davidwatt@kpmg.ky

kpmg.ky



The activities on this project may be monitored through the IASB website at <http://www.iasb.org> and the FASB website at <http://www.fasb.org>, where summaries of the Boards' meetings, meeting materials, and project summaries and status are available.

# Legislative & Regulatory Affairs Committee Report

The Legislative & Regulatory Committee has met twice this past quarter and on the whole it's been smooth sailing. The two items worthy of mention are firstly we are pleased to announce that Caroline O'Shea of Willis Management has joined the Committee. The second is that at the request of CIMA, the Committee reviewed and submitted comment on Draft CEIOPs-CP 78 advice for Level 2 Implementation Measures on Solvency II: Technical criteria for assessing 3rd country equivalence in relation to art. 172, 227 and 260.

To summarize; this addresses areas of consideration in relation to what a third country, i.e. a country not in the EU, would have to do in order to be treated as an equivalent country. Effectively it requires, that such third country will have implemented a capital, risk governance and reporting procedures similar to Solvency II, meaning these requirements may be increased markedly. In many instances, fronting carriers obtain capital relief by obtaining collateral. CEIOPs-CP 78 would be a concern should the front make changes concerning the collateral or overall fees charged.

The communication that was ultimately submitted by CIMA stated that "the formulaic approach appears to be particularly onerous since the indicators are based upon very detailed requirements." "Rather than a one size fits all approach, CIMA recommended a "model office" approach that could be utilized by virtue of which benchmarks for each principle / objective are presented and a scaling system developed to assess equivalence on an overall, relative basis."

"In general, it appears that CEIOPs consultation # 78 is most applicable to large insurance and reinsurance holding company structures where there may be concern with movement of assets, technical provisions and capital for purposes of disguise." "Hence applying the equivalence criteria to a small monoline insurance carrier would have little positive impact with respect to the intended purpose while being onerous and counterproductive to the alternative risk transfer market." As such this is an area that the IMAC Legislative & Regulatory Committee will continue to monitor. It is anticipated that during the next quarter the committee will be actively involved in the Insurance Bill 2010, and the subsequent regulations for solvency and capital.

## BDO Quiz Night

BDO wishes to invite all IMAC Full Members to its second annual BDO/IMAC Quiz Night. Please help us to build on the success and fun of last year's event by joining us for the evening and watching Conor Jennings (the mystery man in the picture) and a host of other teams set their sights on dethroning the gents from CIMA.

Location: Hard Rock Café

Date: Thursday, May 13th, 2010

Time: 6PM for 7PM start, prizes awarded afterward  
Cost: Free!

Team: 4 or 5 people, of which at least 3 should be employees of member firms.

*Running a one-man show? No problem! Just send us your name and we will put a team together for you.  
If you want to attend, please send us your name and/or team details to [tventer@bdo.ky](mailto:tventer@bdo.ky), before Monday, May 10th.*



*Question: Who is the unnamed gentleman "crashing" CIMA's 2009 BDO/IMAC Quiz Night championship drink in the picture above?*

# Scholarship Fund Report

The first quarter of the year is always a good time for donations as many captive owners escape the cold weather to visit the island. That includes our regular fund contributors from Wells Fargo Insurance Trust Services seen below.

This year the Fund will again be offering a scholarship for a maximum of four years to a Caymanian High School graduate. Preference will be given to those candidates who intend to pursue a career in the financial services industry upon

graduation from university, however applications from all disciplines will be accepted. Candidates should be prepared to begin their university degree programme in the 2010 school year. The choice of university must be approved by the Foundation.

Applicants should possess a minimum of five CXC passes or equivalent. Evidence of educational achievements and, if appropriate, university acceptance should accompany the application. In addition, a brief narrative as to the reason for the choice of University / Course should be included. Application forms can be obtained by clicking the Education tab at [www.caymancaptive.ky](http://www.caymancaptive.ky)

Applications should be submitted no later than 7th of May 2010 to:

Insurance Managers Association of Cayman

Educational Scholarship Foundation  
P. O. Box 10552, Grand Cayman,  
KY1-1005, Cayman Islands

Attention: Mr. William J.N. Forsythe,  
FCA or email to [william.forsythe@caymancaptive.ky](mailto:william.forsythe@caymancaptive.ky) or by delivery to the IMAC office in the Grand Pavilion Commercial Centre, 802 West Bay Road.



John Pitcairn accepts Wells Fargo's US\$ 5,000 donation to the Scholarship Fund.

## Marketing Committee Report

The following is an update on the existing projects of this Committee.

### 1. Conferences

#### CICA - March 7th to 9th - Orlando

Although IMAC did not have a booth at this year's CICA conference in Orlando, a number of managers and CIMA representatives attended. As always, this was another excellent event that was well organized by Dennis Harwick, CICA's President, and his team. See the article "Cayman Islands Speakers at CICA Conference" for additional details on this conference.

#### RIMS - April 25th to 29th - Boston

We're getting ready for RIMS in Boston. As usual the Cayman Islands Financial Services will have a booth, and is

hosting a reception on Monday, April 26, 2010. A delegation of over 35 persons from the Cayman Islands will be attending, and meetings have been arranged with the CIMA and certain Cayman Islands clients.

#### Canadian Summit - June 8th and 9th - Toronto

IMAC has recently become an Association Partner of the Canadian Captives & Corporate Insurance Strategies Summit, and encourages all members to have a look at the Summit website: [www.captivesinsurance.com](http://www.captivesinsurance.com). A small delegation will be in attendance to help promote the Cayman Islands.

### 2. Media & Press

Copies of all articles are in the library

on IMAC's website.

### 3. Website

This is an ongoing project with many new links and publications..

### 4. Membership

The goal was to have at least of 50% of the Class B licensees as members of IMAC. As at March 31, 2010 there are 32% and a net gain of #14 active captives, which is an improvement; however there is still significant work to be done.

### 5. Social - quarterly

The BDO Quiz will be held on Thursday 13th May, full details will be circulated to full members once available.

*IQ - April 2010*

# SRS joins UCCI's Partners in Education Program

In January 2010, Strategic Risk Solutions (Cayman) Limited ("SRS") joined the University College of the Cayman Island's ("UCCI") Partners in Education program for the second year in a row. UCCI Partners in Education provide site placements and mentors for UCCI students who are enrolled in Certificate, Associate, or Bachelor degree programs in various fields, including, but not limited to, Accounting, Business Administration, Marketing, Finance and Computer Technology. An integral part of these programs is the work experience/internship component, where the student is prepared for the marketplace by working, earning and learning on the job. Under the work experience for the Certificate program, students attend academic classes three days a week at UCCI and apply learned skills in their field of study two days per week at a job placement. Under the work experience for the Associate and Bachelor programs, internships are tailored for a mutual fit between the student's schedule and the business partner's needs. Monthly evaluations on each student are prepared by their

respective mentor and submitted to UCCI after being discussed in person.

Paige Foster, an Accounting Certificate Program student at UCCI, joined SRS at the end of January 2010 under the mentoring program. It is anticipated that Ms. Foster will be employed by SRS through June 2010. Ms. Foster has been involved with general administrative tasks, as well as light accounting. Her duties have included

filing (both hard copy and electronic), scanning, compiling spreadsheets, preparing bank instructions for payments, and performing bank reconciliations and posting the related journal entries into SRS's accounting system. Zack Myrie, SRS's first intern who joined the Company in March 2009 and carried out similar duties through June 2009, earned his Accounting Certificate in July 2009 following his internship.



**Pictured from left to right: Mentor Michelle McTaggart of SRS and Intern Paige Foster.**

## IMAC Membership Drive

The marketing committee has recently launched a membership drive that has a goal of attaining a 50% membership of licensed captives as being associate members of IMAC. As of December 31, 2009 this number stood at 31% of the licensed captives. In addition to outlining the various benefits of membership such as reduced rates at the Captive Forum, discounts at local hotels and at Ritz Carlton resorts worldwide, and discounts on local car rental rates, being an associate member furthers the growth and stability of the Cayman Islands as a domicile. If you are not a member please contact your insurance manager or please find the application for membership on the IMAC website [Click here for the link.](#)

## Upcoming Events

### Captive Basics Course

April 13 to May 18, 2010

UCCI Campus, Grand Cayman - [click here for details](#)

### RIMS Annual Conference and Exhibition

April 25 - 29, 2010 - Boston, Massachusetts  
[www.rims.org](http://www.rims.org)

### The Cayman Finance Summit

May 6, 2010 8:00 am to 5:00 pm  
The Ritz-Carlton, Grand Cayman  
[www.caymanfinancesummit.ky](http://www.caymanfinancesummit.ky)

### BDO Quiz Night

May 13, 2010 - [click here for details](#)

### Captives & Corporate Insurance Strategies Summit June 8 - 9, 2010

Metropolitan Hotel, Toronto, Canada  
[www.captivesinsurance.com](http://www.captivesinsurance.com)

# Education Committee 2009-2010 Highlights

The Educational Committee is keen to build on the success of the previous year in providing educational opportunities for IMAC members. A survey was conducted in October 2009 to identify training and educational needs of the membership. In addition, the committee reviewed feedback from the 2009 IMAC Captive Basics course and met with ICCIE graduates and undergraduates to obtain feedback on the ICCIE course. With this information, the committee concluded that the ICCIE designation should be promoted within IMAC. The committee also agreed that, because the ICCIE designation does not address all of the memberships needs, particularly as the course material is more beneficial to persons with one or two years experience in the industry, IMAC should still offer the Captive Basics course. The 2010 Captive Basics course has been re-designed accordingly and will run from April 13 at UCCI – [click here](#) for details on the IMAC website. As a gesture towards developing IMAC's relationship with UCCI, two places on the course have been allocated to their students. We congratulate Leslie Thompson (Atlas) on her completion of the ICCIE course and the receipt of her ACI qualification.

The committee also met with representatives of ICCIE to explore how the ICCIE qualification can be promoted. Because of the time and expense involved, this qualification really needs to be championed by employers in the industry. To this end, the committee hopes to arrange an ICCIE taster session in conjunction with an IMAC social gathering sometime in 2010. Click [www.iccie.org](http://www.iccie.org) to view the syllabus.

In the meantime, the committee arranged an educational presentation from CIMA held in conjunction with a social gathering on April 14 at the Grand Old House. The Rule for Risk Management and expectations from CIMA regarding license applications, business plan submissions and other filings were discussed with a full house of IMAC members in attendance.

The Committee supported the IMAC booth at the Chamber of Commerce Jobs Expo in March. The Committee has also committed to support the IMAC Marketing Committee in raising the profile of the captive industry locally.

Questions, comments or suggestions for the Education Committee may be addressed to any committee member. These are:

[Linda.Haddleton@ky.hsbc.com](mailto:Linda.Haddleton@ky.hsbc.com)

[John\\_Pitcairn@artextrisk.com](mailto:John_Pitcairn@artextrisk.com)

[Colleen.Artuch@aon.com](mailto:Colleen.Artuch@aon.com)

[Dugald.Macleod@caledonian.com](mailto:Dugald.Macleod@caledonian.com)

[Megan.Ogden@marsh.com](mailto:Megan.Ogden@marsh.com)

[Melisa.Schreiner@crusader.com.ky](mailto:Melisa.Schreiner@crusader.com.ky)

[Michelle.McTaggart@strategicrisks.com](mailto:Michelle.McTaggart@strategicrisks.com)

[PJohnson@global.ky](mailto:PJohnson@global.ky)



**L-R Chamber Job Expo - Owen Dinnall & Laura McLaughlin of HSBC.**



**L-R Chamber Job Expo - Jannet Hernandez and Michell Lockwood of Crusader.**

# Captive Emigration

*Paul Scrivener of Cayman law firm, Solomon Harris, considers the steps involved in moving a captive insurance company to a new jurisdiction*

In this day and age, certainly in the Western Hemisphere, there is a great deal of jurisdictional choice when it comes to captive domicile. Onshore within the United States no less than twenty four States now have captive insurance legislation. Clearly, the original “centres of excellence” - Vermont, South Carolina and Arizona - continue to flourish but some of the more fledgling centres are certainly snapping at their heels as they start to grow market share. In the offshore world and in a convenient time zone for US captive owners, Bermuda and the Cayman Islands are the dominant players.

From time to time, the prudent captive owner and its consultants will review whether the jurisdiction where the captive is established is still serving its best needs. In most cases, such a review will be conducted with the outcome being that the status quo is certainly the best option. However, circumstances do sometimes arise – generally, a gradual realisation that there is a problem – where the decision is made that change of jurisdiction is necessary. There could be any number of reasons why this is appropriate – taxation concerns, increasing bureaucracy, deteriorating perception of the jurisdiction, disenchantment with the regulatory authority, declining quality of service providers and so on. For the captive owner who determines that change of jurisdiction is the best way forward, a winding up of the existing captive in the “old” jurisdiction and the establishment of a new captive in the “new” jurisdiction is likely to be unattractive from both an operational and a tax perspective and

has the clear potential for “business dislocation”. It is for that reason that Cayman (and some other jurisdictions) allows an existing captive in another jurisdiction to transfer to Cayman and likewise for a Cayman captive to transfer to another jurisdiction. The technical term is “transfer by way of continuation” and it has proved to be an efficient and cost-effective means to accommodate captives who wish to emigrate from their “jurisdiction of birth” to a different jurisdiction with minimum disruption to their insurance programs.

The biggest single advantage of a transfer by way of continuation, compared with a winding up, is that the existing legal entity continues. It does not cease to exist and is not replaced by a new legal entity in the new jurisdiction. Therefore, policies, reinsurance agreements and all other contracts remain in place, the captive’s assets are unaffected and all liabilities to third parties – in particular, to policyholders – remain intact. Therefore, neither the captive nor its insureds are prejudiced in any way by the process and the transition should be smooth.

In Cayman, Part XII of the Companies Law sets out the transfer process in a clear and concise way with the steps for an inward transfer into Cayman set out separately from an outward transfer from Cayman. However, the process in each case is substantially the same with some modifications introduced to reflect certain unique aspects of each of the two processes.

It is probably fair to say that

traditionally it has been more common to see foreign captives transferring into Cayman rather than seeing Cayman captives leaving for other jurisdictions and therefore this article will focus principally on inward transfers into Cayman rather than outward transfers out of Cayman.

A foreign captive wishing to transfer to Cayman will, as a starting point, need to ensure that the jurisdiction where it is currently domiciled (home jurisdiction) permits, or at least does not prohibit, an outward transfer. The next step will be to appoint the consultants the captive will need to ensure a smooth transition out of the home jurisdiction and into Cayman. In the home jurisdiction, they will usually be the captive’s existing manager and legal counsel who will liaise with the home jurisdiction regulator and other authorities to ensure that all legal and practical steps are taken to enable the captive to exit the home jurisdiction. Where the captive is based onshore, its tax affairs will obviously need to be properly wrapped up. For the entry into Cayman, the captive will need to appoint a new captive manager and legal counsel. The Cayman captive manager will attend to the licensing application with the Cayman Islands Monetary Authority (CIMA) for the captive to be a licensed insurer in the Cayman Islands and Cayman legal counsel will co-ordinate the legal process and the preparation of the various documents required by the Cayman Islands Registrar of Companies (ROC) in order to register the new captive as a Cayman company. The documentary requirements are not onerous but it is important that

# Captive Emigration continued

they are prepared by someone familiar with the process to ensure that the transfer is not delayed or even rejected by ROC.

Coordination between the home jurisdiction consultants, on the one hand, and the Cayman consultants, on the other hand, is of paramount importance because they each need to understand what has to be done in the other jurisdiction so that the transfer takes place smoothly. Without such close coordination, potential problems are either the captive being in two jurisdictions at the same time or, even worse, being in neither jurisdiction for a period of time. Both can spell disaster and clearly need to be avoided. Therefore, the correct approach is to reach agreement in principle in advance with each set of regulators and other authorities (in Cayman, CIMA and ROC) so that all steps are lined up and can then be implemented in such a way that the captive ceases to exist and ceases to be regulated in the home jurisdiction one moment and then the very next moment it starts its new life as a Cayman captive and subject to the regulation of CIMA. The regulators will also liaise with each other and, in particular, CIMA will wish to confirm the good standing of the captive with the home jurisdiction regulator.

ROC is very much at the centre of the process because it is through ROC that the foreign captive will lose its old "nationality" (eg as a Vermont corporation) and take up new "nationality" as a Cayman company. ROC will require various documents and information including the captive's constitutional documents, details of its directors, notice of its proposed registered office in the Cayman Islands, a director's declaration that the captive's business

will be conducted mainly outside the Cayman Islands and a director's undertaking confirming notification of the transfer to any secured creditors of the captive.

In addition, ROC will require a director of the captive to file an affidavit or voluntary declaration swearing as to various matters including issues relating to the solvency or financial standing of the captive (in particular, that the objective of the transfer is not to defraud existing creditors), that any consents to the transfer under any contracts to which the captive is a party have been obtained or waived, internal rules under the captive's constitutional documents have been met, as well as legal requirements in the home jurisdiction, and that under the laws of the home jurisdiction the captive will cease to exist once registered as a Cayman company. There must be attached to the affidavit or voluntary declaration a relatively current statement of the captive's assets and liabilities.

ROC will not proceed with the registration until it has approval in principle from CIMA of the captive's insurer's licence and even if all documentation and information is in order, ROC still has an overriding discretion to refuse the registration if it considers it to be against the public interest. Subject to that discretion, ROC will issue a certificate of registration by way of continuation at which point the captive becomes a Cayman company for all purposes in the same way as if it had been originally incorporated as a Cayman company. Obviously, in many cases, the old constitutional documents of the captive will not be suitable for a Cayman company because of differences between the law of the home jurisdiction and Cayman law. Cayman law addresses

this by allowing the captive a ninety day grace period from the date of its registration in the Cayman Islands to amend its constitutional documents as necessary to ensure that they comply with the requirements of the Companies Law. In most cases, this will involve the captive adopting brand new Memorandum and Articles of Association in a form consistent with other Cayman captives.

Where a Cayman captive wishes to transfer to another jurisdiction, the process will largely be a mirror image of the process outlined above although there will be some differences. The Memorandum and Articles of Association must permit the transfer, the captive must be in good standing with CIMA and ROC, generally, shareholder approval will be required and a filing fee of three times the usual annual filing fee will need to be paid to ROC.

Transfer by way of continuation provides the ideal solution for any captive owner who has decided that the best option is to "emigrate" its captive to a new jurisdiction which better suits the captive's business objectives. For such circumstances, "captive emigration" is alive and well.

*Paul Scrivener is a partner and head of the insurance group at Cayman law firm, Solomon Harris. Paul may be reached at [PScrivener@solomonharris.com](mailto:PScrivener@solomonharris.com)*

## Industry News

Atlas Insurance Management (Cayman) Limited announced that they would be relocating their offices on April 9, 2010 to 3rd Floor, Whitehall House, 238 North Church Street, George Town.