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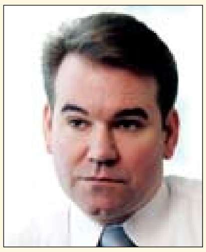
New Financial Centre Captive Insurance Business Rules



By Michael Earley

The Qatar Financial Centre Regulatory Authority (QFCRA) recently published its new Captive Insurance Business Rules 2011 (CAPI Rules). The CAPI Rules have been implemented pursuant to the QFC Authority's (QFCA) new strategic focus on captive insurance, asset management, and reinsurance. The CAPI Rules came into effect on 1 July 2011.

Captive classes

The QFC recognises four classes of captive insurer:

Class 1 captive: a QFC captive insurer that is permitted under the conditions of its authorisation to effect or carry out contracts of insurance only for risks related to or arising out of the business or operations of the group to which the insurer belongs;

Class 2 captive: a QFC captive insurer that is permitted under the conditions of its authorisation to obtain no more than 20 percent of its gross written premium from third party risks arising from business or operations that are closely linked to the business or operations of the group to which the insurer belongs;

Class 3 captive: (a) a QFC captive insurer that is permitted under the conditions of its authorisation to effect or carry out contracts of insurance only for risks related to or arising out of the business or operations of persons who engage in similar, related or common: (i) businesses; or (ii) activities; or (iii) trade; or (iv) services; or (v) operations; and

(b) is owned by the persons mentioned in paragraph (a) or by a body corporate of which all such persons are members.

Class 4 captive: (1) the QFCRA may designate a captive that does not meet the requirements of the previous three captives as a class 4 captive insurer.

The QFCRA will consider various criteria in determining whether an entity may be established as a captive insurer, including whether the proposed activities or business is more akin to a conventional insurer.

The capital requirements for the differing classes of captives relate primarily to the risk associated with each class of captive, and is the highest of the following:

The base capital requirement for the firm

Class 1 – US$150,000
Class 2 – US$400,000 (unless the Regulatory Authority determines another amount)
Class 3 – US$250,000
Class 4 – US$1 million (unless the QFCRA determines another amount)

Captive insurance management / managers

The management of the captive insurance company must be exercised by the company itself. However, provided that the QFCRA approves the individuals performing controlled functions (including the senior executive, compliance, MLRO, and finance functions), the CAPI Rules allow a captive insurer to outsource its managerial functions to a captive insurance manager. 'Captive insurance management' is defined as "the administration of, and exercise of managerial functions for a QFC captive insurer, and includes the administration of contracts of insurance for the insurer".

Protected cell companies

The QFC also allows a company that is not financially capable of self-insuring to obtain captive insurance through the concept of a 'rent-a-captive'. In such a scenario, a company that does not have access to the initial funding required to establish its own captive may share a captive insurer with other companies. Each company would essentially "rent" the capital, licence, and surplus of the captive insurance company. Many rent-a-captives are not true captives in that they insure the risks of companies that do not necessarily form part of their overall group. In other words there is a risk that the assets provided by one company to the rent-a-captive would be used to cover unrelated claims from the other companies.

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