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Reinsure allure

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Guernsey is a renowned leader in the captive insurance world. However, recently Guernsey has also been targeting and attracting reinsurance companies to its shores. Christopher Anderson considers the suitability of the island as a jurisdiction for the establishment of reinsurers.

Expertise

As the leading captive insurance domicile in Europe and the fourth largest captive insurance centre in the world, Guernsey already has the infrastructure and expertise necessary to service a large reinsurance operation (including an extensive number of suitably qualified non-executive directors). However, there is no established market for reinsurance business in Guernsey and, being remote from London, underwriters will not be able to have face to face meetings with brokers as easily as they would wish. No new fangled technology is ever likely to replace the importance of a face to face meeting – particularly in an industry that was born out of a coffee house culture – but these concerns are somewhat addressed by Guernsey's excellent air links with the London and by the use of modern communication systems.

Captive insurers invariably appoint a locally licensed insurance manager to provide day to day management, administration and other services. A reinsurer will also require back up services from a local manager such as the provision of a registered office, office space, accounting and other administrative functions but it will also want to bring in its own management team. Some care is required here. Guernsey imposes restrictions on the ability of personnel from outside Guernsey to live and work there. However, for a small management team those issues can be addressed.

Regulatory standards

Guernsey is regularly found to have met and often to exceed international regulatory standards. Guernsey's insurance regulator, the Guernsey Financial Services Commission (GFSC), is a member of the International Association of Insurance Supervisors and is well regarded internationally for its prudent risk-based regulatory regime.

Guernsey licensed insurers must have a minimum of £100,000 in paid up share capital and maintain assets which exceed liabilities by the greater of:

- £75,000;
- 18% of the first £5,000,000 in net premium income;
- 16% of premium thereafter; or
- 5% of claims reserves

The board of a licensed insurer or reinsurer must also consider to what additional solvency requirements the company should be subject in light of its own business plan.

Further revisions are also being considered with a view to achieving equivalence with the EU Solvency II regime. This would benefit Guernsey by enabling EU insurers to take full credit for any reinsurance placed with a Guernsey licensee. Given that one of the major benefits of using Guernsey is that it is not subject to the Solvency II requirements, the Commission, in conjunction with industry will be sure to tread carefully in this area to ensure that Guernsey retains sufficient flexibility to remain competitive on that basis.

The Commission is currently consulting industry on increases in its regulatory fees. With significant falls in deposit interest and increased workloads due to the greater focus on regulation, it is perhaps not surprising that the proposed increases are significant at an average of 25%. However, even at around £4,900 after such increases, the licence fee in Guernsey remains significantly lower than many other jurisdictions.

Corporate structures

Guernsey introduced a new Companies Law on 1 July 2008. One of the significant changes introduced by the new law was the abolition of the principle of maintenance of capital for Guernsey companies. Previously Guernsey companies were required to maintain share capital (unless a reduction of capital was approved by the court) and were only able to pay dividends or redeem or repurchase shares from profits or certain other specified sources. Under the new regime, Guernsey companies are able to distribute funds to shareholders as they see fit provided the company remains solvent after any such payment.

Guernsey companies benefit from the ability to convert into protected or incorporated cell companies or incorporated cells, to amalgamate with other Guernsey and non-Guernsey companies and to migrate into and out of Guernsey. The new law also introduces schemes of arrangement into Guernsey. This is a very opportune time for such a development given the number of restructurings occurring at present.

Tax

Guernsey insurance companies are taxed at Guernsey's standard corporate rate of zero percent. There are no withholding taxes in Guernsey on any dividends or redemptions of shares made by Guernsey licensees. There is also no stamp duty or VAT payable.

Guernsey's tax regime is currently under review in order that Guernsey continues to comply with the highest of international standards. However, it is anticipated that any changes to Guernsey's tax regime will ensure that those industries which are of key strategic importance to Guernsey will continue to be subject to a highly competitive taxation system.