

MARSH CAPTIVE SOLUTIONS: BERMUDA

Marsh Management Services (Bermuda) Ltd. is part of Marsh Captive Solutions and are the leaders in creating innovative strategies that significantly expand the role of insurance companies. To date, Bermuda is the largest captive domicile with nearly 800 licensed captives on the island. The Insurance Department of Bermuda Monetary Authority (BMA) is responsible for the authorization, regulation, and ongoing supervision of insurance companies in Bermuda. The beneficial owners of captives come from all regions of the world and include companies of all sizes and from a wide variety of industries. Many are listed on various stock exchanges around the globe.

GENERAL INFORMATION

Location	Bermuda consists of a group of small islands located off the mid-atlantic coast of the United States, approximately 770 miles from North Carolina. The population of Bermuda is approximately 64,000.
Accessibility	The Island is easily accessible on frequently scheduled flights from New York, New Jersey, Boston, Atlanta, Miami, Toronto, and London.
Applicable Legislation	The Companies Act of 1981 and The Insurance Act of 1978 (amended in 1985 and subsequent years) govern the formation of insurance companies. Bermuda Monetary Authority is the regulatory jurisdiction responsible for the supervision of captive operations in Bermuda.
Number of Captives	797 as of year-end 2015.
Regulatory Agency	The Bermuda Monetary Authority: http://www.bma.bm/

REGULATORY ISSUES

Acceptable Insurance Subsidiaries	Single parent, group or association captives, segregated cell companies, special purpose insurers and life insurance – all in the form of both insurance and reinsurance companies.
Acceptable Corporate Forms	Stock or Mutual.
Permitted Business	All commercial lines, personal lines, and unrelated business permitted.
Direct Insurance Permitted	All commercial lines except where restricted in insured jurisdiction, i.e., statutory coverages such as workers' compensation and automobile liability.
Reinsurance Permitted	May assume and cede any reinsurance other than from or to non-exempt domestic Bermuda sources.
Policy Form and Rate Approval	Not required.
Local Office Requirement	Registered office and a resident representative, together with a principal representative and a local licensed insurance manager. A local director must always be maintained if a resident representative is not used. One shareholders' meeting annually, anywhere in the world, may be done by proxy.

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MARSH CAPTIVE SOLUTIONS: BERMUDA CONTINUED

CAPITALISATION & SOLVENCY REQUIREMENTS

	Class 1	Class 2	Class 3, 3A, 3B	Class 4
Type of Company	Pure single parent captives.	Group or single parent captives.	Any insurance or reinsurance company.	Any insurance or reinsurance company.
Maximum Unrelated (1) Risk Permitted	0%	20%	3 - 20 to 50% 3A/B (4) - over 50%	
Minimum Capital (2) & Surplus	US\$120,000	\$250,000	\$1,000,000	\$100,000,000
Solvency Margin Premium Test	20% of net written premiums for the first \$6 million. 10% of net written premiums in excess of \$6 million	20% of net written premiums for the first \$6 million. 10% of net written premiums in excess of \$6 million.	20% of net written premiums for the first \$6 million. 15% of net written premiums in excess of \$6 million.	20% of net written premiums. A maximum deduction of 25% of gross premium for reinsurance.
Solvency Margin Loss Reserve Test	10% of loss reserves.	10% of loss reserves.	15% of loss reserves.	15% of loss reserves.
Actuarial Opinion (3)	None required.	Required every three years.	Required every year.	Required every year.
Premium Taxes	No local premium tax is imposed. Premium for US risk may be subject to Federal Excise Tax (FET) of 4% on direct policies and 1% on reinsurance policies if captive is viewed as an insurance company for US federal tax purposes.			
Intercompany Loans	Allowable, but does not qualify as an admitted asset for solvency purposes, unless approved by the regulator, which requires a review of the related entity financial position. The interest on the loan earned by the captive may be subject to 30% federal withholding tax, unless 953D election is taken.			
Investment Restrictions	The captive must comply with the Minimum Liquidity Ratio for General Business requirements which states that the value of relevant (liquid) assets of the insurer conducting general business may not be less than 75% of the amount of its relevant liabilities, unless the Bermuda Monetary Authority consents to waive this requirement. Certain assets may be considered "non-relevant" (usually non-liquid), and therefore would not be considered in calculating the liquidity ratio.			
Taxation	Bermuda has no income, profit, or capital gains tax.			

(1) The term "unrelated" has not been defined for regulatory purposes. Sources indicate however that entities with which the captive parent has an existing non-insurance relationship may not be considered an unrelated risk under the new regulations.

(2) All classes require \$120,000 of cash capitalisation, except for Class 4 which is \$1 million.

(3) Captives whose products and professional liability writings total 30% of gross written premiums are required to obtain certification from a loss reserve specialist.

(4) Class 3B insurers are those that write over 50% of unrelated business and premiums in excess of US\$50 million.