



# Extracting value from captives

a special report by *Run Off & Restructuring*

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## Introduction

The closure or restructuring of captives is rapidly becoming a key growth area for service providers. Corporations are under increasing pressure to maximise the efficiency of their capital in the current financial climate and many are choosing to concentrate on streamlining their core activities by closing down, selling or relocating any extraneous operations – such as a captive. In the case of corporates with multiple captives – in most cases as a result of acquisition – there is a pressing need to consolidate and restructure. And for US corporations, President Obama's recently voiced objections to offshore havens will undoubtedly mean pressure to repatriate or shed any offshore captives they may have.

There are approximately 5,000 captives worldwide with an estimated premium income of \$75 billion. However it is hard to estimate how many are in run-off. Captives in run-off can tie up (increasingly needed) capital and also run the risk of capital erosion. It can also be hard to motivate existing staff to focus on the run-off sufficiently to ensure capital is protected; this lack of focus can be exacerbated within groups with a number of captives all with separate managers.

There are a number of options for extracting value from captive run-offs such as a scheme of arrangement, portfolio transfer, etc. The sale of a captive run-off would appear to have particular advantages: it is a relatively fast solution as transactions can be finalised in just a few weeks; transaction costs are usually borne by the buyer; captive run-offs are proving attractive to buyers and so there is increasing competition in prices; deals can be structured on a deferred consideration basis so that the captive owner can still benefit from the captive in the future while getting some capital back at the point of sale.

This special report takes a look at the captive sector's run-off and restructuring opportunities and challenges.



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It may be time to close or restructure a captive and the service providers are on hand to help. But are the captive owners and managers prepared to consider the options? Tony Dowding reports

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# Why captives come and go

**Steve Barnes, Esmee Robinson and Andrew Ward\*** of PricewaterhouseCoopers examine the captive lifecycle and the challenges being faced by captives in the current global financial climate

The captive insurance market has recently seen a period of significant activity at every stage in the captive insurance life cycle. For many corporate entities seeking to streamline their risk management strategy and reduce the costs associated with critical insurance coverage, self insurance through captive insurance arrangements is becoming an increasingly important consideration. The captive lifecycle, from the assessment of the feasibility of a new captive insurance arrangement to the closure of discontinued legacy captive business, creates numerous challenges for corporate risk managers and treasurers, in particular when considered in the context of the current economic climate.

Recently, we have seen increasing numbers of enquiries in relation to a number of captive related activities, including the setting up of new captives, organisations interested in renting a cell in a protected cell, captive or the extension of insurance policies to cover elements of risk that have not previously been considered for application to an existing captive.

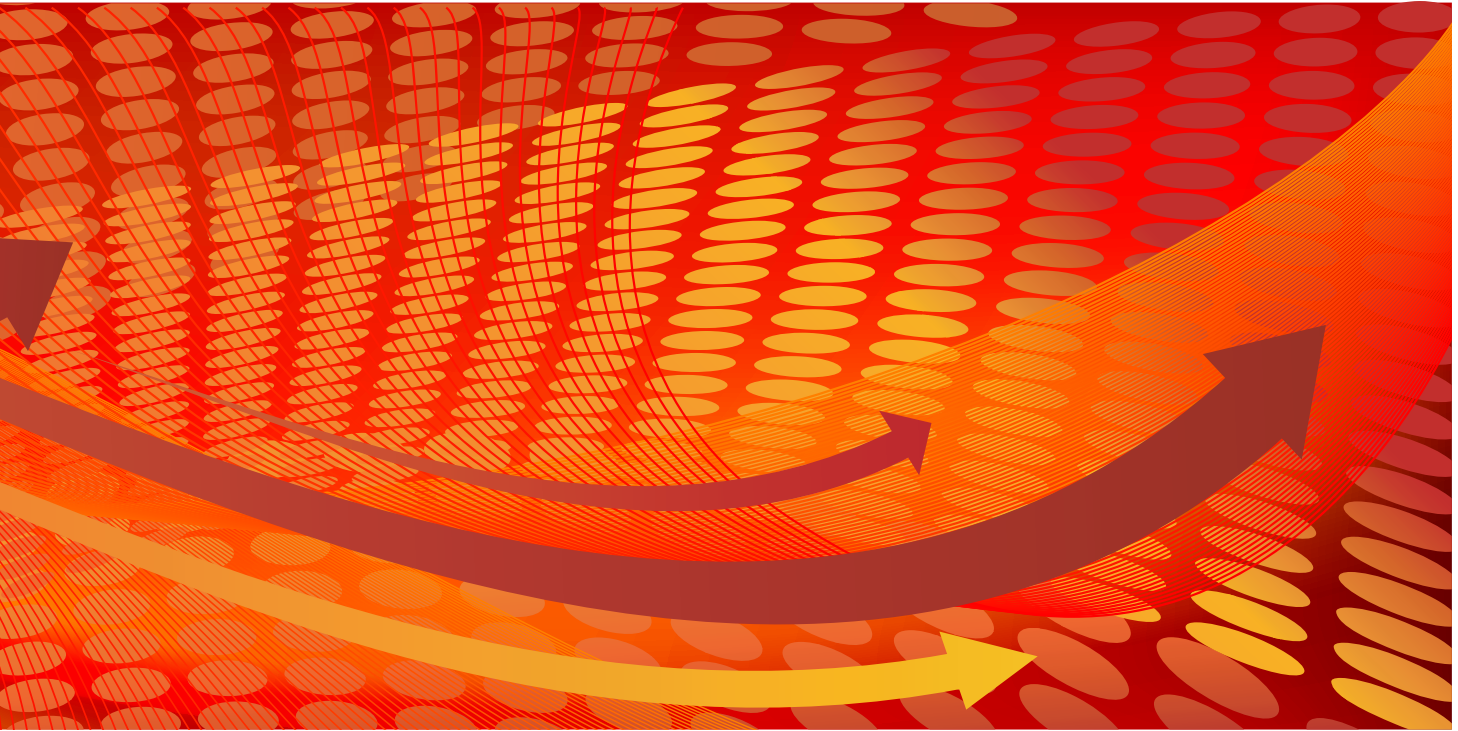
One of the drivers of these queries has been the severe tightening of terms for trade credit insurance offered to businesses as insurers try to de-risk their portfolios, encouraging businesses to seek alternative ways to manage risk. The impact of the current economic environment has been particularly severe and immediate in this area. Trading companies have historically been able to obtain trade credit insurance at a reasonable cost, and through this, enabled large orders to be accepted. These insurance contracts, however, include clauses allowing the cover to be varied by the insurer at any time during the policy period.

The reasons for varying the terms could be as a result of poor experience of particular customers of the client, or as a result of a wider concern that particular customers of the insured are less financially secure than they have been in the past. These clauses are now being invoked much more extensively than they have been in the past, with very significant reductions in the order size that can be accepted on credit from specified major customers by the insured. This can have a severe impact on

the ability of companies to continue trading effectively in what is already a difficult trading environment. At renewal, even where cover has not been varied over the previous policy period, companies are experiencing sharp increases in premiums and reductions in cover, coupled with a greater burden of information provision to insurers.

As trade credit insurance becomes more expensive and difficult to both obtain and then maintain at appropriate levels, some companies are exploring the route of captive insurance as a means of controlling their costs and coverage more effectively. This alternative approach enables them to retain greater flexibility in maintaining credit terms at a reasonable level for their major customers.

Moving beyond trade credit insurance, whilst the precise reasons for the increased interest in captives are less well defined, it is not surprising that in the current economic climate, companies are under pressure to curtail spending whilst avoiding increases in the risk accepted. In the insurance market itself there has been some hardening



of rates, together with worsening terms for many types of cover. The use of captives can provide direct access to the reinsurance market where premium rates may remain lower and where there may be a lag in the hardening of rates. In addition, in the reinsurance environment, improved claims experience as a result of advances in risk management may be rewarded at an earlier stage by lower premiums than would be accepted in the direct market.

A further driver of captive start-up activity may be the failure of major institutions such as Lehman Brothers. Such failures may have resulted in companies reappraising their perception of risk and identifying a need to insure risks that previously were run gross. This additional demand coincides with a time when insurers are reluctant to accept additional risk themselves without requiring a significant additional premium.

Whilst the economic conditions remain difficult we expect there to be continued interest in setting up captives as one of a number of mechanisms considered by companies to maintain or extend cover at a realistic or reduced cost.

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**‘In the UK there have been a number of tax developments which UK based groups should consider’**

Once a captive is established, the ongoing management of a captive’s tax affairs requires careful consideration on a number of fronts, and in the UK there have been a number of tax developments which UK-based groups should consider.

Firstly, in April 2009 the newly constituted UK Tax Court gave its long-awaited decision in the UK’s first substantive transfer pricing case. The case related to the transfer pricing arrangements between the UK’s biggest electrical retailer, Dixons (DSG), and a captive insurer in the Isle of Man (DISL) in relation to the provision of extended warranty cover to UK customers. The Court found in favour of Her Majesty’s Revenue and Customs (HMRC) and held that the arrangements were not at arm’s length. Furthermore the share of total profit allocated to DISL was excessive and that the UK retailer should be accorded a significantly greater reward for its contribution

to the extended warranty business. Following HMRC’s success, it is likely that insurance/reinsurance arrangements with captives will have a higher profile. Groups where transfer pricing is potentially relevant would be well advised to ensure that policies and supporting documentation are reviewed to ensure that they are appropriate in the context of the Dixons decision.

The second development is the introduction of new rules, effective for accounting periods ended on or after 31 December 2009, to determine whether general insurance claims reserves are ‘excessive’. Insurance companies typically hold a reserve equivalent to the actuarial best estimate of the future liabilities plus a reasonable margin for uncertainty. Under the new rules, if HMRC finds that the reserves held are excessive, the company may be penalised by the whole of the margin being disallowed for tax purposes (rather



than just the element which is deemed to be excessive).

The new rules encourage companies to provide a confirmation that the reserves in the accounts are not excessive, and support this with the written opinion of an actuary or other suitably skilled person. Failure to provide such a confirmation, whilst not in breach of the new regulations, is likely to attract greater HMRC scrutiny and hence greater potential for investigation and possible disallowance of the entire margin for tax purposes.

The application of these rules to captives will raise particular issues. For example, for smaller captives with limited claims experience, there will be potential difficulties in applying standard actuarial techniques and in demonstrating the level of margin that is reasonable. Captive owners and managers should look carefully at the HMRC guidance, due to be published shortly, and where appropriate take advice on how to apply the rules.

The third area of change is the UK Controlled Foreign Company (CFC) regime. We have already seen the abolition of the acceptable distribution policy exemption, effective from 1 July 2009. HMRC has now embarked upon a consultation process to consider a more radical overhaul of the CFC regime itself. Again captive owners and managers should watch this space.

In addition to ongoing day-to-day captive management, we continue to see clients that are, for a variety of reasons, seeking to run-off and exit their captive arrangements. The pressures brought about by the financial crisis of the past year have seen companies focus on liquidity and capital management, shining a spotlight on non-core activities. In some cases this has resulted in captive arrangements that provide marginal or no economic benefit coming under scrutiny for restructuring purposes, which is somewhat reflected in the market experience of captive sales and solvent liquidation processes to

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### 'Parent companies are becoming more familiar with the services offered by advisors in the global run-off industry'

eliminate ongoing costs and recover capital from these arrangements.

While on the one hand the economic environment has seen an increase in discussions around setting up captives, it has also driven an increase in enquiries in respect of exit from captive arrangements, as chief financial officers and risk managers have been forced to tighten their belts and rigorously consider every aspect of cost. There remain numerous cases of companies that underwent substantial merger and acquisition activity in more prosperous times retaining multiple captive arrangements.

While business boomed, the requirement to rationalise these structures was not a high priority. In the face of the recent financial crises we have seen more and more examples of parent companies 'checking the back of the sofa' to clean up legacy captive operations, remove operating costs and retrieve surplus capital that may have previously been overlooked as 'loose change'.

We continue to see instances of long established captives, particularly in Bermuda, that are still dealing with long tail claims that arose through the expansion of underwriting third party reinsurance business in the 1980s, alongside writing and managing more traditional group risks. Parent companies around the world are becoming more familiar with the services offered by advisors in the global run-off industry to bring finality to these reinsurances that are often relatively alien to the corporate captive owner. There are many options to consider including the sale or loss portfolio transfer of the third party reinsurance business, targeted cedant commutations to remove still volatile exposures or use of schemes of arrangement to

gain finality for a whole company or a specific book.

In Europe, the impending arrival of Solvency II in 2012 has also increased interest in how the new regulation will be applied to the captive sector. To date there has been considerable confusion as to how captives will be dealt with under Solvency II. This uncertainty has prompted fears that corporate groups may be discouraged from forming captives due to potentially onerous capital requirements. Alternatively they may look to re-domicile existing captive arrangements outside the EU, or may seek to exit altogether.

These fears appear to have been allayed more recently and it is anticipated that smaller captives will gain exemptions from compliance with the new regime. This is in line with insurance and reinsurance companies with premium income of less than £5 million annually that will not be subject to the new framework. However, more substantial captive operations may continue to be subject to Solvency II, leading to corporate entities reconsidering their strategy and investigating captive restructuring options.

The captive industry is closely tied to conditions of the insurance market and the hardening and softening of markets, as well as the wider economic climate. Consequently, in response to the challenging market, we expect to see an increase in the wide variety of projects covering the whole captive lifecycle from captive set-up feasibility studies, through to tax planning and even exits.

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# Captivated by captives

The closing or restructuring of captives is rapidly becoming a key growth area for service providers.

**Tom Rennell** asks what factors are involved in acquiring and managing a captive run-off and what the future holds for this market

For those who don't already know, according to a recent study by KPMG, some 5,000 run-off captives worldwide command an estimated premium income of \$75 billion. Such a figure is not dismissed easily, and certainly a growing number of run-off service providers are taking a much keener interest in the captive market.

Eight years ago, the post 9/11 world saw a significant increase in the number of new captives amid hardening conditions in the insurance market. But over the past few years the market has seen a sharp increase in the number of liquidations as, along with the economic crisis, the financial benefits of operating a captive have become increasingly redundant.

Senior vice president of Annapolis Consulting Group (ACG) Christopher Ridge explains: 'Today's soft insurance market, coupled with a generally slow economy, has caused many captive owners to re-examine the need for their captive. In some cases, the captive, which was a great idea when it was formed, may now represent a drain on both human and financial resources that could be better deployed elsewhere.'

He adds: 'We are seeing a particularly heightened interest among owners of single-parent captives who want to focus on their core business and liberate needed cash that is tied-up as collateral to fronting companies.'

Similarly, Afinia's COO Nick Eddery-Joel points out: 'The sale of the captive may be motivated by the fact that they tend to have a limited shelf life, or the perceived benefits of captive ownership may change over time as a consequence of changing corporate strategy or economic conditions.'

Importantly, given the need to free up capital and resources, most service providers advise selling up to a run-off professional as the best, if not only, option open to a parent company. Although, as Ridge explains, other options are available: 'Aside from an outright acquisition, a captive owner may consider a novation or loss portfolio transfer of all or a portion of the captive's book of business.'

For Eddery-Joel, 'the key advantage (of selling) would be finality, particularly where the present owner no longer has a need for the captive or the ability to understand and manage the entity. Given that, there



**‘Aside from outright acquisition, a captive owner may consider a novation or portfolio transfer of all or a portion of the captive’s book of business’**

Christopher Ridge, ACG

are few other options likely to meet the same objective.’ Sean McDermott, executive director at UK-based Quest Group, adds: ‘For any company in this situation, not just captives, the sensible option is to exit so that they focus on their core business.’

As parent companies are increasingly looking to offload expensive captives, the acquisition possibilities are stirring up interest amongst service providers. John Halls, managing director at Compre, told *Run Off and Restructuring* magazine: ‘Compre is very interested in the captive market and is actively pursuing opportunities within this segment.’ The COO of DARAG, Arndt Gossmann, comments: ‘Only six months after DARAG was available as an institutional acquirer of run-off, about one third of the requests we got were related to captives.’ Ridge finds the market so inviting ‘that we operate almost exclusively within that niche.’ However, not everyone shares their optimism, with some even lamenting the arrival of so much interest in the market.

Andy McComb, chief executive captive operations, CTC Allegro Insurance & Risk Management (the Bermudian captive management business of Charles Taylor Consulting), told *Run Off and Restructuring*: ‘The captive run-off market has been attractive for us historically, especially when assisting those captive owners who misadventured into significant unrelated business in the late 70s and 80s.’ He adds, however: ‘Most of that type of captive run-off has been substantially completed, so the current market for captive run-offs comprises companies who wrote principally

related risks and group captives. This new market seems to have attracted a number of new entrants who are somewhat “late to the ball” but their publicised entry may have a negative impact on the margins that can be achieved in buying captives.’ In other words the arrival of extra competition in the acquiring of run-off captives may have the undesired effect of driving prices too high for any reasonable return.

From the perspective of the purchaser there can certainly be some difficulties associated with acquiring a captive. In particular, taxation issues can be tricky especially when dealing with offshore captives, and having a full working knowledge of the tax laws in a given jurisdiction is fundamental before going ahead with an acquisition. As Ridge explains: ‘Companies seeking to acquire captives

‘Taxation issues, or recent changes thereof, may make the sale less attractive and could postpone or cancel the transaction.’

Which is why taxation is a key issue when brokering a deal. Says Gossmann: ‘Captives are often based in countries with a lower tax-environment. A deal should, if at all possible, save some of the tax advantages for the seller. Deal-structuring is key.’ Offshore domiciles account for a large number of captives due to ideal tax conditions, with the biggest proportion operating in Bermuda and the Cayman Islands. Nevertheless recent changes in Cayman tax policy and, for US corporations, Barack Obama’s recently voiced objections to offshore tax-havens, mean that purchasers are well advised to be wary.

A further difficulty that can disrupt a potential sale is a lack of experience of the parent company in the re/insurance and run-off market. Parent companies, who generally deal in an entirely separate industry, tend not to be insurance professionals and because of this their expectations can differ widely from a buyer’s. McComb notes: ‘It is often difficult for captive owners who are not operating in



**‘Captives are often based in countries with a lower tax-environment....deal structuring is key’**

Arndt Gossmann, DARAG

must be extraordinarily careful in their due diligence process. While offshore captives are generally well-regulated and their transactions well-documented, a potential buyer must gain a thorough understanding of the complex tax consequences attendant to the sale of an international entity as well as the legal terrain of the domiciliary jurisdiction.’ Hall says:

the re/insurance market frequently to relinquish the potential reserve redundancy they might believe is contained in the loss reserves. Their perception of the run-off is rarely consistent with the buyer’s.’

Because of this, deals need to be structured carefully in order to satisfy all parties. Says Ridge: ‘Structuring the purchase of a



**‘Taxation issues, or recent changes thereof, may make the sale less attractive and could postpone or cancel the transaction’**

John Halls, Compre

captive run-off can be complicated due to the often competing agendas of the captive’s owner(s), fronting companies, reinsurers and service providers. Challenges also exist in that captive owners (while experts in their core business) are not typically sophisticated insurance professionals. The trick is to corral the various interested parties and structure an arrangement that aligns the interests of everyone involved.’

Despite this most deals involving captives tend to be fairly similar to normal run-off acquisitions. As Eddery-Joel comments: ‘Many of the structuring and regulatory issues are the same in both cases.’ In general, the type of deal brokered is dependent on the position of the company selling and the various idiosyncrasies of the business being sold.

‘As tax considerations are factored into a sale, deferred consideration can be quite attractive for some sellers. Others are looking for an immediate cash infusion into their core business. Every deal is different and must be structured accordingly’ says Ridge.

For Eddery-Joel, ‘it really depends upon the vendor’s aspirations, the degree of interest from potential acquirers and the nature of the liabilities. Most vendors look for cash upfront - that is after all finality. In an instance where pricing was difficult or competition to acquire was limited it may be possible to feature some deferred consideration but it’s not something that is usually seen. Many captive deals are done at levels which are a fraction of

the vendor’s overall balance sheet. Deferred consideration in these cases is not really an attraction.’

Equally, Gossmann notes: ‘A deferred compensation might be an appropriate tool in certain situations,’ adding however, ‘in principle we are prepared to pay the seller now and in cash.’

The type of business being bought also has important repercussions on the type of strategy employed once a sale is complete. Generally speaking the preferred option is to simply run-off the business, albeit at a more professional accelerated rate than the non-insuranceparent company would be able to manage. ‘Our core strategy is to wind-down in an orderly way until the end and to settle all interests of the insured,’ says Gossmann. Nonetheless, as McComb notes, ‘a manager who is just managing the run down process is really not adding any value to the purchasers. The more focused and innovative managers will generate reasonable returns for their investors,’ he says, adding: ‘Each situation is different – the risks assumed, the reinsurance structure, claims litigation – and so it’s always necessary to have an arsenal of strategies available to manage the run-off.’

The choice of strategy naturally comes down to the business. For Hall, it depends ‘on the business mix; that is, was it a true captive writing only shareholder business risks or was it writing third party risks?’

When considering captives that have written third party-business, schemes, are a useful option. ‘Some of the Bermuda captives in the past,



because of the way the tax regime used to operate, have written third party business. Schemes were used quite effectively for those companies to exit the third party business,' says McDermott. He goes on to add, however, 'generally now captives write direct business so typically schemes aren't a real solution for captives. It's really about trying

claims to enable them to close the company.'

For run-off service providers today the captive market certainly looks attractive. Eddery-Joel sees the market as 'an area which will continue to throw up opportunities due to insolvency and M&A activity in the host sector (for example Woolworths) and also due to changes in regulation

the first place'. Equally, Ridge sees 'a bright future for the captive run-off market. There is a great deal of advice out there on how to form, manage, expand, invest, and handle claims within a captive. There is very little discussion, however, about what to do when the ongoing operation of a captive is no longer the best option - the end of its useful life cycle, they will all end some day. Firms offering closure solutions to captives will continue to have a valuable place in the market.'

In short, for an increasing number of service providers, captives represent a sustainable fuel since one can expect their continued formations and closures. As Halls puts it, in the future, 'we could see more captives placed in run-off but also we may see more new captives springing up in other territories, and so the cycle moves on.'




**'Many captive deals are done at levels which are a fraction of the vendor's overall balance sheet. Deferred consideration in these cases is not really an attraction'**

Nick Eddery-Joel, Afnia

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# Open to ideas

An increasing number of captive owners and their advisors are turning their attention to the idea of run-off as capital constraints raise the pressure to unlock value from non-core operations. **Tony Dowding** reports

Although the captive insurance market is continuing to grow there are a number of concerns on the horizon. Not least of these is the arrival of Solvency II. As AM Best Co put it in a recent report: 'Solvency II undoubtedly represents the biggest hurdle for the European captive market in the medium and the long-term.'

So-called 'principles of proportionality' are due to be

applied as part of Solvency II's implementation, meaning in theory that there will be due allowance for the nature, scale and complexity of the insurance company – but as yet, no-one knows what the allowances will be. Yvette Essen, head of market analysis at AM Best, says: 'Parent companies may choose to shut down their captive, considering the regulatory and compliance burdens of Solvency II on captives to be disproportionately large,

in light of the size and relatively straightforward risks insured by the captive.'

All of which will of course be good news for run-off service companies and buyout specialists who have recently turned their attention to the captive market. The Best report says that although captives have traditionally been vital for self-insuring, 'the credit crisis has fuelled a growing desire for certainty and has forced businesses



## **‘This captive buyout market is just bubbling under the surface but this is set to escalate’**

Yvette Essen, AM Best

it comes to the various options available when a captive is no longer required, such as run-off, commutation, novation, portfolio transfer, scheme of arrangement, or sale?

Kate Westover, vice president of Alternative Risk Financing at Innovative Captive Strategies, says that captive managers are typically well versed in run-off options and present them to their clients. ‘Often a captive uses run-off because the pricing on a loss portfolio transfer is not advantageous to the insured, or a front or reinsurer doesn’t want to commute and novate and security obligations are, therefore, ongoing,’ she explains.

Increasingly, captive owners are taking an active approach to finality, according to Charles Winter, head of risk finance at Aon Global Risk Consulting. ‘There are more options available – the run-off market has expanded in size and is actively looking for deals, and, therefore, it has lowered its sights to the captive sector. There are a number of buyout markets that are targeting captives with a view to purchasing the entire captive whereas historically the market was more for portfolio transfers and novations. The growth in the last couple of years has meant that there is a greater ability to sell a captive rather than selling bits of its portfolio.’

Jonathon Groves, captive consulting leader at Marsh, says that buyout is definitely an option that captive owners would consider if they wanted to close the captive down. ‘There are a number of companies out there that are very willing to buy the right sort of captives. The captive would have

to be a reasonable size as the transactional costs that the buyer incurs can only be justified if he is going to acquire a reasonably substantial vehicle which he believes could be run off at a profit. Whereas if you only have a small amount of liabilities sat in there and a small level of assets, then it doesn’t really make it worthwhile. And you’d be looking at more traditional lines, such as plain vanilla employers’ liability, general liability, workers’ compensation, as opposed to bankers’ blanket bond or D&O.’

Craig Powles, a partner at Solomon Harris, a law firm based in the Cayman Islands, says: ‘Many Cayman captives operate as reinsurers of fronting companies and therefore typically the obvious end-of-lifecycle solution will be a simple commutation with the fronting company rather than run-off. For Cayman captives that are direct insurers, there is, however, a growing awareness among some captive owners of the role that specialist run-off managers can play in a close-down situation but their involvement in the alternative risk arena is a relatively modern phenomenon. Inevitably, a key issue for owners is the cost involved in engaging a run-off manager.’

Peter Willitts, president of the Bermuda Insurance Management Association (BIMA), says that generally there is a reluctance to exit the captive. He cites various reasons for this: ‘When the market turns the captive will be reactivated, too much volatility left in the reserves, if the run-off specialist can do this for a profit then selling the captive would mean profit is being given away, not being able to get the right

to examine different ways to unlock capital. These factors have resulted in companies looking at passing on their entire captive, or part of it, to a third party.’ According to Essen: ‘This captive buyout market is just bubbling under the surface but this is set to escalate. The credit crisis has also resulted in companies turning to their captives as a potential source of cash.’

But how aware and knowledgeable are the captive owners when



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**‘There are more options available – the run-off market has expanded in size and is actively looking for deals, and therefore it has lowered its sights to the captive sector’**

Charles Winter, Aon

price, the effort of selling the captive doesn’t warrant the return.’

He adds: ‘A more cynical comment would be that all the advisors with a long term relationship with the captive owner are getting paid while the captive is in existence and they have an interest in keeping the captive going and might be giving advice subject to bias. However, the opposite is probably true – as treaties age they become more difficult to control and managers would be glad to see them passed to a specialist.’

The advantages of a sale are many. As Willitts points out, ‘management time is lessened. The sale is a one shot deal, so there are no more meetings, discussions, decisions. And there will be an effect on the profit and loss because, hopefully, it will mean the book/company is sold for less than the carrying value.’

Winter says that one major attraction is that regulators are getting more nervous and putting greater due diligence on when a company’s liabilities are extinguished. ‘So if you want to run-off and liquidate a company, particularly if it has been underwriting an element of long tail business, it is no longer good enough to simply say, we haven’t had a claim for a couple of years, let’s liquidate. Against that background, the need to ensure that you have actually extinguished any liabilities is of growing importance, and one of the ways to do that is to involve another party to very clearly take over all liabilities.’

Does this mean that captive owners are being courted by run-

off and buyout specialists? Paul Srivener, a partner at Solomon Harris, says: ‘This is starting to happen to some extent by companies such as ACG LLC and others who have traditionally operated in the mainstream insurance markets. Those companies clearly see opportunities to grow their business by capitalising on the fact that most captives have a finite life and therefore owners will at some point have to address the best way to close down their captive to maximise value and terminate risk.’

However, Alan Fleming, chairman of the Captive Special Interest Group at AIRMIC (the Association of Insurance and Risk Managers) says that selling a captive that is no longer required ‘is a very realistic option and there will be people who are interested in that, but I don’t think there are that many of them.’

One problem for such companies is the difficulty of accessing captive

talk quite frequently to various buyout markets on the basis that we will know before them what is going on with the captive. So they are certainly courting us as captive managers and advisors.’

Marsh’s Groves says there is less contact. ‘We have noted that a number of companies have publicly stated that they are looking to target captives that are in run-off, but generally we have been contacted by very few of those companies to find out what the opportunities are,’ he points out. ‘So if they are not working with large captive managers, to a certain extent, it is difficult to see how they have the visibility as to what the captives are actually doing,’ he adds.

These views are backed up by one captive owner who is currently contemplating the closure of his captive. US firm Fleetwood Enterprises, Inc filed for Chapter 11 protection in March 2009. It has a captive in Gibraltar which was not part of the bankruptcy process, and another in Bermuda. William F McMahon, risk manager at Fleetwood Enterprises, says: ‘We are still trying to “determine” liability, and will proceed with selling or run-off in the future based on claims “approved” by the court, and final liability determinations...It

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**‘As treaties age they become more difficult to control and managers would be glad to see them passed to a specialist’**

Peter Willitts, BIMA

owners. ‘I think that captive owners are being courted fairly timidly at the moment,’ says Winter. ‘I am unsure as to whether relationships exist between the run-off companies and captive owners to allow for a more aggressive courting. There will usually be a broker or an advisor that has a better knowledge of what the captive owner is thinking. We, as captive managers,

is still too early to project where we will be at.’

He says that Fleetwood is aware of the options of selling or outsourcing its captive operations to a specialist run-off management company: ‘We will need this option at some point in the future. I certainly wouldn’t say we have been “courted” by run-off specialists in the past couple of years, or even at this time.’

