



## FROM THE CHAIRMAN

### An Eventful Year

Last year was a challenging year not only for the captive insurance industry, but for economies around the world struggling to pull out of a recession.

Yet, TMG swam against the tide. While the industry was generally stagnant, the roster of clients serviced by our U.S. operations grew dramatically from four captives to 14 – a growth rate of 350%. And 2010 started with a bang as two major risk retention groups became clients in January.

#### Stokes, Richards Join TMG

To keep pace with our growing clientele and their risk management demands, TMG continues to add talent to its roster. Tom Stokes, a long-time captive insurance executive, chairman of TMG New York and head of the company's international captive consulting practice, joined Towner early this summer.

Mary Richards is the most recent addition to the Towner roster. With a long career in captive management and as a former financial executive for a non-profit company, Mary understands the needs of captive insurance companies

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## The Towner Management Group Poised For More Domestic Growth

How does a startup captive management company gain recognition – and grow its client base – so quickly?

If you're The Towner Management Group in the U.S., the formula is simple. Take one part name recognition – TMG is a reputable and long-time international captive manager and the largest manager in Barbados. Add another part experience – when TMG opened its U.S. operations, it quickly assembled one of the most experienced teams in the industry. Finally, add the independence and expertise that typify TMG both in the U.S. and abroad and you have a recipe that fosters client trust and confidence – and a growing client base.

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*"Our prospects are bright this year because we believe in responsible growth"*

*-- Guy Ragosta*

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"We grew last year and our prospects are bright this year because we believe in responsible growth," says Guy Ragosta, CEO of TMG's U.S. operations. "It's important to understand that we're not looking to become a mega-manager, but we are touching every niche in the industry."

#### Broad Spectrum of Risk

With the National Catholic RRG and Housing Authority RRG, TMG added two of the largest risk retention groups to its roster in early 2010. Previously, TMG had attracted single-parent captives, sponsored companies and protected cell companies – the entire spectrum of alternative risk structures that represents the domicile of Vermont, the headquarters for Towner Management's U.S. operations.

To keep pace with the company's growth, TMG doubled its U.S. professional staff, while becoming licensed in New York, South Carolina and Arizona, in addition to Vermont. The company will become licensed wherever it makes sense for clients.

#### International Consulting

"As we move forward, our key focus is to make sure we don't lose sight of what makes us who we are," Ragosta continues. "Companies trust our experience and independence. Plus, we have expanded Towner Management's international consulting capabilities, giving our clients another way to benefit from our expertise."

"It's important to know that The Towner Management Group is about more than accounting and financial reporting," he adds. "We are strategic thinkers, an asset that is crucial in today's risk management environment."

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**An Eventful Year**

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from both ends of the spectrum. You'll read more about Mary in this newsletter.

Yes, 2009 has been an eventful year for TMG. Now, as we head to the annual CICA conference and see a couple of months of 2010 in our rear-view mirror, we're even more excited about the future. Find out why captive insurance companies put their trust in Towner Management. Talk to us to learn more about TMG, both domestically and overseas, and ask us how we can help you with your risk management challenges.



Christopher J.N. Towner  
Chairman

## License Fee Increase Proves A Non-Issue For Some Barbados Captives

When Barbados raised its annual insurance license fees from \$5,000 BDS to \$20,000 BDS in 2008, there was concern that the increase might depress captive insurance activity on the island. While this increase may discourage smaller captives from exploring their options here, it hasn't proved to be a major issue for medium and large concerns.

"Interest in Barbados as a potential captive domicile continues," says Ricardo Knight, president of The Towner Management Group. "The government is strong and stable and we have an established infrastructure that is experienced and very professional, thus the mid-size and large players continue to express interest."

### TMG Lands Two New Accounts

That interest has translated into a rush of new business for TMG in Barbados, as the island's largest manager snared two accounts early in 2010 that insure two of the world's largest companies: one in Canada and another in South America. Large captives are likely least affected by the license fee increase. These two new clients of Towner are part of the estimated 300-plus insurance companies that are domiciled in Barbados.

### Barbados Strengthens Relations

The island's double tax treaties with a growing number of countries promise to help increase the captive population even further. The most recent members of the Barbados Bilateral Treaty Network include The Netherlands, Mexico and Seychelles. Protocol to the Netherlands treaty and agreements with Ghana and

the combination of Belgium, Luxembourg and the European Union await ratification. Ghana and Luxembourg also await ratification of bilateral investment treaties. Once ratified, Barbados will have double tax treaties with 20 countries and investment treaties with almost a dozen.

### New Regulatory Commission

"While the license fee increase wasn't welcomed by insurance companies, Barbados continues to work hard to promote businesses of all types – not just insurance – to the island," says Knight, who continues to serve as chair of Barbados' Joint Policy Group on International Business and Investment Promotion. "The government responded to the global financial crisis by strengthening the regulatory environment and establishing a Financial Services Commission, which should be in place by June.

"Meanwhile, both Towner Management and Barbados continue to attract attention from mid-size companies, which may feel they aren't given the attention they deserve elsewhere in the Caribbean," he continues. "I believe we are well positioned to provide service with independence and a devotion to meeting clients' needs."



# Captive Growth Spotty Last Year, Shows Promise In 2010

Domestic captive growth was all over the board during 2009, says Len Crouse, a Partner with The Towner Management Group and a former long-time captive insurance regulator with the State of Vermont.

## Vermont Picks Up Growth Rate

With an increase to 39 formations in 2009 from 16 the prior year, Vermont had a relatively successful year, especially as late-year momentum helped increase interest. "The big players, Vermont and South Carolina, will always attract captives," says Crouse. "But the biggest increases in formations, if not in net premiums, were in Kentucky and Utah, where 831b captives came on shore primarily from domiciles like Turks and Caicos."

So-called 831b captives, also known as mini-captives, are insurance companies that cannot receive more than \$1.2 million in premiums annually. "These captives are often used for estate planning," says Crouse, "because generally they are taxed only on investment income. They had been primarily offshore, but perception may have persuaded some owners to register them domestically."

## Net Growth Sluggish Elsewhere

Washington D.C., according to Crouse, also fared well in 2009, despite poor economic conditions. Nevada and Arizona saw net losses, as some captives shut down so that parent companies could tap their captives' capital.

Bermuda and Cayman, the two offshore giants, either broke even or gained slightly last year, while

European domiciles, led by Guernsey, pretty much mirrored what was happening in North America, according to Crouse.

"The economy had maybe its biggest impact on risk retention groups, where more retired than formed," says Crouse. "No matter where you were domiciled, there were no new tax incentives available for captives. "But when the market hardens, which I think it will this year, you'll see the number of RRGs go up again, as well as a potential increase in formations of other types of captives."



## New Medicare Reporting Requirement Delayed Until 2011

If your captive meets certain requirements, it must sign up to electronically report Medicare-eligible claims. But thanks to a late change in the deadline for the reporting requirement to begin, you have more time to prepare.

Section 111 of the Medicare, Medicaid SCHIP Extension Act Of 2007, known as MMSEA 111, was supposed to become mandatory April 1, 2010 for secondary payer of health claims. Medicare has been testing and accepting voluntary claims submissions during the first quarter of this year. If you have already registered with Medicare, you should have been assigned a date when your report must first be submitted and for subsequent quarterly online reporting filings.

### Deadline Moved Back

Now, the new deadline is January 1, 2011. As it stands now, any non-group health plan (NGHP), including captive or self-insured, paying these claims is considered a Required Reporting Entity (RRE) by Medicare and must follow this mandate by the new date. Testing will continue through this year.

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**New Medicare  
Reporting Requirement**  
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"We believe the delay will give everyone more time to prepare for this mandate and assess its impact on operations," says Guy Ragosta, CEO of The Towner Management Group's U.S. operations.

Presently, the penalties for non-compliance are substantial at \$1,000 per day per claim. Any insurer, either captive or self-insured, which pays claims to Medicare-eligible recipients for medical coverage or bodily injury is considered a Required Reporting Entity (RRE) by Medicare and must follow this new mandate.

Towner Management can recommend reputable third-party providers or software applications that can help you comply with this regulatory mandate.

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*The deadline for reporting MMSEA 111 secondary health claims is moved back to January 1, 2011.*

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## When Are Captive Premiums Taxable?



When companies and organizations decide to form a captive, the tax treatment of premium payments and expenses are among their primary concerns – and even among the primary reasons for forming captives. Yet, the Internal Revenue Service may treat the same tax situation differently than the courts. So which tact is a captive insurer to take?

Tom Stokes, Managing Principal of The Towner Management Group (NY) LLC and TMG's consulting practice leader, says the correct course of action will depend on the personality of each captive owner.

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*"The disconnect between the Internal Revenue and court decisions that have reversed some IRS positions on captive insurance taxation has a long history."*

*-- Tom Stokes*

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### **IRS and Courts Disagree**

"The disconnect between the Internal Revenue and court decisions that have reversed some IRS positions on captive insurance taxation has a long history," says Stokes. The issue is too complex to thoroughly examine in a small newsletter article, but Stokes offers one example concerning the "number of entities insured" in a white paper on captive taxation that will soon be posted at [www.townermanagement.com](http://www.townermanagement.com).

In the white paper, Stokes relates that one IRS ruling, which cannot overturn established court precedence, seems to establish that tax benefits would be available to a captive that insures 12 subsidiaries, each of which will not represent less than 5% or more than 15% of the captive's total risk. An enormous gray area still exists, as the Service does not explicitly rule captives with fewer multiple subsidiaries as ineligible for tax advantages.

The white paper also briefly discusses the effect of state taxes on captive insurers, including state procurement taxes.

### **The Captive Choice**

So which way do captives turn? "The courts have been conclusive about what works and what doesn't for captives, but the IRS does not agree," says Stokes. "The action a captive takes depends on its comfort level. "If it has the intestinal fortitude to take on the fight, the captive can eventually save a good deal of cash flow. Whichever path captives choose, ongoing monitoring of tax developments is vitally important."

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