

Captive Insurance – Services Guide 2009



CONFIDENTIAL

Executive Summary

The Folio Group is a specialist financial services firm with operations in the BVI and Anguilla. We are able to utilize a wealth of product and industry knowledge to structure and administer Funds, Business Companies, Special Purpose Vehicles and Insurance Companies in order to provide a complete range of services to the offshore industry.

Folio's philosophy is simple; to grow with our clients. With this focus, Folio employs dynamic, experienced professionals and maintains excellent relationships with banks, brokers, custodians, auditors and lawyers.

The purpose of this document is to provide the reader with an introduction to Folio Insurance Management Limited and our range of services. We also give an overview of the uses for captive insurance vehicles and highlight a number of opportunities that exist.

Folio Captive Services

- advice on establishing offshore captive insurance and reinsurance companies
- completion of the licensing application process for insurance companies
- provision of a resident Insurance Manager
- provision of a principal office
- establishment of reinsurance programs for the captive (re)insurance company
- establishment of fronting programs for the captive (re)insurance company
- advice on policy rating and issuance
- claims administration and loss control
- accounting services and maintenance of proper books and records
- liaison with actuaries, auditors and tax advisors.

Preferred Types of Captive

As part of the initial feasibility study, Folio can assist your clients in determining which type of captive is best suited for their company:

- Single Parent Captive
- Group Captive
- Diversified Captive
- Agency Captive
- Association Captive
- Segregated Cell Captive

Single Parent Captives

Single parent captives are wholly owned subsidiaries of the parent company. As such, the lines of insurance and the structure of the program can be to meet the specific needs of the parent. As a result of the favorable tax treatment of captive insurance companies making the 953(d) election (otherwise known as 831b companies), many single parent captives also choose to also insure unrelated (third party) risks to satisfy the associated IRS requirements. These are often then referred to as diversified captives, as defined below. Typically, at least \$1.0 million of premium is required to achieve the desired cost benefit.

Group Captives

Group captives underwrite the risks of a group of companies (normally related parties) and are therefore generally involved in multiple lines of business.

Diversified Captives

Diversified captives are effectively single parent or group captives that also underwrite unrelated risks in addition to their single parent or group business.

Agency Captives

Agency captives are formed by insurance agents or managing general agents to allow them to participate in the high-quality risks which they control. The 831b structure can often provide a significantly more benefit to an agent than they would generally receive under their normal commission arrangements with their preferred carriers.

Association Captives

An association captive is owned by members of a common industry or trade association. Participation is limited to members of the association. This type of captive is designed to insure the risks of that industry among its members. Examples of trade associations that may utilize these types of captives would include physicians, attorneys, pilots, builders etc. Also known as heterogeneous captives, association captives are often likened to mutuals.

Segregated Portfolio Captive (SPC)

Segregated Portfolio Captives or Protected Cell Captives (PCCs) as they are also known are essentially “rent-a-captive” companies that ensure complete separation among program participants. According to the laws of specific domiciles, SPCs generally guarantee complete separation of each cell’s assets, capital, and surplus from each other.

Overview of Captive Benefits

Benefits of a captive include:

- Reduction in the total cost of risk faced by a corporation
- Underwriting stability
- Enhanced cash-flow
- Participation in underwriting profits
- Access to the reinsurance market
- Providing a focus to a corporations risk management policy
- Potential tax savings

Who can benefit from a captive insurance company?

Folio Insurance works with both large corporations and family run businesses across the globe to provide specialist captive solutions that incorporate, risk management techniques, estate planning, asset protection and tax benefits.

With regard to international clients, many large corporations with cross-border insurance risks are often unaware of the potential benefits associated with captive structures.

This is particularly relevant for companies operating in countries where there is a distinct lack of available coverage from credit-worthy carriers. Even firms operating in countries with onerous and restrictive licensing laws can often benefit from captive ownership through the use of a “fronting carrier”.

In addition, Folio has a significant level of experience of forming and managing structures for multi-national corporations and conglomerates faced with multi-jurisdictional licensing issues. Our sister-firm, Hyperion Risk Solutions, is a member of the [Wells Fargo Global Broker Network](#), providing us with access to a wealth of local knowledge and expertise across the globe.

For US clients, Folio has expertise in working with overseas taxation professionals to structure captive vehicles that work within the terms of IRC§831(b) and are recognized as small insurance companies with the ability to underwrite premiums of up to \$1,200,000. The benefit of this is that the insurance company will be taxed only on investment income and not on the premium income.

In order for a company to be designated IRC§831(b) it must elect to be a US taxpayer by making a 953(d) election. This allows the company to maintain assets in the US rather than having to maintain bank accounts offshore and not fall foul of reporting requirements under the PATRIOT Act. Essentially, the insurer operates and is regulated from offshore but control can remain within the US.

With taxation only being made on investment income companies can build up substantial surpluses in the company quickly which can then be used to support expansion of underwriting areas that can further assist in the risk management policy of the parent corporation.

It is always important to remember that preferential taxation treatment should only be a secondary reason for captive formation.

Our partners

We have number of partners who are able to assist us with the sourcing of the following services for our clients:

- life insurance providers
- reinsurance carriers
- fronting carriers
- tax attorneys
- accountants
- actuaries

Unlike the majority of our competitors, we are able to afford our clients with direct access to a plethora of international reinsurers and fronting carriers through our affiliated firm, Hyperion Risk Solutions.

Hyperion Risk Solutions is a member of the Wells Fargo Global Broker Network, which allows us to provide our clients with consultancy services relating to risks spread across the globe. The Company's principal has vast experience in the placement of both facultative and treaty reinsurance risks.

In the case of most third-party services, our suggested providers often vary depending on the specific area of expertise required. These factors may include domicile, industry type, class of (re)insurance etc.

With specific regard to overseas tax advice, although we operate in jurisdictions that offer zero corporation and premium tax rates, Folio continually reminds all of our clients that they must seek professional onshore assistance before entering into any offshore transactions.

To protect our clients' best interests, aside from our affiliation with Hyperion Risk Solutions, Folio has does not enter into formal relationships with any one third-party service provider.

However, to assist us in the creation of innovative and complex international captive structures, we have long-standing relationships with some of the insurance industry's most prominent tax lawyers and international accounting advisors.

Estimated Costs

All fees charged by Folio will vary based on the complexity of the captive structure and the level of services provided. The information below is intended to give a range of fees for those services to provide an estimation of the costs involved in the regulatory required functions of a captive. All quoted fees are open to negotiation and discounting will be considered in special circumstances. Any other third-party actuarial or tax advisory fees have not been included:

Captive Formation

Formation Fee range (Folio):	US\$7,500 to \$50,000
Government Application Fees:	US\$500
Government Company License Fees:	US\$280/US\$350
Government Insurance License Fees:	US\$2,000 (annual)

Insurance Management Fees (including registered office/agent):

Management Fees (Folio):	US\$12,000 to US\$120,000 (annual)*
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*Fees are negotiated on a bespoke basis depending on premiums written, complexity of structure, accounting, reinsurance and services provided etc.

Other Regulatory Requirements

Audit Fees:	US\$7,000 to \$25,000 (annual)**
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** Fees are negotiated on a bespoke basis depending on premiums written, structure, complexity of investments etc.

Fee quotations are subject to the Directors of Folio Insurance Management Limited (Folio) being satisfied with the due diligence which will be carried out both in respect of the client (sponsoring company and / or other advisors) and in respect to the proposed captive structure. It may be the case that these fees will need to be revised at a later stage in the event that Folio is required to provide additional services (e.g. where there is a change to the underwriting strategy etc.).

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Appendix

-  **Appendix A** – Folio Group Management

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Appendix A

Folio Group – Key personnel

Simon Owen, *Insurance Director*

Simon Owen (simon@folioadmin.com) has worked in the finance industry for over 15 years, specialising in investment strategies and insurance and reinsurance solutions. Prior to founding Hyperion, Simon spent a number of years forming and managing captive insurance and reinsurance companies. He also worked in the Lloyd's insurance market for over a decade, latterly in the new business development division of a leading international reinsurance intermediary.

Simon is the Managing Director of Hyperion Risk Solutions Limited and the Insurance Director of Folio Insurance Management Limited. He is a past Chairman of the BVI Association of Insurance Managers and has served a member of the BVI Marketing Advisory Committee, the Financial Services Institute Advisory Committee and the Joint Anti-Money Laundering and Terrorism Financing Advisory Committee.

William Harris, *Operations Director*

William Harris ACCA (william@folioadmin.com) is the Operations Director of Folio Admin. William acquired a solid base of technical expertise and a keen appreciation of client requirements from his experience over more than a decade in a variety of positions within the fund administration industry. After graduating from University with an Honours degree in Financial Economics William started his career at The WM Company, where he gained experience in performance measurement, fund accounting and fund pricing for a variety of investment vehicles. Following this initial exposure to the fund administration field he had the opportunity to become involved in the launch a Unit Trust Management Company for a major UK Bank. William then re-located to London where he worked for BNP Paribas (formerly Cogent) for four years, specialising in accounting and taxation treatment for a wide range of investment products, and finally joined Folio Admin in the BVI in 2003. William is a qualified accountant (ACCA). He combines his technical expertise with a commitment to delivering an excellent and efficient service to Folio Admin's clients.

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Daniel Cann, *Marketing Director*

Daniel Cann ACA (daniel@folioadmin.com) is the Marketing Director of Folio Admin. He has resided in the Caribbean for over six years, formerly working on establishing, marketing and administering Offshore Mutual Funds for VP Bank of Liechtenstein. Prior to this, Daniel worked for Cogent Investment Operations, formerly of Henderson Investments and now part of BNP Paribas. Daniel trained and qualified as an English Chartered Accountant in London. He specialises in building relationships with banks, lawyers, custodians, leverage providers and brokers to ensure Folio Admin can give the best structuring advice to existing and new clients.

Calum McKenzie, *Corporate Director*

Calum McKenzie (calum@folioadmin.com) is a Director of Folio Corporate Services Limited and is responsible for overseeing the day to day operations of the Company. Since graduating in the UK in 1996 with an honours degree in Business Studies, Calum has garnered in excess of nine years offshore financial experience. Immediately prior to joining Folio, Calum was the Manager of the Fiduciary Services department of a large independent BVI Trust Company where he gained an excellent knowledge base of all aspects of offshore financial services and more specifically all aspects of BVI financial services.

Derek King, *Managing Director*

Derek King FCCA (derek@folioadmin.com) is the Managing Director of Folio Admin. Following qualification as a UK certified accountant in 1984, Derek gained international accounting and management experience within premier companies operating in financial services, telecommunications and strategic consultancy. Derek has been resident in the British Virgin Islands since 1995, serving in senior management and director positions within the financial services industry. Prior to founding Folio Admin, Derek served as Financial Director and Mutual Funds Director for Havelet Trust (BVI) Limited and Insinger Trust (BVI) Limited respectively, and as Senior Manager (Mutual Funds) for ATU General Trust Limited. During this time he specialized in all aspects of offshore mutual fund establishment and administration work, whilst also having responsibility for company management, accounting and trust administration functions.

Appendix B - Comparison: Bermuda, Singapore & British Virgin Islands

Domicile	Bermuda	Singapore	British Virgin Islands
Capitalization	Capital & Surplus: \$120,000 for Class 1 (single-parent insuring only risks of parent and affiliates) \$250,000 for Class 2 (group/association deriving no more than 20% of net premiums from unrelated companies) \$1 million for Class 3 (more than 20% from unrelated companies) Premium to Surplus: 20% below \$6 million 10% above for Class 1 and 2 15% for Class 3	Capital & Surplus: \$400,000 Singapore (\$260,840) Premiums to Surplus: The amount of assets must not be less than liabilities for onshore business. For offshore business, the surplus of assets over liabilities must not be less than the highest of SGD \$400,000, 20% of the previous year's net premiums or 20% of the previous year's loss reserves.	Capital & Surplus \$100,000 for P/C captives writing up to \$500,000 in net premiums \$250,000 for life/health captives Premiums to Surplus: 5 to 1 for P/C insurers writing up to \$5 million in net premiums
Registration & Incorporation Expenses	Incorporation Expenses: \$10,000 - \$30,000. Annual Government Fees range from \$4,000 - \$9,000. Business Fees range from \$1,000 - \$7,500	Fees: \$5,000 Singapore (\$3,261) annual fee	Fees: \$500 application fee \$2,000 annual renewal fee \$5,000 license fee for segregated cell companies
Investment Restrictions	Prudence/Admissible Assets	Prudence/Admissible Assets	Prudence/Admissible Assets
Tax Issues	Taxes: Company tax: Minimum for Class 1 is \$3,635 Minimum for Classes 2 and 3 is \$5,610	Option of 10-year tax holiday, 10% concessionary tax rate, or full corporate tax (currently 18% upon application, in relation to its offshore insurance fund and offshore investment income	Taxes: None
Applicable Acts	Laws: Amendments to Insurance Act 1978	Laws: Insurance Act (Cap. 142), Revised Edition 2002 Insurance (General Provisions and Exemptions for Captive Insurers) Regulations 2004	Laws: The Insurance Act, 1994. Insurance regulations, 1995. Segregated Portfolio Companies Regulation, 2005. Companies registering in 2006 will be regulated by BVI Business Companies Act, 2005.
Segregated Cell Legislation	Yes	No	Yes
Tax Treaties	N/A	N/A	N/A
Inter-company loans allowable	Yes	Yes	Yes
Supervisory Jurisdiction	Supervisor of Insurance Bermuda Monetary Authority 43 Victoria St. Hamilton, HM 12 Bermuda Tel: (441) 295-5278 Fax: (441) 278-0289 www.bma.bm	Insurance Supervision Dept., Monetary Authority of Singapore, MAS Building, 10 Shenton Way, 079117 Singapore Tel: 65-6229-9199 www.mas.gov.sg	Director of Insurance, Financial Services Commission, PO Box 418 Road Town, Tortola, BVI Tel: (284) 494-4190 www.bvifsc.vg
Reporting Requirements	Annual Audit	Annual Audit	Annual Audit
Reserve & Underwriting Requirements	-	-	-
Local Office Requirements	Local principle office, books and records, local counsel, two resident directors and resident insurance manager required.	Principal office/officer, books and records, at least one resident director and resident insurance manager required.	Local principle office, books and records and resident insurance manager required.
Estimated Number of Captives	989	53	383

Appendix C - About Hyperion Risk Solutions Limited; Folio's broking arm



Hyperion Risk Solutions is a licensed (re)insurance intermediary with operations in the British Virgin Islands and Anguilla. We provide our clients with specialist advice and assistance in the procurement of both traditional and non-traditional products and solutions.

Through our extensive relationships with insurers and reinsurers across the globe, we offer products ranging from professional indemnity, E&O/D&O and liability coverage, to catastrophe protection.

In 2006, we were approved as members of the Wells Fargo Global Broker Network, an international network of independent insurance brokers. Membership of the Wells Fargo Global Broker Network allows us to utilize a wealth of broking talent around the globe without having to compromise our independence and the bespoke, dedicated service associated with smaller brokers. As a specialty broker, our expert team is able to provide consulting services and solutions in the following areas:

- Insurance
- Reinsurance
- Structured Risks
- Alternative Risk Transfer
- Captive Fronting Arrangements

Hyperion offers its products and services to both domestic and international clients. Our domestic clients include hotel and resort developments, accountancy practices, law firms, fund administrators and trust companies. The lines we offer include, but are not limited to, the following:

- | | |
|---------------------------------|------------------------------|
| - Professional Lines | - Directors & Officers |
| - General Liability | - Public & Product Liability |
| - Environmental Liability | - Property |
| - Aviation | - Marine |
| - Group/Individual Health Plans | - Reinsurance |

In addition to offering traditional reinsurance broking services to (re)insurers and captives, Hyperion has designed and structured a number of innovative products on for a number of international clients.

Many of these products involve the use of the capital markets in order to provide liquid capacity to cover sizable risks. Our products provide the likes of governments and private sector companies with the ability to secure billions of dollars of protection against natural disasters and other significant events. Through the use of special purpose vehicles (SPVs), we are able to offer our specialist consulting services relating to the provision of insurance and reinsurance solutions based on the following banking products:

- Catastrophe Bonds
- Credit Default Swaps

Management

Simon Owen - Simon has worked in the finance industry for over 15 years, specializing in investment strategies and insurance and reinsurance solutions. Prior to founding Hyperion, Simon spent a number of years forming and managing captive insurance and reinsurance companies. He also worked in the Lloyd's insurance market for over a decade, latterly in the new business development division of a leading international reinsurance intermediary.

Simon is the Managing Director of Hyperion Risk Solutions Limited and the Insurance Director of Folio Insurance Management Limited. He is a past Chairman of the BVI Association of Insurance Managers and has served a member of the BVI Marketing Advisory Committee, the Financial Services Institute Advisory Committee and the Joint Anti-Money Laundering and Terrorism Financing Advisory Committee.

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Appendix D - Press Article by Simon Owen, US Captive Magazine, April 2009



Simon Owen

Founder and principal, Hyperion Risk Solutions Limited

The British Virgin Islands—Finding solutions offshore

Simon Owen considers the advantages and disadvantages of domiciling your captive offshore.



Offshore tax havens must be regulated as part of global plans to tackle the banking crisis, said Gordon Brown at the recent Scottish Labour Conference.

“The President fully supports the Stop Tax Haven Abuse Act and will not tolerate the offshore tax abuses that drain \$100 billion a year from the US Treasury,” added a senior representative of the Obama administration at a congressional hearing in Washington.

This is not the first time that so-called ‘tax havens’ have been used as a scapegoat in times of trouble, and it won’t be the last. This time, however, the entire offshore world seems to have been labelled by international financial heavyweights as some kind of economic ‘axis of evil’, an opponent that must be defeated at all costs.

From what I am able to decipher from their respective commentaries, it is clear that some of the G20 nations do not understand the nature of the business being transacted in offshore financial services jurisdictions and, more importantly, why they have become an integral part of the world’s free market economies. Therefore, for the purposes of providing a more realistic view of offshore jurisdictions, I give some key facts below:

- The offshore reinsurance industry has borne the brunt of US property catastrophe claims in recent years
- The offshore captive insurance industry encourages sound risk management practices and fiscal responsibility
- The offshore fund industry provides the US and Europe with trillions of dollars of overseas investment

- Offshore jurisdictions are subject to regulatory regimes that include strict due diligence procedures and are subject to extensive strict anti-money laundering and anti-terrorism financing laws
- The vast majority of offshore financial centres already have tax information exchange agreements (TIEAs) in place with the likes of the US and other European Union governments
- Offshore and low-tax jurisdictions encourage tax competitiveness and stimulate economic investment.

Probably the biggest myth about offshore jurisdictions is that they are a vehicle for tax evasion. Offshore financial services jurisdictions, particularly the British Virgin Islands, are actually extremely transparent and should not be confused with banking secrecy jurisdictions.

Fortunately, the negative publicity generated by the misguided rhetoric used by various G20 leaders has now, quite rightly, abated. In fact, the world’s most powerful nations have now finally acknowledged the co-operative status of crown dependencies and overseas territories such as the BVI.

Offshore v. onshore

So why have offshore jurisdictions continued to be so successful in light of new onshore competition? There are a number of reasons, but the primary advantages relate to cost and favourable legislation.

Firstly, from a Federal tax perspective, it is worth noting that most offshore captives with a US parent generally make a 953(d) election,

“It is obviously important for the regulators and insurance managers in any jurisdiction to ensure that capitalisation is sufficient to support the net written premium and exposure levels attributed to the captive, particularly when third parties are exposed.”

meaning that they elect to be taxed as if they were domiciled in the US, creating an immediate level playing field. However, offshore regulations relating to initial capital requirements and the required margin of solvency are far less stringent when compared to those of our onshore counterparts.

It is obviously important for the regulators and insurance managers in any jurisdiction to ensure that capitalisation is sufficient to support the net written premium and exposure levels attributed to the captive, particularly when third parties are exposed. However, for the likes of smaller 831b captives, the non-discriminatory requirements of offshore domiciles can have a significant impact on a risk manager's feasibility assessment. Cost-efficient operating expenses and the absence of direct corporate taxes and premium taxes give us a clear and distinct advantage over our competitors.

The BVI advantage

The BVI has been one of the world's largest captive jurisdictions for a number of years. The legislative framework compares favourably with that of our longer-established competitors and enables us to offer our clients a wide range of products and structures. A recently enhanced Insurance Act, coupled with a close working relationship between the private sector and the regulators, has undoubtedly been a significant factor in the jurisdiction's unprecedented growth.

In addition, the BVI is not burdened by the restrictive regulations of other jurisdictions. For example, there are no requirements to appoint local directors, to hold annual general meetings in the BVI or to establish bank accounts here.

Our service providers include many of the big names you would expect to see in any of the world's financial centres, from both a management and audit perspective. Furthermore, we have a number of niche, independent managers that are able to assist with various innovative and sophisticated structures.

From a regulatory standpoint, the BVI is extremely well regarded by a number of international bodies. In fact, the BVI has never been blacklisted by any organisation or regulatory body. Our regulators remain active members of the Caribbean Financial Action Task Force (FATF) and played a prominent role in the working group that revised the FATF's anti-money laundering recommendations.

Captive trends

In a period of economic downturn, many commentators appear to be predicting a slowing in the use of captives. However, in the BVI, we are seeing a very different picture.

In the last six months, we have seen a significant increase in the number of captive formation enquiries, a trend that I put down to a number of factors that are inextricably linked to the current economic crisis. One of those factors is the concern developing among insurance buyers that their carriers may not be as creditworthy as they once were. Rating downgrades continue to occur on a regular basis. Furthermore, as the investments and reserves of commercial insurance carriers diminish, those same insurance buyers may have the additional problem of having surplus capital that they are no longer inclined to invest in the markets.

In such a scenario, from the insurance buyer's perspective, this creates a perfect situation to consider the formation of a captive. In an uncertain economic environment, one where short-term investment in US Treasury bills actually creates a negative return, where better to invest your funds that into the formation of a captive? Insurance premiums are already on the rise as the commercial market begins to harden, so now may well be the time to form your captive.

In summary, when deciding on the best timing to form a captive, you will need to assess both the long-term benefits to your organisation and the short-term financial cost. When comparing domiciles, it is important to remember that offshore centres are not 'tax havens'—they are financial services centres. What benefits do they offer over and above their US counterparts? None, other than cost-efficiency and professional service.

In many ways, the decision-making process when selecting a domicile for a captive insurance company is often not dissimilar to deciding whether to buy a Toyota or a Ford. You simply choose the one that offers greater performance and value for money.

Simon Owen is the founder and principal of Hyperion Risk Solutions Limited, and the insurance director of the Folio Group. He can be contacted at: simon@hyperionbvi.com