# Freedom In Captivity:
# The Captive Insurance Legislation of Nevis

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Insurance is defined as, *"…[a] contract whereby one undertakes to indemnify another against loss, damage, or liability arising from an unknown or contingent event and is applicable only to some contingency or act to occur in future*".[1] The entity which assumes the risk against loss, in exchange for the payment of money or "*premiums*", is known as the "*insurer*" or "*insurance company*".[2] Most insurance companies offer their services to any person or entity, known as the "*insured*", under specified circumstances that the insurer would deem to be an acceptable risk. These transactions are typically done at arm's-length and are designed to maximize the level of profits available for the insurance company.

However, there is another type of insurer-insured relationship, one where there is common ownership of both parties to the transaction. A captive insurance company ("**captive**") is a corporate entity created and controlled by either, a parent company, professional association, a group of businesses or a management company.[3] The captive's sole purpose is to provide insurance for the parent, association, corporate group or limited clientele. A captive is better defined as an insurer that is owned by a non-insurance company and insures the risks of its parents or their affiliated companies.[4]

The captive's insurance business is both supplied and controlled by its insured, as it has direct control over the investments, underwriting and management of claims. Insureds may make the decision to use a captive because a determination has been made

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1 Black's Law Dictionary, Sixth Edition, 1990, p. 802.
2 Black's Law Dictionary, Sixth Edition, 1990, p. 808.
3 Insurance, The Enigma of Offshore Captives, Alwin M. Tamousis, The OFC Report 1996/1997, p. 65.
4 International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 1.

that insurance purchased from a conventional insurance company does not fulfill their requirements with respect to quality of service, costs and types of risks that must be covered.

The notion of a business forming a wholly-owned insurance company which would insure its owner's risks can be traced back to the group of London merchants who lost their assets in the Tooley Street fire in 1861.[5] The concept continued in the 1920s when several corporations with multi-national interests, including British Petroleum, Unilever and Lufthansa each formed wholly-owned insurance companies.[6] However, the person who is credited with the development and marketing of a wholly-owned insurance company as a commercially viable risk-management alternative is the late Fred Reiss.

Reiss worked in the American State of Ohio as an engineer who inspected buildings to assess their fire safety. Through his conversations with building owners he realized the difficulties that these potential insureds were having in obtaining coverage from insurers.[7] Seizing on a potential business opportunity, Reiss conceived and marketed the concept of a wholly-owned insurance company which he called a "*captive*". In 1957, Reiss formed his first captive called, Mahoning Insurance Company in Cleveland, Ohio for Youngstown Sheet and Tube Company ("**YST**").[8] YST was a steel company with 31,502 employees and revenue of US$676.3 Million in 1957, ranking the

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[5] Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 3.
[6] International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 5.
[7] International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 5.
[8] Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 2.

company 53RD on the Fortune 500.[9] YST owned their own mines, which were referred to as "*captive mines*", hence the term "*captive*" for a wholly-owned insurance company.[10]

Reiss started the captive industry in the United States in 1957, but regulatory and tax considerations motivated him to consider domiciling the business offshore. At that time, captives were forced to have the same level of capitalization as a traditional insurer, which increased the captive's overhead and lowered its underwriting profits. When the United States Government passed the Tax Reform Act of 1962, the die was cast. This new law provided guidance on how captives should be taxed and eliminated any tax advantages for captives underwriting domestic risks.[11] Reiss also realized that a captive would be more cost-effective if it were located in a tax-exempt jurisdiction, because this status would allow it to accumulate profits at a faster rate than that afforded to a traditional insurer.[12] As a result of these factors, Reiss moved to the British Overseas Territory of Bermuda and established International Risk Management, a company which would incorporate and manage captives for American and international clients.

Initially there was wide resistance to the captive concept, but by the 1970s, insurance brokers and managers had embraced the business model and had established their own captive management companies. In 2002, it was estimated that captives

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[9] www.money.cnn.com/magazines/fortune/fortune500_archive/snapshots/1957/3711.html
[10] International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 5.
[11] International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 6.
[12] Conyers, Dill and Pearman: A History, Roger Crombie, 1997, p. 131.

accounted for ten percent of global premium income.[13] In 2003, the top captive product lines were; medical malpractice, auto physical damage and private passenger auto liability.[14] In 2004, approximately half of the business done by American commercial carriers was underwritten by captives.[15] Today, there are approximately 5,500 captives Worldwide, holding approximately US$50 Billion of assets in reserves.

Fred Reiss passed away peacefully at his Bermuda home in 1993, but he has not been forgotten by the Territory or the insurance industry for his influential business innovation, albeit posthumously. In 1998, the Bermuda Insurance Institute awarded him a Lifetime Achievement Award. In 2004, he received the International Insurance Society's John S. Bickley Award Gold Medal for Excellence, and in 2007, he was inducted into their Insurance Hall of Fame.[16]

While twenty-three American States now permit captives to domicile within their jurisdictions, the large majority of captives are domiciled in offshore territories.[17] The leading offshore jurisdiction and industry leader is Bermuda, where almost twenty-five percent of the World's captives are registered. [18] The Cayman Islands is the number two location for captives, both offshore and Worldwide. Guernsey, which claims to have registered the first captive in 1922 is number four in the World and number one in

[13] International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 50.
[14] A Guide to Captive Insurance Companies (Part 1), William Elliot, Journal of International Taxation, April, 2005.
[15] A Guide to Captive Insurance (Part 1), William Elliot, Journal of International Taxation, April, 2005.
[16] www.InsuranceHallofFame.org and www.iisonline.org.
[17] See Medical Malpractice Captive Insurance Company, Janet Brierton, www.cga.ct.gov/2004/rpt/2004-R-0408.htm.
[18] International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 50; A Guide to Captive Insurance (Part 1), William Elliot, Journal of International Taxation, April, 2005.

Europe[19]. There is also legislation in offshore Territories as far-flung and diverse as Singapore, Curaçao and the Isle of Man which allows the establishment of captives.

The leading onshore locale is the American State of Vermont, which is third in the World for registered captive insurers.[20] When establishing a captive, one should choose a jurisdiction which has established a regulatory framework which allows and encourages the growth of the captive insurance industry. In recent years, legislation has been promulgated in several Caribbean jurisdictions, including Nevis, to allow the establishment of captives.

The Caribbean Island of Nevis (the "**Island**") is part of the Federation of Saint Kitts-Nevis (the "**Federation**"), a twin-island state which received its Independence from the United Kingdom in 1983 and remains a Member of the Commonwealth of Nations. The Island and the Federation use the Eastern Caribbean Dollar ("**EC$**"), which has been pegged to the United States Dollar ("**US$**") at an exchange rate of EC$2.70 to US$1.00 since 1976.[21] English is the official language of the Island and the Federation. The people of the Island are known as "*Nevisians*" and they enjoy a literacy rate of ninety-eight percent, which is one of the highest rates in the Western hemisphere.

The twin pillars of the Nevisian economy are tourism and offshore financial services. The Constitution of the Federation of Saint Kitts-Nevis ensures certain

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[19] International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 50; Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 204.
[20] International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 50.
[21] International Monetary Fund Eastern Caribbean Currency Union, Staff Report for the 2004 Regional Surveillance, 14TH April, 2004, p. 1.

sovereign rights to the Island and as such, Nevis can enact its own commercial, fiscal and corporate legislation which is distinct from that of its sister island of Saint Kitts. While captives may be formed in Saint Kitts under separate legislation, in Nevis, captives may be established under the Nevis International Insurance Ordinance, 2004, (as Amended) (the "**NIIO**").

The NIIO provides that captive insurance may be offered by a company or person authorised by the Registrar of International Insurance (the "**Registrar**") to act as a registered insurer. The Ordinance defines captive insurance business as an economic relationship, "*…where the insured is a parent or affiliated company of the registered insurer…"*.[22] Despite this restriction, a captive may be allowed to accept unrelated business if, "… *the Registrar gives permission in writing on being satisfied that the registered insurer has sufficient liquid assets to cover the unrelated business*".[23]

Before a captive can be licenced under the NIIO, a Nevis Business Company ("**NBC**") must be incorporated under the Nevis Business Corporation Ordinance, 1984 (As Amended).[24] A NBC is prohibited from "*doing business*" in Nevis, and no local taxes are levied on an NBC, on income earned outside the island. However, the legislation allows a captive to maintain; a registered agent, corporate records, or a bank account, as such activities are not considered as "doing business".

[22] Nevis International Insurance Ordinance, 2004 (as Amended), Section 2.
[23] Nevis International Insurance Ordinance, 2004 (as Amended), Section 21 (2).
[24] Nevis International Insurance Ordinance, 2004 (as Amended), Section 7(1)(a).

The name of the company must be approved by the Registrar and cannot be false or misleading. "*A registered insurer shall not use… a name of any company… whether within Nevis or not, as is likely to… deceive*".[25] The Registrar further restricts the use of the following words for the names of corporations to registered insurers licensed under the NIIO;

> "*assurance*", "*casualty*", "*guarantee*", "*indemnity*", "*insurance*", "*re*", "*reinsurance*", "*surety*", and "*underwriting*".[26]

The proposed captive's share capital must be fully paid up, before approval may be granted by the Registrar. If there is one owner of the captive, the share capital must be no less than US$10,000. If there are less than five owners, the share capital must be at least US$20,000. However, if there are five or more owners, that amount must be US$50,000 or more.[27]

In order to be registered in Nevis, a captive must pay an Insurance Application Fee of US$380, an NBC Incorporation Fee of US$220 and an Initial Captive Registration Fee of US$1,500.[28] Although an NBC may issue bearer shares, only registered shares may be issued to a licencee under the NIIO. "*No bearer shares… may be issued by a registered insurer*".[29] Any sale or transfer of the shares of a registered insurer may only be consummated after the approval of the Registrar has been received.[30]

[25] Nevis International Insurance Ordinance, 2004 (as Amended), Section 21 (4) (a).
[26] Nevis International Insurance Ordinance, 2004 (as Amended), Section 5 (a).
[27] Nevis International Insurance Ordinance, 2004 (as Amended), Section 1(b)(iv).
[28] Saint Christopher and Nevis, Statutory Rules and Orders, No. 6 of 2004, Section 5.
[29] Nevis International Insurance Ordinance, 2004 (as Amended), Section 22 (4).
[30] Nevis International Insurance Ordinance, 2004 (as Amended), Section 22 (1).

All captives licenced by the NIIO are required to maintain a specified amount of surplus assets to cover their liabilities which is known as a "*minimum solvency margin*".[31] A captive must also have a "*net retained premium*", which is calculated by taking the gross income earned during any financial year, minus any premiums paid to policyholders during that same year[32]. If the net retained premium is less than US$5 Million, the captive is required to retain a minimum solvency margin of twenty percent of the net retained premium.[33] If the net retained premium exceeds US$5 Million, the minimum solvency margin is US$1 Million, plus ten percent of the amount by which the net retained premium exceeds US$5 Million.[34] With regard to the type of assets a captive may own, the Registrar may prescribe what is considered to be a permissible asset and may recommend or require any insurer to diversify or restrict its assets as applicable.[35]

Any application must be forwarded to the Registrar for approval and must contain the following information;

1. *A certified copy of the applicant's or entity corporate documents;*
2. *An Application Fee;*
3. *A statement which provides details as to the nature of the applicant's business, the applicant's financial standing, the entity's management and the ultimate beneficial ownership of the applicant's shares;*
4. *The address of its Registered Office in Nevis;*
5. *Such references as the Registrar may require; and*
6. *A three year business plan which details the types of risks that the applicant will cover, its reinsurance policy and its projected business development*.[36]

[31] Nevis International Insurance Ordinance, 2004 (as Amended), Section 20.
[32] Saint Christopher and Nevis, Statutory Rules and Orders, No. 6 of 2004, Section 6(d).
[33] Saint Christopher and Nevis, Statutory Rules and Orders, No. 6 of 2004, Section 6(a)(i).
[34] Saint Christopher and Nevis, Statutory Rules and Orders, No. 6 of 2004, Section 6(a)(ii).
[35] Saint Christopher and Nevis, Statutory Rules and Orders, No. 6 of 2004, Section 7.
[36] Nevis International Insurance Ordinance, 2004 (As Amended), Section 6(1).

Every registered insurer must be physically represented in Nevis by an Insurance Manager or a Registered Agent.[37] An Insurance Manager is a person who, "*... provides management services for one or more insurers… but does not include the keeping of insurance business accounts…*".[38] This requirement of a local representative can be beneficial to licencee, because if the "*mind and management*" is physically onshore or can be deemed to be onshore, the captive may be subject to partial or total onshore taxes. Under the NBCO, maintaining a managerial office in Nevis with respect to assets or activities outside of the island, is not considered "*doing business*", and would not subject the entity to domestic Nevis taxes.[39] Prior to opening a managerial office, written permission from the Ministry of Finance must be obtained.[40]

The registered insurer must also have at least two Directors, both of whom must be natural persons.[41] Before an approval can be granted for the insurer's Directors, the Registered Agent or the Insurance Manager, information must be provided to the Registrar to prove that these persons have an *"…adequate knowledge or expertise in the insurance business to be carried on...*".[42]

A registered insurer is allowed to segregate individual risks by establishing "*statutory funds*" with respect to such parts of the insurance business that it conducts.[43] Statutory funds are similar to protected cell and segregated portfolio legislation used in

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[37] Nevis International Insurance Ordinance, 2004 (As Amended), Section 29.
[38] Nevis International Insurance Ordinance, 2004 (As Amended), Section 2.
[39] Nevis Business Corporation Ordinance, 1984 (as Amended), Section 123 (2) (iv).
[40] Nevis Business Corporation Ordinance, 1984 (as Amended), Section 123A (1).
[41] Nevis International Insurance Ordinance, 2004 (As Amended), Section 28.
[42] Nevis International Insurance Ordinance, 2004 (As Amended), Section 7 (c); 7(e).
[43] Nevis International Insurance Ordinance, 2004 (As amended), Section 17 (1) (a).

other jurisdictions, since only the assets of each statutory fund are available to meet the liabilities, premiums and reinsurance costs incurred by that statutory fund. The approval of the Registrar or any Government official is not required prior the establishment of a statutory fund, only the policy owner must consent in writing to its formation.[44]

The initial registration of a captive is valid until 31$^{ST}$ January of the following year, and may be renewable on that date of every following year.[45] An application for renewal is processed after the payment of US$220 for the NBC and US$1,000 for the Captive Insurance Licence.[46] Each registered insurer must submit financial statements on an annual basis which were prepared under the International Financial Reporting Standards. The Registrar shall receive *"…a copy of… the audited annual accounts… not later than six months after the close of the financial year to which they relate…"*.[47]

The Federation is signatory to tax information exchange agreements with several countries, including; Aruba, Belgium, Denmark, the Faroe Islands, Finland, Iceland, Liechtenstein, Monaco, the Netherlands, the Netherlands Antilles, New Zealand, Norway and Sweden. There is no income tax or any other direct or indirect tax which is payable in Nevis by any captive pertaining to any profits, gains, dividends or earnings.

The use of a captive insurance company as a part of an overall business strategy provides commercial advantages and risk management alternatives for anyone or any

[44] Nevis International Insurance Ordinance, 2004 (as amended), Section 17 (1) (c).
[45] Nevis International Insurance Ordinance, 2004 (as Amended), Section 9 (1); Nevis International Insurance (Amendment) Ordinance, 2006.
[46] Saint Christopher and Nevis, Statutory Rules and Orders, No. 6 of 2004, Section 5.
[47] Nevis International Insurance Ordinance, 2004 (as Amended), Section 15 (2) (a).

company seeking insurance coverage. There are six primary reasons why companies should consider the formation of a captive:

1. **Cost;**
2. **Unavailability of other cover;**
3. **Ease of Settlement of Claims;**
4. **Stability;**
5. **Profit Center; and**
6. **Cash Flow.**

**Cost.** The cost of insurance is generally lower when purchased from a captive as opposed to a traditional insurer.[48] When a traditional insurer agrees to provide insurance, premiums include the costs that the insurer pays for overhead, possible settlement of claims, taxes, and brokerage fees in addition to a mark-up to allow the insurer to make a profit. The average traditional insurer's expenses are covered by twenty percent of the premium payments; the balance is profit. Obtaining insurance from a captive as opposed to a traditional insurer allows the insured to eliminate or minimize excess fees and pay cheaper premiums.

**Unavailability of Other Cover.** A captive can ensure coverage when traditional insurers are unable or unwilling to provide services. Depending on market conditions, legal requirements or increased risks in a certain area, traditional insurers may not be able to write insurance for certain types of risks. Traditional insurance companies often will not provide cover for risks such as; terrorism,[49] hazardous waste,[50] pollution[51] and

[48] Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 10.
[49] Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 14.
[50] A Guide to Captive Insurance Companies (Part 1), Journal of Taxation, April 2005.
[51] Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 16.

professional indemnity[52]. Captives can provide substitute or additional coverage for what has been deemed to be an uninsurable risk and can offer protection for a wider range of risks than a traditional insurer and in a more cost-effective manner.

**Ease of Settlement of Claims.** Captives can allow the insured personalized service by providing direct access to the insurer. The payment of a claim by a traditional insurer can often be a long arduous process, involving months or even years between the incident giving rise to the claim, the review of the claim by the insurer and settlement, if any, of a claim by the insurer. There may also be disputes regarding the validity of the claim and the amount of liability to be borne by the insurer. This situation can result in uncertainty and may require litigation to resolve in order the differences between insured and insurer. The use of a captive minimizes the bureaucratic process in the payment of a claim and avoids possibility of expensive and protracted litigation. Since there is a commonality of ownership in the insurer and the insured, and the insurer's sole concern is the business of the insured. The payment of claims by a captive will be made in a timely manner since there is no benefit in delaying or avoiding settlement.

**Stability.** Traditional insurers are impacted by the overall economy which can often lead to higher premiums during a recession. Captives are less affected by external factors such as economic fluctuations and market changes and would issue premiums at prices which remain stable for a longer period than those which are offered by a traditional insurer. "*A captive is not in the business of writing… at the lowest possible*

[52] Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 17.

*rate, but at a rate which is fair and commensurate with the long-term market*".[53] Therefore, a captive would charge relatively the same premium during soft or hard market conditions. This dynamic can be factored into the insured's long-term budgeting which can allow a greater control over costs and greater certainty in the price of premiums.

**Profit center.** The ability of a captive to generate earnings from the reinvestment of premiums provides the parent company with a new source of income. In a traditional insurer-insured relationship, the insured pays premiums to a third-party which in turn invests that money for its own benefit. The owners of a captive control its investment portfolio as they would control any of the company's other assets. A captive is able to turn funds lost into possible monies earned for the benefit of the parent company, by investing those funds. If the captive is able to meet the capitalization and licencing requirements and is willing and able to offer services to unrelated customers then its income can be further maximized.

**Cash flow.** The use of a captive can increase the liquid assets of the parent company. In a traditional insurer-insured relationship, premiums are paid annually in advance and the insured loses the use of these funds immediately after payment has been made.[54] These advance payments represent a lost investment opportunity. Coverage does not begin until the premium has been paid in full. The funds are then held in reserve and invested to earn income for the insurer over a long period. The payment of a claim

[53] Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 56.
[54] Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 12.

by an insurer in a traditional situation is usually a slow process, which allows the insurer to maximize the earning of investment income. The use of a captive allows the parent company to retain funds by structuring payments over a fiscal year while maintaining coverage, earning investment income from these funds and ensuring the payment of a claim in a timely manner. The payments of premiums to a captive, instead of a traditional insurer can ensure improved cash retention and control by the parent company.

There are five types of captives, which are described in detail henceforth;

1. **Single Parent Captive.**
2. **Agency Captive.**
3. **Association Captive.**
4. **Group Captive.**
5. **Rental Captive.**

**Single Parent Captive**. This entity is also known as a "*Pure Captive*" and is the leading form of captive comprising approximately seventy-five percent of the captives in existence.[55] A Single Parent Captive was the first type of captive insurance company envisioned and incorporated by Reiss in the late 1950s. As its name suggests, it is a limited purpose company, owned by a single entity which exists principally to underwrite the risks of its parent company.

**Agency Captive**. The Shareholders of an Agency Captive may be either a single entity or a group of companies. It is a company which is owned by a traditional insurance agency, brokerage company or group of agents of brokers, and reinsures a

[55] Captives and Captive Management for Practitioners and Owners, John R. Parkinson, 2002, p. 241.

portion of the risks of their owner or owners. Reinsurance is a means by which a traditional insurer can protect itself against risk of loss by laying off some of its assumed risk to other insurance companies. Insurers, either a group of companies or an individual company, can establish their own captive for the same reasons that a non-insurer would establish such an entity. An Agency Captive allows its owners to participate in the investment of profits generated from their book of business and provides reinsurance coverage when it might be otherwise unavailable.

**Association Captive and Group Captive**. An Association Captive and a Group Owned Captive are two types of captives which exhibit similar ownership. They are companies which are owned by a trade, industry, service group or group of companies which seek to provide insurance coverage for the benefit their members. Owing to costs or unavailability, these similar entities find it useful and beneficial to unite to form a captive. In 1977, the American Internal Revenue Service (the "**IRS**") issued the "*Economic Family*" ruling which denied the tax exemption of insurance premiums when coverage was issued to a parent from its wholly-owned subsidiary.[56] This ruling encouraged the growth of Association Captives and Group Captives, because the owners of these types of captives sought to maintain their tax exemptions from insurance coverage. The IRS granted tax exemption status to Group and Association Captives, because unlike Single Parent Captives, they decided that risk associated with issuing insurance was transferred outside of the economic group. Since they underwrite

[56] Rev. Rul. 77-316, 1977-2 Cum. Bul. 52.

unrelated risks for a limited and similar clientele, Group and Association Captives are less of a captive and more like a traditional insurance company.

**Rental Captive.** A Rental Captive or "*Rent-A-Captive*" blurs the distinction between captives and traditional insurers. It expands on the underwriting of unrelated risks done by Group and Association Captives and provides captive facilities to others, either companies or persons. Unlike Association and Group Captives, the clients of a Rental Captive do not have similar business interests and may reflect the diversity of traditional insureds. Insureds that do not wish to, or cannot create their own captives, place all of their business with an insurer under an agreement that allows the payment of significantly lower premiums than if such business was placed with a traditional insurance company.

There are two misconceptions about captive insurance; that it is basically self-insurance and that it will replace the traditional insurer. Captive insurance is not self-insurance. When someone self-insures, funds are aside for a potential calamity, but when a captive is used, premiums are paid to a separate entity and insurance management is outsourced to a manager. Despite the commonality of ownership, captives fulfill all of the tasks of a traditional insurer, but provide certain benefits to the insured that do not exist in a traditional relationship.

There is also a mistaken belief that the captive industry is an alternative or replacement to traditional insurance coverage. In actuality, captives act as a supplement to a commercial insurer, as they rarely underwrite all of the risks of their parent. The captive industry provides some relief to the financial, commercial and risk management limitations associated with traditional insurance companies. Certain types of risk generally are not carried by traditional insurers; namely, third-party products liability, employers' liability and workers compensation[57], but may be placed with a captive. Captives compliment any business plan and their use will increase in times when the cost for traditional insurance becomes more expensive or the desirability of writing certain types of insurance decreases. More than a half-century after the incorporation of Mahoning Insurance Company, the captive industry has become a global phenomenon and it is obvious that captives are here to stay.

In choosing a domicile for a captive insurance company, one should ensure that the jurisdiction is a location which has sufficient criterion to assist in the development and growth of the business. After reviewing the legislation, it is obvious that Nevis is such a place. The Island is mature enough to be viewed as a premier offshore destination for business, but yet young enough to embrace new ideas. The Island's regulatory environment offers a relative level of freedom to insurers whilst maintaining a level of government involvement that guarantees that an insurer fulfills its commitment to its policyholders. When incorporating a captive, the law of Nevis ensures its owners and their policyholders, freedom in captivity.

[57] International Association of Insurance Supervisors, Issues Paper on the Regulation and Supervision of Captive Insurance Companies, October, 2006, p. 8.