

Pulling in the Captives

Labuan is looking forward to receiving more captive insurance operations on the island, thanks to its attractive legal infrastructure, among others.

CAPTIVE insurance is becoming regionalised and while still in its infancy in Asia, this shift in trends is poised to benefit Labuan's development as an international business and financial centre.

Currently there are 34 captive insurance companies that have set up operations in Labuan (see Chart 1). Out of this, 14 are Malaysian.

'More are expected to come to the island as captive insurance companies set up operations within their own geographic regions. Labuan as an offshore financial centre has not been ignored – just overlooked,' said David Kinloch, chief executive officer of Labuan International Business and Financial Centre, Malaysia (IBFC) Inc Sdn Bhd.

As head of IBFC, Kinloch provides advice on insurance and reinsurance, with a special focus on developing Labuan's capacity as a regional captive insurance centre.

A captive insurance company primarily insures the risks of businesses related to it through common ownership. For example, an owner or a group of businesses may

form a wholly owned captive insurance firm to insure the related companies.

Kinloch, who was speaking to the media on the sidelines of the two-day inaugural Asian Captives Conference held in Kuala Lumpur recently, said there had been new measures introduced in the last one to two years to revitalise Labuan as an attractive offshore financial centre.

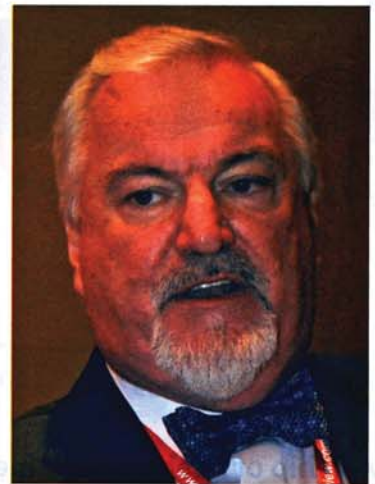
This, he said, complemented the government's Economic Transformation Programme (ETP) to make Malaysia's economy more competitive.

'As more companies look at insurance in a more sophisticated way to reduce costs and increasingly look to manage their own risks internally, captive insurance will come to the fore. And the action is going to be in Labuan,' he said.

'We are going to gain in captives next year because we have been working very hard over the last two years to market our captives and this is now beginning to bear fruit,' he added.

Kinloch reckoned that at least 100 more captive companies, comprising not only Malaysians but also other Asian and European companies, would set up operations in Labuan by next year.

He said he expected interest from



Kinloch: The action is going to be in Labuan

both the government and private sector. In the case of the latter, participation would be from industrial sectors like banking and finance, electronics and heavy manufacturing.

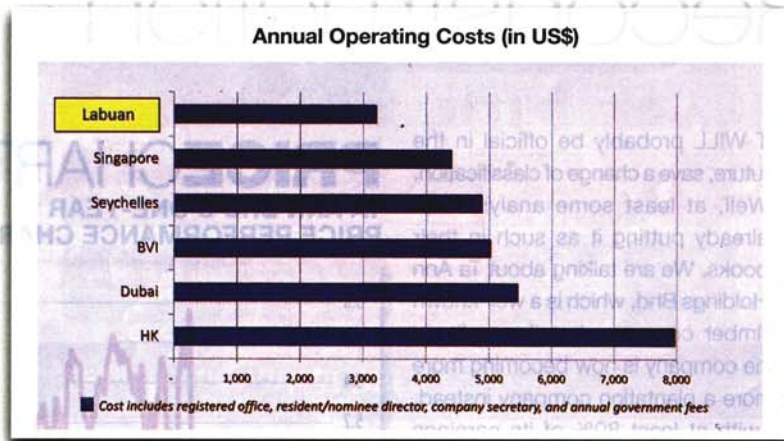
Kinloch also anticipates an influx of investments despite the global economic slowdown. Interestingly, he considers economic bad times as good for captive business.

CHART 1: LABUAN INSURANCE – A SNAPSHOT

| | 2010 |
|----------------------------------|-------|
| Total no. of insurance licences | 169 |
| No. of captives | 34 |
| No. of underwriting managers | 17 |
| No. of insurance managers | 6 |
| Total assets (US\$'m) | 3,072 |
| Total gross premiums (in US\$'m) | 1,205 |

SOURCE: LFSA'S ANNUAL REPORT 2010

CHART 2: COST EFFICIENT



SOURCE: EC TRUST, ATRIUM INCORPORATORS, ASIABIZ, AND EUROFINANZZA

'Oddly enough, the financial crisis helps captive insurance because captive insurance companies in the short-run cut down insurance premiums that are paid to outside sources and in the long-run, a captive may be used to smoothen out those premiums and claims,' he said.

He noted that Labuan was actually taking business back from other jurisdictions, in both wealth management and banking, and insurance.

'As this region becomes more sophisticated in its risk management and insurance-buying, Labuan is almost the automatic destination,' he said, adding that the financial centre had been attracting business from other financial centres not only in the Asian region but from as far as Guernsey, Panama, the Seychelles and Mauritius.

He said one advantage Labuan had over its competitors was that its costs

were comparatively lower (see Chart 2). Additionally, Labuan's lure was tied to the shifting trends globally where captive insurance companies were increasingly setting up operations within their proximate financial regions.

Citing an example, he noted that the Bermuda offshore financial centre had strong support from American captives and had drawn a lot of European captives in the past.

'But now, Bermuda is losing its European captives who are shifting to offshore financial centres such as Guernsey and Luxemburg, which are closer to their home.'

Coming back to Asia, Kinloch said Singapore and Labuan were the choice offshore financial centres in Asia. He noted that Labuan had fast gained strength over Singapore in the last two years following the new legislations put in place.

'This has improved our efficiency and given us cost advantages. We are able to take Singapore head-on and are winning.'

Still, Labuan is not expected to overtake Singapore's appeal as a haven overnight. 'Singapore has 61 captives and they had started with captive insurance sometime in the 1980s, whereas Malaysia only started five or six years ago with Sime Darby Bhd setting up the first captive company in the late 1990s,' said Kinloch.

He said Labuan was no longer seen as a sleepy hollow where captive insurance was concerned. 'Companies can do a lot more things in Labuan which cannot be done in Singapore and Hong Kong, such as establishing foundations and limited partnership structures, which give a measure of legal protection for offshore companies. This gives us a huge product advantage.'

For instance, the Labuan Foundation Act 2010 provides for asset protection and estate planning, and prevents foreign 'forced heirship' claims as a consequence of marriage, divorce or succession rights. (Forced heirship is a provision of law that guarantees certain heirs a portion of a deceased's estate. The 'forced portion' is reserved for those stipulated heirs, whether the deceased leaves a will or not.)

The Act also prevents family disputes over the legality of an established will drawn up at the Labuan offshore financial centre.

As part of the financial liberalisation, captive companies are now allowed to be managed from other locations in Malaysia apart from Labuan. This flexibility, said Kinloch, gives Labuan a significant advantage over Singapore and Hong Kong.

He said Labuan was now widely recognised as a hidden gem, thanks to Malaysia's place in the Islamic finance arena, with its 79 double-taxation agreements and its transparent jurisdiction.

'We're also seeing an influx of private and corporate wealth from other parts of the world,' he said. 