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WORLD

CAPTIVE FORUM

2019 Regulator Concerns

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JANUARY 30 – FEBRUARY 1, 2019

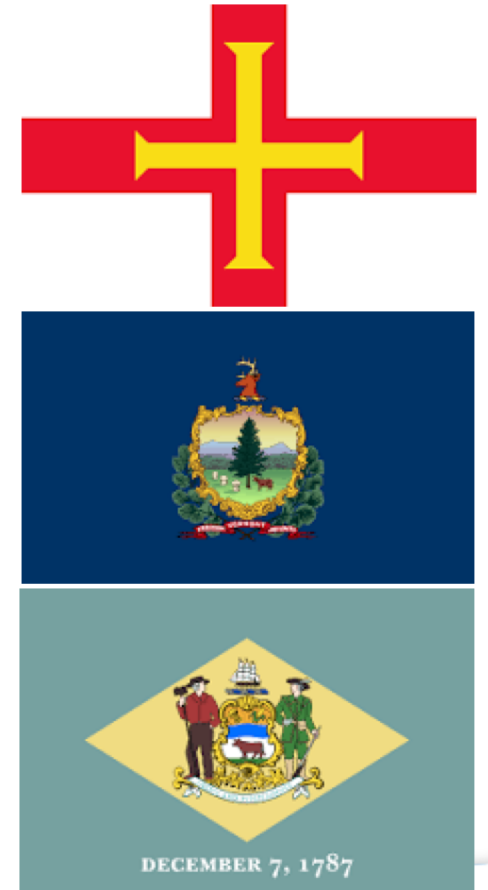
The Panel

Dominic Wheatley, Chief Executive, Guernsey Finance

Dave Provost, Deputy Commissioner, Captive Insurance State of Vermont

Steve Kinion, Director, Bureau of Captive and Financial Insurance Products
State of Delaware

Moderator: **Hugh Rosenbaum**, Retired Principal WTW



Hotspots in 2019

1. Substance requirement for Captives
2. Insurance Department Resources
3. Captive regulators: qualifications and roles
4. Delaware conditional licensing
5. U.S. federal issues
6. Brexit, Beps, and BEAT

Substance Requirements

“The requirement to have employees and staff, including actuaries and all that for each captive, instead of the contract manager system we all know and love, is a major threat.” –*Hugh R.*



How can we *not* talk about the Taxman?



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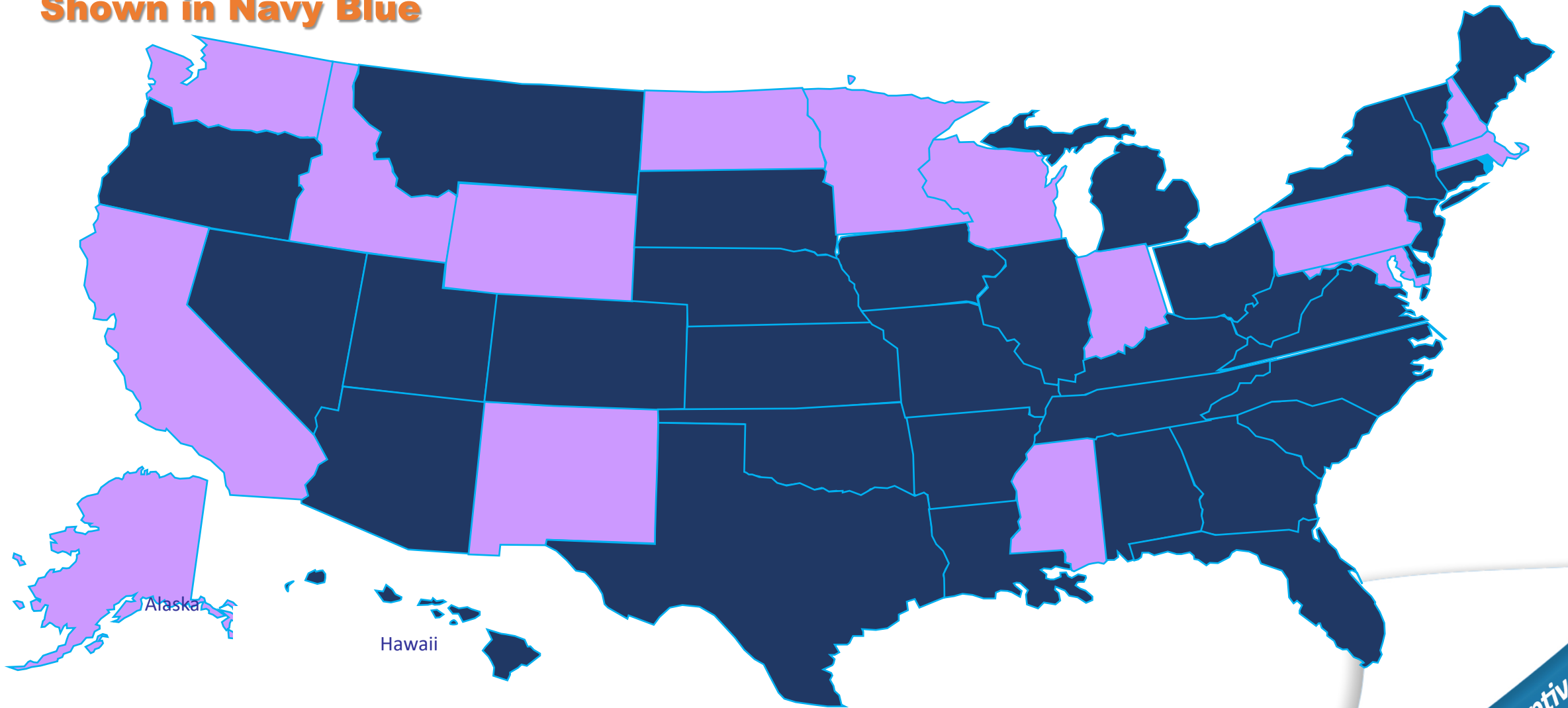
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Insurance Department Resources



States With Captive Laws

Shown in Navy Blue



Alaska

Hawaii

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Qualified Captive Regulators are in Short Supply

- Having a captive law is one matter . . . Successfully applying it is another.
- Perennial challenge finding experienced regulators familiar with captives.
- Different regulatory mindset than what is required to regulate traditional insurance.
- Measures of qualification include Associate in Captive Insurance designation.
- ICCIE Trained Organization



Delaware Conditional Licensing Process



Conditional License Application Submitted

- Only 30 captive managers allowed to submit for conditional license. Know Your Customer.
- Captive owner(s) must sign a statement of compliance.
- Proof of minimum capital.
- Conditional license good for 6 months.

Insurance Department Confirms
Conditional License Qualification
Then Issues Conditional License
the Same Day

Captive
Applicant

Corporate Governance



U.S. Insurance Regulation



U.S. Congress adopted the McCarran-Ferguson Act in 1945 which gives to the individual states the authority to regulate insurance. Some specific exceptions exist such as for employer health insurance plans governed under the Employee Retirement Income Security Act of 1974 (ERISA).



↓

Congress created the Federal Insurance Office (FIO) to represent the U.S. in international matters, including the IAIS, and to monitor the insurance industry. The FIO is not an insurance regulator.

↑

NAIC is not an insurance regulator, but instead helps state insurance regulators to establish uniform regulatory standards.



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Advising the Federal Government



- The Dodd Frank Act created the FIO and grants it certain financial stability, monitoring, and international responsibilities.
- FIO monitors all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the U.S. financial system.
- FIO consults with states regarding insurance matters of national importance and prudential insurance matters of international importance.
- FIO advises the Secretary of the Treasury and is a non-voting member of the Financial Stability Oversight Council.

Advising the Federal Government

- The Federal Advisory Committee on Insurance ("FACI") provides advice and recommendations to assist FIO in carrying out its statutory authority.
- The FIO was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The FIO's authority extends to all lines of insurance except health insurance, long-term care insurance (except that which is included with life or annuity insurance components), and crop insurance.
- The FACI shall provide its advice and recommendations directly to the FIO. The FACI will conduct its work in coordination with the FIO.



Brexit, BEPS and BEAT... *Oh MY!*



Hotspots in 2019

1. Substance requirement for Captives
2. Insurance Department Resources
3. Conditional licensing, other temporary situations
4. Captive directors: qualifications and roles
5. Brexit, Beps, and BEAT

Other Pressing Issues?



EU-U.S. Insurance Project



The EU-U.S. Insurance Project started in early 2012, when the EC, EIOPA, NAIC and the FIO agreed to participate in a deeper dialogue project to contribute to an increased mutual understanding and enhanced cooperation between the EU and U.S. to promote business opportunity, consumer protection and effective supervision in the EU and U.S.



Current topics:

- Cyber Risks
- Big Data
- Intra-Group Transactions



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