



HM Treasury

# Captive insurance

## Consultation

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November 2024





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# Chapter 1

## Introduction and purpose

1.1 The United Kingdom's insurance market is globally significant, with a world leading insurance and reinsurance offering. The UK is the third largest insurance and long-term savings market in the world and the largest in Europe. The London Market is also the largest global hub for commercial and specialty risk, attracting business from over 200 territories to cover complex risks, such as cyber and terrorism.

1.2 The Government wants to support the growth and international competitiveness of the UK's insurance sector. In doing so, it aims to strengthen the sector's contribution to the UK economy and bolster the UK insurance industry's international competitiveness.

1.3 Captive insurance is a method of self-insurance and risk management. It is a fast-growing global market, but most captives are not established in the UK. The Government has received representations from some parts of industry calling for a new approach for the regulation of captive insurance companies in the UK.

1.4 It is argued this could support the growth of the UK insurance market and, by extension, the broader UK economy, by making the UK insurance market a more attractive hub for businesses seeking efficient risk solutions.

### The UK's approach to regulation

1.5 This consultation is taking place in the context of a series of wider reforms to the way financial markets in the UK are regulated.

1.6 The Financial Services and Markets Act (FSMA) 2023 repeals assimilated law relating to financial services, subject to commencement. Assimilated law will be repealed and replaced with rules set by the independent financial services regulators, operating within an approach set by government and Parliament.

1.7 FSMA 2023 also introduced a new secondary objective for the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) to facilitate the international competitiveness of the UK economy and its growth in the medium to long term.

## This consultation

1.8 Given sustained interest from stakeholders, and in the context of a rapidly growing global captives market, the Government is keen to hear wider views from interested parties on captive insurance. That includes areas where it may be justified to take a different approach for captive insurance, as well as views on the economic case for change.

1.9 This consultation does not explore the specific mechanism by which a different approach to regulating captives might be introduced in the UK. The Government will carefully consider the responses and engage closely with the PRA and FCA before deciding on next steps.

## Who should respond?

1.10 The Government welcomes views from insurance sector firms, providers of broader financial services, and the business sector, including businesses that use captives or those who may consider doing so. It also welcomes views from any other interested organisations and members of the public.

## How to respond

1.11 Details of how to respond are set out in Chapter 5.

1.12 The consultation period begins with the publication of this document and will last until midnight on 7 February 2025.

# Chapter 2

## Captive insurance

**2.1** Captive insurance is a method of self-insurance and risk management. A captive insurer is an entity that insures or reinsures the risk of other companies within the same group. The company insured pays a premium to the captive insurer in exchange for insurance cover.

**2.2** Typical users are large, often multi-national, companies and professional services firms, although smaller businesses and public sector entities also establish captives. Captive insurance:

- Offers businesses an alternative way to insure emerging or novel risks, or replace insurance coverage bought in the commercial market;
- Allows groups to retain their premiums and access reinsurance markets directly, potentially reducing some costs associated with using commercial insurance. This may be particularly beneficial in hard markets, where insurance capacity is restricted; and
- Is a way for groups to better manage their risks and reduce their exposure.

**2.3** Captive insurance is a fast-growing global market. In 2021 there were around 7,000 captives with premiums approximating \$69 billion. Worldwide, premiums are projected to grow to \$161 billion by 2030.<sup>1</sup>

**2.4** Despite the widespread use of captive insurance by both UK and international companies, and the UK's world-leading insurance sector that is able to assist companies to establish captives, captives tend to be domiciled<sup>2</sup> overseas.

### Current position

**2.5** The Financial Services and Markets Act 2000 (FSMA 2000) and the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO) underpins the UK's structure for the regulation of insurance and reinsurance activities.

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<sup>1</sup> London Market Group, A plan for the future, September 2023: [https://lmg.london/wp-content/uploads/2023/12/LMG\\_Plan-for-the-future-2023-15092023.pdf](https://lmg.london/wp-content/uploads/2023/12/LMG_Plan-for-the-future-2023-15092023.pdf)

<sup>2</sup> In this context, the term 'domiciled' refers to a captive being established in the UK and does not relate to its tax status.

2.6 Article 10 of the RAO makes “effecting and carrying out contracts of insurance” a regulated activity in the UK, and does already permit the establishment of captive insurers.

2.7 The UK also has a world-leading insurance sector able to assist companies who wish to establish a captive insurer in the UK under the existing rules, so it is unlikely that sector expertise or resources is a barrier.<sup>3</sup>

2.8 However, the UK is not currently perceived to be an attractive destination for the establishment of captive insurance companies.

2.9 Prospective UK-resident captive insurers are subject to many of the same application, authorisation, governance and capital requirements as other insurers and reinsurers. Once established, they would also be subject to many of the same ongoing compliance and reporting requirements as insurers and reinsurers.

2.10 The Government has heard representations from some parts of industry that changes in these areas could be justified, in order to make the UK a more attractive destination for captive insurance business.

## Objectives

2.11 In considering ways to foster the growth of the captive insurance market in the UK, the Government’s objectives would be to:

- Maintain the UK’s reputation as a vibrant, innovative, and internationally competitive insurance centre;
- Protect policyholders and consumers, and ensure the safety and soundness of firms in the UK’s insurance sector;
- Support businesses to manage their risks, while maintaining their economic resilience; and
- Provide economic benefits to the UK.

## Approach

2.12 The Government is aware that the regulatory approach will be crucial to the attractiveness and success of a captive insurance market in the UK. The Government acknowledges that any new approach would need to include proportionate regulatory requirements that reflect the risk profile of captive insurers.

2.13 For example, the Government has heard representations that for the UK to become a more attractive place for captive insurers, there should be:

- Lower capital requirements for captive insurers;

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<sup>3</sup> For example, a captive syndicate model does exist within Lloyd’s of London.



- Reduced application and administration fees;
- A faster authorisation process; and
- Reduced ongoing reporting requirements, compared to those for insurers and reinsurers.

**2.14** As set out in Chapter 1, detailed proposals in many of these areas, including specific rules, may properly be for the PRA and FCA (e.g. capital requirements, authorisation, supervision) to determine, in accordance with their respective statutory objectives.

**2.15** This section sets out approaches that may be justified in order to encourage more companies to consider establishing a captive in the UK, and seeks detailed views from respondents on the case for change.

## Types of captive

**2.16** Representations from stakeholders have suggested differentiating between two distinct types of captive insurer:

- **Direct-writing captives:** A captive insurer that insures the risk of one or more of its group members
- **Reinsurance captives:** A captive insurer that reinsures the risk of one or more of its group members.

**2.17** Differentiating in this way would be intended to ensure a UK approach is attractive to a broad range of firms looking to establish captive insurance companies, including both smaller and larger captive insurers.

**2.18** This approach would also allow regulators to regulate in line with the different risks posed by each type. It would be important for any approach to remain flexible and allow for the potential future addition of further types, should this be deemed both acceptable and beneficial.

## Questions

1. What specific aspects of the existing insurance regulations (both prudential and conduct) do you consider need to change to encourage the establishment of UK captive insurers? Where you suggest changes, how might these impact on a) the level of protection offered to those who benefit from policies written by a captive or b) wider financial stability?
2. Do you agree with the approach of differentiating based on different types of captive? If not, are there alternative approaches that should be considered?
3. How important would it be to ensure that further types of captive could be added in the future?

## Exclusions and limitations

**2.19** Excluding certain activities and types of firms from setting up their own captive insurers might help to simplify and speed up the implementation process, while limiting risks to participants in the market (or risks to overall financial stability) arising from the failure of a captive.<sup>4</sup>

**2.20** The Government's view is that regulated firms dealing with financial services and pensions (e.g. insurers, banking groups, pension funds and superfunds) should be excluded from establishing (and passing risk to) their own captives. This avoids regulatory arbitrage and minimises the potential for financial stability risks.

## Questions

4. Do you agree that regulated firms dealing with financial services and pensions should be excluded from setting up and passing risks to their own captive insurance companies?
5. Do you see any circumstances where it might be beneficial to allow regulated financial firms to set up and pass risk to their own captives? Please explain why this would be the case.

**2.21** In addition to limiting the types of firm that can establish captives, any future approach would likely look to limit captive insurers' ability to write certain lines of insurance business.

**2.22** The Government's initial view is that there are strong arguments that captives should not be able to write either:

- **Life insurance.** Life insurance policies generally have long-term liabilities to third parties, and insurers are therefore subject to a strong regulatory regime to deliver high probability of being able to meet long-term future claims; or
- **Compulsory lines of insurance:** This insurance is required by law or regulation in order to protect third parties (e.g. employer's liability or motor insurance).

**2.23** For other liability lines, which may benefit third parties directly or indirectly, the regulators would be responsible for determining in future whether these could be covered by:

- Both direct writing and reinsurance captives; or
- Reinsurance captives only;

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<sup>4</sup> Insurance Association of Insurance Supervisors, Insurance Core Principles and Common Framework for the Supervision of Internationally Active Insurance Groups, November 2019:

<https://www.iaisweb.org/uploads/2022/01/191115-IAIS-ICPs-and-ComFrame-adopted-in-November-2019.pdf>

- No captives at all.

2.24 To inform future policy-making, the Government would welcome views on these points.

## Questions

6. Do you agree with the proposed limitations on what lines of business UK captives might be able to write?
7. How should lines of insurance which may benefit third parties (directly or indirectly) be treated under any new approach to captive insurers?

## Captive managers

2.25 Captive managers are third party firms that are engaged by those wishing to establish captives, or in the ongoing management of the captive.

2.26 The Government has received representations that there should also be a separate regulatory approach for captive managers, compared to that which applies to other regulated firms, to help ensure it is proportionate.

2.27 However, the Government's initial view is that establishing a separate approach for captive managers would be disproportionate to the risk profile of captive business. Many potential managers of captives will already be existing insurer or intermediary groups.

2.28 The FCA could therefore continue to exercise responsibility for the ongoing regulation of captive managers, including via the existing Senior Managers and Certification Regime. This approach should make the process of implementing a new captive insurance approach faster.

2.29 The alternative would be to introduce a new regulated activity of captive manager. This approach could make authorising new captives faster, if employees of the captive manager were already approved as fit and proper to perform these roles for those new captives. However, designing and implementing this new regulated activity would take longer, and slow the implementation of any new captive insurance approach overall.

## Questions

8. How should captive managers be regulated for conduct and competence to ensure the robustness of the approach and encourage the growth of a UK captives market?

## Protected Cell Companies

2.30 The Government has received representations that captives should also be permitted to operate via cells of a protected cell

company (PCC). PCC captives could provide a more viable route for smaller companies who would not be required to create and capitalise a full captive insurance entity. This might enable the UK to attract a wider share of the global captive market.

## Questions

9. Should it be possible for businesses to establish a captive cell using the UK's protected cell company framework? What are the advantages, and risks of this approach?

## Other considerations

**2.31** As noted above, other jurisdictions currently host the world's captive insurance business. Captive insurance owners are mindful of jurisdictions' reputations, regulatory environments, taxation arrangements and access to domestic markets when they decide where to be based.

**2.32** Jurisdictions have been influenced by shifts in the global regulatory landscape, for example, the introduction of Solvency II regulations, as well as international tax developments such as the Organisation of Economic Co-operation and Development's (OECD) introduction of Transfer Pricing Guidance and the Base Erosion and Profit Shifting (BEPS) Pillar 2 global minimum tax rules.

**2.33** Tax incentives alongside other fiscal considerations can have an influence on company decisions on where to base their captives. Some jurisdictions have elected to introduce beneficial fiscal arrangements to attract captive business.

**2.34** The Government's view is that tax incentives are not a necessary component of implementing a modern, competitive UK captive insurance approach. The Government does not anticipate providing tax incentives for captives under the approach set out above. It also anticipates that all captive insurers operating under a UK captive insurance approach would be required to be UK resident. Moreover, the Government will seek to avoid any unintended tax consequence as a result of any work on potential reforms.

**2.35** The Government is also keen to hear from respondents on the combined effect and overall attractiveness of the potential measures set out in this chapter, including any effects that a new captive insurance approach could have on the UK's insurance market.

## Questions

10. Would a new approach to captives, along the lines suggested in this consultation, make the UK a more attractive place to base a captive insurer? If not, what specific proposals would make the UK more attractive?

11. Are there further policy issues not covered in this consultation document that would need to be addressed in order to make a new approach to captives successful?
12. In your view, would introducing a specific UK captive insurance approach have positive or negative effects on the wider UK insurance market?

# Chapter 3

## Economic impacts

3.1 Captive insurance is a fast-growing global market. It is estimated that the global captives market has grown from around 1,000 companies in the 1980s to around 7,000 captives in 2023, with captive premiums approximating \$69 billion. Global captive premiums are further projected to grow to \$161 billion by 2030. It is estimated that around 500 UK-associated captives are currently located in offshore jurisdictions.<sup>5</sup>

### The UK's offer

3.2 A new UK captive insurance approach would have the significant advantage of its close proximity to London's world-leading reinsurance market.<sup>6</sup> Reinsurance protection for offshore UK captives is often already procured from the London market using the expertise of UK insurance brokers.

3.3 Because so much of this activity is already done in London, some industry voices suggest that a new approach to captives may not bring significant additional economic activity to the UK.

3.4 However, supporters of a new UK captives approach argue that encouraging captives to be based in the UK would have wider benefits for the UK economy. There may be demand from UK companies who have elected to establish their captives overseas, for the reasons set out in Chapter 2. UK companies who have not yet established captives may also be more interested in taking this step in the UK, providing UK businesses with more ways to manage their risk.

3.5 Based on a 2019 study of the economic impact of captives in Vermont, industry representations have suggested that each captive insurer established in the UK could contribute approximately £225,000 annually to the UK economy. While impacts are difficult to estimate accurately, any contribution would be likely to come from job creation, increased tax revenues, and other broader economic benefits.<sup>7</sup>

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<sup>5</sup> London Market Group, A plan for the future, September 2023: [img.london/wp-content/uploads/2023/12/LMG\\_Plan-for-the-future-2023-15092023.pdf](https://img.london/wp-content/uploads/2023/12/LMG_Plan-for-the-future-2023-15092023.pdf)

<sup>6</sup> London Market Group, London Matters 2024: [img.london/wp-content/uploads/2024/05/London-Matters-2024-Data-Pack.pdf](https://img.london/wp-content/uploads/2024/05/London-Matters-2024-Data-Pack.pdf)

<sup>7</sup> Economic and Policy Resources, Economic contributions of the captive insurance industry in Vermont, December 2019: [W-Ian Davis-Economic Contributions of the Captive Insurance Industry in Vermont-1-22-2020.pdf](https://www.economicpolicyresources.com/wp-content/uploads/2020/01/W-Ian-Davis-Economic-Contributions-of-the-Captive-Insurance-Industry-in-Vermont-1-22-2020.pdf)

**3.6** The Government is determined to drive long-term economic growth by creating the conditions for businesses to thrive. Regulatory change can spur growth by removing barriers to activity and investment, but it can also impose costs. The Government will carefully consider the economic case for change in this area, including the potential benefits, but also the direct and indirect costs to business and opportunity costs, based on the responses to this consultation.

## Questions

13. Do you agree with the figures set out above on the size of the potential market? Please provide any additional quantitative or qualitative information.
14. What sort of companies might be interested in establishing UK captives? Any further information on the potential pool of interested firms, or their specific needs, would be helpful.
15. The UK already is already a hub of insurance sector expertise and related ancillary services. What new job creation or relocation of existing roles could be expected should a new approach for UK captive insurers be introduced? Please provide any supporting evidence you may have.
16. If captive insurers set up in the UK, would any additional investment flow into the UK? Please provide any evidence to support your answer.
17. How else might a new approach to captives create costs or benefits in the UK economy? Please provide any specific examples, or quantitative or qualitative data to support this.

# Chapter 4

## Questions for respondents

1. What specific aspects of the existing insurance regulations (both prudential and conduct) do you consider need to change to encourage the establishment of UK captive insurers? Where you suggest changes, how might these impact on a) the level of protection offered to those who benefit from policies written by a captive or b) wider financial stability?
2. Do you agree with the approach of differentiating based on different types of captive? If not, are there alternative approaches that should be considered?
3. How important would it be to ensure that further types of captive could be added in the future?
4. Do you agree that regulated firms dealing with financial services and pensions should be excluded from setting up and passing risks to their own captive insurance companies?
5. Do you see any circumstances where it might be beneficial to allow regulated financial firms to set up and pass risk to their own captives? Please explain why this would be the case.
6. Do you agree with the proposed limitations on what lines of business UK captives might be able to write?
7. How should lines of insurance which may benefit third parties (directly or indirectly) be treated under any new approach to captive insurers?
8. How should captive managers be regulated for conduct and competence to ensure the robustness of the approach and encourage the growth of a UK captives market?
9. Should it be possible for businesses to establish a captive cell using the UK's protected cell company framework? What are the advantages, and risks of this approach?
10. Would a new approach to captives, along the lines suggested in this consultation, make the UK a more attractive place to base a



captive insurer? If not, what specific proposals would make the UK more attractive?

11. Are there further policy issues not covered in this consultation document that would need to be addressed in order to make a new approach to captives successful?
12. In your view, would introducing a specific UK captive insurance approach have positive or negative effects on the wider UK insurance market?
13. Do you agree with the figures set out above on the size of the potential market? Please provide any additional quantitative or qualitative information.
14. What sort of companies might be interested in establishing UK captives? Any further information on the potential pool of interested firms, or their specific needs, would be helpful.
15. The UK already is already a hub of insurance sector expertise and related ancillary services. What new job creation or relocation of existing roles could be expected should a new approach for UK captive insurers be introduced? Please provide any supporting evidence you may have.
16. If captive insurers set up in the UK, would any additional investment flow into the UK? Please provide any evidence to support your answer.
17. How else might a new approach to captives create costs or benefits in the UK economy? Please provide any specific examples, or quantitative or qualitative data to support this.

# Chapter 5

## Disclosure

5.1 Please send responses to [captiveinsuranceconsultation@hmtreasury.gov.uk](mailto:captiveinsuranceconsultation@hmtreasury.gov.uk).

5.2 Following the consultation, the government will respond in the normal manner. The government will carefully consider responses, which will be important for informing policy development here.

### Processing of personal data

5.3 This section sets out how we will use your personal data and explains your relevant rights under the UK General Data Protection Regulation (UK GDPR). For the purposes of the UK GDPR, HM Treasury is the data controller for any personal data you provide in response to this consultation.

### Data subjects

5.4 The personal data we will collect relates to individuals responding to this consultation. These responses will come from a wide group of stakeholders with knowledge of a particular issue.

### The personal data we collect

5.5 The personal data will be collected through email submissions and are likely to include respondents' names, email addresses, their job titles, and opinions.

### How we will use the personal data

5.6 This personal data will only be processed for the purpose of obtaining opinions about government policies, proposals, or an issue of public interest.

5.7 Processing of this personal data is necessary to help us understand who has responded to this consultation and, in some cases, contact certain respondents to discuss their response.

5.8 HM Treasury will not include any personal data when publishing its response to this consultation.

### Lawful basis for processing the personal data

5.9 Article 6(1)(e) of the UK GDPR; the processing is necessary for the performance of a task we are carrying out in the public interest. This

task is consulting on the development of departmental policies or proposals to help us to develop effective government policies.

## Who will have access to the personal data

5.10 The personal data will only be made available to those with a legitimate need to see it as part of consultation process.

5.11 We sometimes conduct consultations in partnership with other agencies and government departments and, when we do this, it will be apparent from the consultation itself. For these joint consultations, personal data received in responses will be shared with these partner organisations in order for them to also understand who responded to the consultation.

5.12 For this consultation, responses will be shared with the PRA and the FCA, given they would be responsible for the prudential regulation and conduct supervision of captive insurance companies and their management, and are working closely with HM Treasury to consider this policy. Responses should clearly indicate where they do not wish for responses to be forwarded on to the PRA and FCA, or if they wish for their response to be anonymised.

5.13 As the personal data is stored on our IT infrastructure, it will be accessible to our IT service providers. They will only process this personal data for our purposes and in fulfilment with the contractual obligations they have with us.

## How long we hold the personal data for

5.14 We will retain the personal data until work on the consultation is complete and no longer needed.

## Your data protection rights

5.15 Relevant rights, in relation to this activity are to:

5.16 request information about how we process your personal data and request a copy of it

- object to the processing of your personal data
- request that any inaccuracies in your personal data are rectified without delay
- request that your personal data are erased if there is no longer a justification for them to be processed
- complain to the Information Commissioner's Office if you are unhappy with the way in which we have processed your personal data

## How to submit a data subject access request (DSAR)

5.17 To request access to your personal data that HM Treasury holds, please email: [dsar@hmtreasury.gov.uk](mailto:dsar@hmtreasury.gov.uk)

## Complaints

5.18 If you have concerns about Treasury's use of your personal data, please contact our Data Protection Officer (DPO) in the first instance at: [privacy@hmtreasury.gov.uk](mailto:privacy@hmtreasury.gov.uk)

5.19 If we are unable to address your concerns to your satisfaction, you can make a complaint to the Information Commissioner at [casework@ico.org.uk](mailto:casework@ico.org.uk) or via this website: <https://ico.org.uk/make-a-complaint>.

### **HM Treasury contacts**

This document can be downloaded from [www.gov.uk](http://www.gov.uk)

If you require this information in an alternative format or have general enquiries about HM Treasury and its work, contact:

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