

In a market characterized by unprecedented volatility, risk managers are looking for ways to develop cost-saving and profit-generating alternatives to the conventional commercial insurance market, including the formation or expansion of captive facilities. The attorneys of Sonnenschein's Insurance Regulatory Practice regularly advise on matters related to the development, structure and operation of domestic and off-shore captive facilities. Our in-depth understanding of state and federal regulatory environments, combined with our domestic and international insurance industry expertise, allows us to deliver strategic solutions that address the legal and business issues clients face in today's unpredictable marketplace, making us the go-to law firm for captive matters.

Examples of our Captive Services

- Provide advice during the feasibility study, actuarial study, application and formation of the captive facility
- Assist in the development of domestic and off-shore captive facilities, including single-parent, association, industry, group, agency, protected cell, special purpose and rent-a-captive facilities
- Provide assistance in structuring the use of the captive in the most tax-efficient manner
- Assist in identifying the ownership structure, insurance needs and overall goals the captive will address
- Review and negotiate agreements related to captive insurance programs, including agreements with brokers, third-party administrators and reinsurers
- Assist in determining the amount of premium obligations, the amount of required investment capital and other resources involved in setting up a captive facility
- Advise regarding methods to reduce the insured's reliance on the commercial insurance market through the implementation and/or expansion of existing captive facilities
- Advise regarding accessing reinsurance markets and pooling arrangements
- Advise regarding shifting contingent liabilities from operating units to a captive to prepare subsidiaries for sale by insuring liabilities
- Advise regarding the transfer of wealth and/or reserves to captive facilities
- Advise regarding diversification of a captive's operations and conversion of a captive facility into a profit center by capturing premiums and generating underwriting profits from third parties
- Advise regarding the impact of an insurer insolvency on a captive reinsurance structure, including negotiation of commutations and other disengagement transactions with financially troubled insurers and reinsurers
- Negotiate cut-through endorsements for inclusion in captive reinsurance structures
- Advise regarding the application of industrial insured exceptions to captive placements and related premium tax issues
- Advise regarding strategies for the run-off or transfer of long-tail liabilities to a captive facility
- Advise regarding termination of a captive or captive program and run-off strategies