

Teamwork key for captive success

Fronting insurers must work closely with reinsurers: Panel

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BURLINGTON, Vt.—Captive fronting arrangements and their associated reinsurance agreements involve numerous details that need to be managed effectively and often discussed thoroughly at the beginning of the relationship, experts say.

“Reinsurance agreements, obviously, are critical from a captive perspective,” said Gregory Lang, senior vp in the Specialty Markets division of Munich Reinsurance America Inc. in Princeton, N.J., this month during a panel he moderated on the details of captive reinsurance programs at the Vermont Captive Insurance Assn.’s annual conference.

“The first step is a program manager, delegating to a program manager,” Mr. Lang said. “Somebody who’s putting the program together and bringing it to us as a front.”

As a program manager, panelist Mary L. Mauck, division senior vp-group captives at Artex Risk Solutions Inc. in Itasca, Ill., said her company looks to bring “all the parts and pieces of the program together.”

“So we are intimately involved with all the aspects of a captive operation,” Ms. Mauck said.

“I think one of the things that’s really important to a captive is you want your program to be long term and viable,” said Janice Klodowski, vp at Agri-Services Agency L.L.C. in East Syracuse, N.Y., and a member of the captive reinsurance panel. “Communication is very important in this whole endeavor.”

“That’s how you’re going to have a successful captive, when all the parties are together and have a partnership,” added Ms. Mauck.

Claims are a critical element for various participants in the fronted programs, so consequently third-party administrator arrangements can involve multiple contracts.

“Discover always contracts directly with the TPA,” said Timothy Lynch, senior counsel at Farmington, Conn.-based Discover Re. What the fronting carrier wants from the program manager is to oversee claims in the captive layer, he said.

“That’s what we want a program manager to say, that they actively, aggressively manage TPA claims in their layer,” he said.

In addition, in their claim servicing agreements with TPAs, Discover Re also reserves the right to handle claims, Mr. Lynch said. “We reserve the right to step in at any time.”

As a captive owner, Ms. Klodowski said Agri-Services closely monitors its TPAs’ performance.

“With TPAs, as a captive owner, we do put performance benchmarks in the third-party administrator agreement,” she said. “Obviously, we’re in the business of paying claims, so they’re going to be your biggest source of saving money.”

“You have various degrees of adjusters and communications styles, and that’s what you have to understand because it makes a big difference,” Ms. Klodowski said. A captive owner can’t tolerate an

adjuster that's late reporting claims, she said, noting that her company no longer works with an adjuster who was late reporting a major injury claim.

Runoffs and commutations can be challenging in fronted programs, and those efforts also can often benefit from effective claims handling, according to Ms. Mauck.

"Domiciles typically will not allow a captive to shut down until the point in time when they have transferred all risks to another party," she said.

The captive reinsuring the fronted program typically tries to commute the risk back to the fronting carrier, but "that is easier said than done," Ms. Mauck said.

"That's where the claims management really comes into play," she said. "When you're looking at a commutation, you really want to get everything squared away, because maybe the carrier will at least quote a price to take the risks back."

A commutation is really a full release of the reinsurer, noted Discover Re's Mr. Lynch.

"With respect to a commutation, I kind of see them as a whole new program," he said. "Oftentimes we just can't get together on a price."

With regard to commutations and runoffs, "Everyone agrees we ought to have these conversations up front, but often we don't," added Mr. Lang.

Peter J. McDougall, member of the captive, corporate and insurance law teams at Paul Frank & Collins P.C. in Burlington, also was on the panel.

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