

# Testimonials

Peter Cavanaugh, from NEIL, and R Clay Foltz, of Delaware Surety Insurance Company, explain why they have chosen to set up business in the state

## Captive Review (CR): Why did you choose Delaware?

**Peter Cavanaugh (PC):** Nuclear Electric Insurance Limited (NEIL) moved from Bermuda to Delaware in 1987. Two significant factors for selecting Delaware were the business-friendly environment within Delaware, and a willingness of the state legislature to amend the state's Captive Insurance Act to allow a mutual formed in another jurisdiction to relocate, and secure an insurance licence in Delaware, without having to reform the company as a Delaware corporation. As a result, NEIL today continues to be a Bermuda mutual insurance company, but maintains its base of operations in Delaware. NEIL was pleased that this unique aspect of Delaware's Captive Statute remains in effect under the revised Captive Insurance Act that was passed a few years ago.

Other reasons for choosing Delaware were:

- Good balance struck in the state's Captive Statute between Department of Insurance oversight and self governance by the insurer;
- The strong corporate environment in Delaware;
- Accessible leaders in Delaware (Legislature and Department of Insurance);
- Well run Department of Insurance;
- Good geographic location – central to the New York to Washington DC corridor with easy travel access (train and plane).

## CR: How has your captive performed?

**PC:** Overall, NEIL has performed very well over the years. NEIL presently provides some form of insurance for every commercial nuclear power station that is operating in the United States (there are 104 commercial nuclear reactors operating in the US)

and through its subsidiary, Overseas NEIL, provides insurance cover for all the commercial nuclear power stations in Belgium and Spain.

From a financial standpoint, NEIL is one of most successful mutuals in the world. When NEIL relocated to Delaware in 1987, it had a surplus of about US\$1bn. At year end 2009, NEIL had surplus in excess of US\$3.4bn on assets of about US\$4.1bn. Over the course of the company's history, dating back to 1973, the company's cumulative loss ratio is less than 50% for its core nuclear insurance programmes.

From a personnel standpoint, NEIL also considers itself very successful. When the company relocated to Delaware, it started operations with a handful of employees. Today, NEIL employs more than 55 people in its Wilmington, Delaware, office; five people in Dublin (overseas NEIL's home office); and one engineer in Madrid, Spain.

## CR: What is the regulator like to work with?

**PC:** Over the years, NEIL has had a strong relationship with the Delaware regulator. We have always viewed the relationship as a two-way street that requires regular and open dialogue

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about NEIL's operations. To date, the Delaware regulator has responded by always being available to address questions from NEIL and has always shown a willingness to work with the company to handle matters and reach a mutually satisfactory solution.

## CR: Who is responsible for your captive management?

**PC:** NEIL does not utilise a captive manager, and has set-up a “brick and mortar” operation instead. NEIL has a strong and knowledgeable board of directors. Currently, NEIL's board consists of 12 directors who come from its member companies, four independent directors, and NEIL's CEO. Traditionally, NEIL's chairman is a director who comes from one of its member companies. NEIL also has an experienced leadership team that consists of David B Ripsom (president & CEO), Robert N MacGovern (chief investment officer), Kenneth C. Manne (VP & general counsel), Harry J Phillips (VP - loss control), Thomas G Tannion (VP - international), Richard G White (chief financial officer) and Greg G Wilks (VP - insurance).

*Peter Cavanaugh is deputy general counsel for NEIL.*



**D**elmarva Underwriters, t/a The Bond Agency, is a P&C Agency that specialises in surety bonds. We issue surety bonds to contractors, businesses and individuals primarily in the mid-Atlantic region. Our agency is licensed in 30 states so we actually do business, via the web, in a much larger area. We are surety bond underwriters and have secured a significant binding authority limit with our lead carrier, which enhances our marketing clout. We market bonds direct to retail customers as well as to brokers. Delaware Surety Insurance Company is a Special Purpose Captive chartered 1 January 2010. It reinsures a significant portion of the surety bond business written with our lead carrier. By doing so, it allows us to share in the

to other jurisdictions, (Washington DC, Vermont, South Dakota, South Carolina or the Islands) we found that as a result of the new captive insurance legislation passed in 2005, Delaware has become a much more attractive domicile. Basically, the lure of the other domiciles was not strong enough, in our case, to justify leaving home. We are big believers in the economic development aspects of the captive industry and we wanted to keep our investment in the state where we do a lot of business.

**CR: How has your captive performed?**

**CF:** Our captive has performed admirably, and has allowed us to enhance our overall business plan. Our ceding carrier is willing to give us binding authority in exchange for our assumption of a significant portion of the risk on each bond. The captive enables us to share in the

ing results for the first nine months have been excellent. Premiums are slightly below initial projections due to economic conditions, but the captive's loss ratio has been excellent.

**CR: What is the regulator like to work with?**

**CF:** The Delaware Insurance Department, from commissioner Karen Weldin-Stewart, to Steve Kinion, director of the Bureau of Captive and Financial Insurance Products, and all other Insurance Department staff members, has been excellent to work with. They are very responsive to filings and requests and they are very flexible in their ability to tailor statutory requirements to suit specific purposes. For instance, since the Delaware captive insurance statute, at the time, did not allow for 'agency captives' [it does now] we were given approval to operate as a special purpose captive which accomplished the same end result.

**CR: Who is responsible for your captive management?**

**CF:** We are a self managed captive. This is also evidence of the flexibility allowed by the Delaware Insurance Department. Since my partner and I are trained surety underwriters we certainly did not need any outside underwriting services. Rate filings and claims are provided by the ceding carrier, with our assistance and direction. More importantly the services of our attorney, Michael Teichman of Parkowski, Guerke and Swayze, PA, who is eminently experienced in insurance regulation and captive administration, allows us to maintain legal compliance and oversight. This arrangement also allows us to hire and manage outside accounting, actuarial and auditing services. Due to Mr Teichman's experience in captive administration and our experience as underwriters, the Delaware Department has allowed us to be self-managed. Our programme really just began on 1 January 2010 so we have no immediate plans to expand. We do know that the cell captive arrangement could provide us with avenues to expand into other programs while insulating the results of our initial programme.  
*R Clay Foltz is president of Delaware Surety Insurance Company*

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risk and the profits of business we produce through our agency.

**Captive Review (CR): Why did you choose Delaware?**

**Clay Foltz (CF):** We chose Delaware because all three owners live in Delaware, and, in the case of two of us, we are lifelong residents and have owned and operated businesses here in Delaware for many years. Needless to say our ties to Delaware are strong. In comparing Delaware

profits of our book of business and it allows our ceding company to meet their requirements as regards to reinsurance disclosures in its annual statement. We also believe the captive could be expanded in the future to become a Protected Cell Captive or perhaps even a fully chartered, domestic Property/Casualty company. We felt that in the latter case, the conversion to a domestic P&C company, could be more easily accomplished in Delaware if we began as a Delaware captive. The operat-