

# Here or there?

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How insurers decide where to be domiciled



# Foreword

For the last 18 months the question about domicile, and the issues driving this crucial corporate decision, have become a topic of ongoing interest to the insurance industry. This is why we decided that it was a subject worthy of some closer investigation: to understand whether or not this is an ongoing trend or simply a response to a specific set of circumstances, what might be driving it and how might it unfold going forward.

Over the early summer of 2010 we undertook qualitative and quantitative research among 30 global property and casualty (P&C) re/insurers from a range of jurisdictions, asking them about what criteria they considered important or not in the domicile debate, and their view on the pros and cons of different locations. The key criteria we asked them to assess were: access to markets and infrastructure, tax, regulatory capital requirements and regulation.

In addition, we looked at the largest re/insurance groups by gross written premium (GWP) to see who

had in fact changed domiciles and when. While in absolute terms 36% of the group had moved, this only represents 12% of the overall GWP, and the moves broadly took place in two waves; one post 9/11 and another starting about 18 months ago.

It might be too early to predict if this is the beginning of a major trend, but there is no doubt that jurisdictional choice for an international P&C insurer or reinsurer has risen to the very top of the corporate agenda. In our research, 80% of respondents said that they discuss the issue at board level on a regular basis.

We would like to express our thanks to everyone who took part in the survey, for taking the time to share their thoughts with us, and we hope you find the results of interest.



**Peter Allen**

Partner, Head of Financial Services  
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September 2010

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# Executive summary

Respondents to our survey overwhelmingly said access to markets was the key criterion when selecting a domicile and this is the primary reason why London remains a key location. Regulatory capital is an important issue, however, Solvency II will tend to level this playing field. There was consensus around the need to operate in a place where the regulator was respected and credible. Surprisingly, low corporate taxation ranked fourth in the list.

Despite the extensive column inches and debate given over to the topic of where re/insurance companies should best be domiciled, the facts surprisingly suggest that there is much more talk than action, and any meaningful trend has yet to pick up momentum. It is, however, a subject to which the respondents to our survey are giving a considerable amount of thought and on which they expressed strong opinions.

When we asked the survey participants to rank the criteria that they considered important in choosing a jurisdiction, the differential between the four key criteria was very narrow, illustrating the complexity of the decision and very individual nature of the choice.

Overwhelmingly, however, respondents said that access to markets was the key criterion in their choice and, according to the survey, it is the primary reason that London still remains a key location. Other domiciles struggled to compete, although it was mentioned as a positive factor for the US, Japan and other EU

domiciles. The issue of regulatory capital scored highly, but the changing landscape around the implementation of Solvency II both in and outside the EU is likely to reduce the competitive advantage that can be achieved in this area.

## Main criteria considered fundamental when choosing a jurisdiction, in order of importance

1. Easy access to markets
2. Realistic capital adequacy requirements
3. A respected, credible regulator
4. Low corporate taxation
5. A plentiful pool of talent
6. Attractive living conditions
7. Simple, light-touch regulation
8. Low personal taxation

Interestingly there was consensus around the need to operate in a place where the regulator was respected and credible. The reputational damage that could result from operating in a regime that was deemed to be sub-standard was seen as a very genuine risk for many companies.

Most surprising was that low corporate tax ranked fourth in the list. A review of public statements, made by those companies that have moved, shows tax is almost always explicitly mentioned. However, the combination of an ongoing soft market and low investment returns may mean that companies more actively seek to achieve a much needed competitive edge by reducing their tax bill. The flip side of the coin is that governments, burdened by large deficits, are taking active steps to maximise revenue.

# Location, location, location

A few years ago it seemed everybody was moving their headquarters to Bermuda. Now, European locations such as Dublin, Zurich, Luxembourg and Amsterdam appear to be the locations of choice for those looking to maximise efficiencies by moving domicile. Eighty percent of survey respondents said that they discuss the issue on a regular basis at board level. But how much of this activity is talk, and how many companies have taken the plunge and moved?

The reality is that, while in absolute terms 36% of the largest P&C re/insurers by gross written premium (GWP) have moved – this represents only 12% of the total GWP of those companies.

Even if the numbers of those who have actually made a move are still low, there is no doubt that jurisdictional choice for an international P&C re/insurer has risen to the very top of the corporate agenda. In our research, 80% of respondents said that they discuss the issue at board level on a regular basis. However, before we look at the results of the research, it is worth a brief résumé of the genesis and development of this trend.

## Going global

Thirty years ago the re/insurance industry was mainly either on the East Coast of the USA or in London. Bermuda was primarily a captive location for US corporates, and a few other European countries such as Belgium and Scandinavia were home to P&C operations. The big shift came after the

liability crisis in the US, with the creation of companies such as ACE and XL in Bermuda.

After Hurricanes Andrew and Katrina, and post 9/11, the island's ability to respond to capacity shortages by the rapid creation of new carriers was demonstrated time and time again. In the autumn of 2001 approximately \$27 billion of capital was raised by the re/insurance industry and around two-thirds of that was invested in Bermuda. The rationale for this is well-understood: the speed of regulatory approval, an attractive tax environment and a geographic position that works for both the US and Europe.

There was considerable debate at the time about whether London's position would be eroded by the growth of Bermuda, especially as a number of prominent Lloyd's businesses began to move, and whether tax efficiency and an accommodating regulator would outweigh the traditional strengths of global reach and a huge pool of underwriting expertise and supporting services.

Fig. 1 Change in jurisdiction of the largest P&C re/insurers based on total GWP

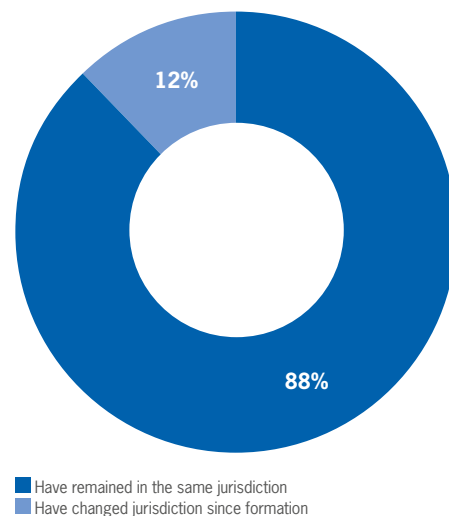
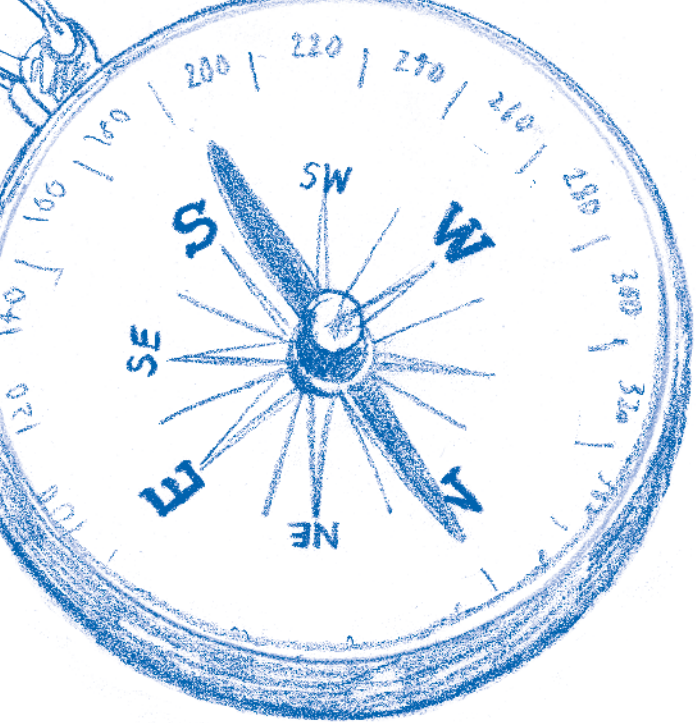




Fig. 2 The largest re/insurance groups and their current jurisdiction

Name	Incorporation	Moved	When
ACE Limited	Cayman Islands	Switzerland	2008
Allied World Assurance Company Holdings Limited	Bermuda		
Amlin	United Kingdom		
Arch Capital Group Limited	United States	Bermuda	2000
Aspen Insurance Holdings Limited	Bermuda		
AXIS Capital Holdings Limited	Bermuda		
Beazley Plc	United Kingdom	Jersey and Ireland	2009
Brit Insurance Holdings Limited	United Kingdom	Netherlands	2009
Canopus Group Limited	Guernsey		
Catlin Group Limited	United Kingdom	Bermuda	1999
Chaucer Holdings Plc	United Kingdom		
Chubb Corporation	United States		
Endurance Specialty Holdings Limited	Bermuda		
Everest Re Group Limited	United States	Bermuda	2000
Hardy Underwriting Bermuda Limited	United Kingdom	Bermuda	2007
Hiscox Plc	United Kingdom	Bermuda	2005
Kiln Group	United Kingdom		
Lancashire Holdings Limited	Bermuda		
Max Re Europe Limited	Bermuda		
Montpelier Re Holdings Limited	Bermuda		
Munich Re Group	Germany		
Novae Group Plc	United Kingdom		
Omega Insurance Holdings Limited	United Kingdom	Bermuda	2006
Partner Reinsurance Company Limited	Bermuda		
QBE Insurance Group Limited	Australia		
Renaissance Reinsurance Limited	Bermuda		
Scor SE	France		
Swiss Reinsurance Company	Switzerland		
Transatlantic Holdings Incorporated	United States		
Validus Holdings Limited	Bermuda		
White Mountains Insurance Group Limited	United States	Bermuda	1999
XL Capital Limited	Cayman Islands	Ireland	2010
Zurich Financial Services Group	Switzerland		



In reality, that particular fierce rivalry has mellowed into complementary co-operation. With each wave of start-ups in Bermuda, a number have found their way to London, either as a start-up or by acquisition in both Lloyd's and the company market. So, the focus is shifting elsewhere.

A number of other locations have invested considerable time and effort into enhancing and advertising their particular advantages. Dublin and the International Financial Services Centre (IFSC) were originally focused more on asset management. However, this started to change in the late 1990s and it is now a home for XL and Beazley. Switzerland, the Netherlands and Luxembourg have also been in the spotlight as the choice of ACE, Brit and Flagstone Re respectively.

### Business evolution

The domicile debate is not just about location, it is also about the way that the property and casualty industry has evolved. When the number of possible locations could be counted on the fingers of one hand, the re/insurance world was a great deal simpler – some underwriters, some capital and some risks.

Today, the infrastructure that surrounds that core concept is much more complex because the external world has changed:

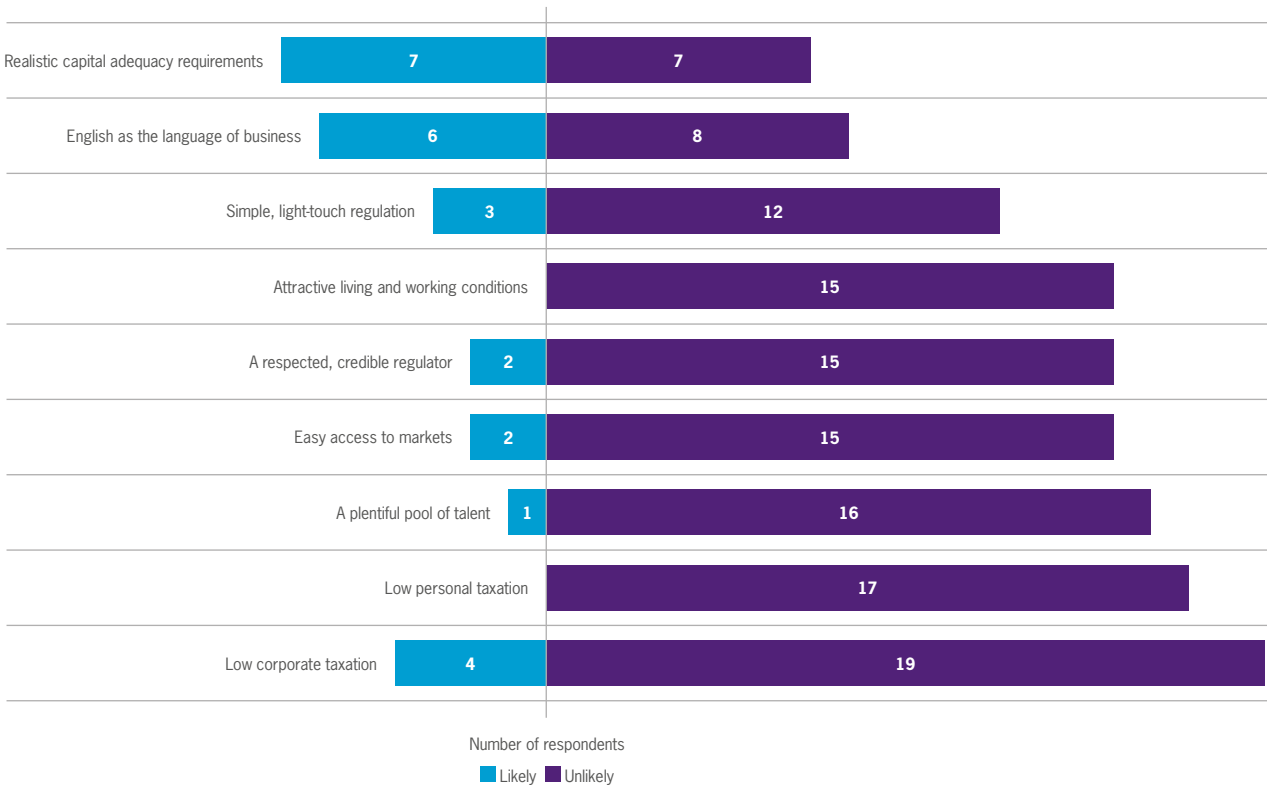
- More companies are listed, giving rise to the need for greater transparency
- The regulatory requirements are much greater
- The power of the ratings agencies means they need to know more about risk frameworks and models
- Buyers have seen re/insurers fail, and demand more information from their brokers.

When discussing the company's decision to move its domicile, the process was described by ACE Chairman and CEO Evan Greenberg in 2008 as: "Part of the natural evolution from a monoline excess insurer owned by its policyholders to a global publicly-traded insurance company operating throughout the developed and developing world."

He went on to say: "Our incorporation in a major financial centre, home to many global financial and insurance companies, will provide an improved corporate structure and an excellent location for further growth and expansion of our company."

In addition, the more recent soft market, combined with low investment returns, has meant that achieving a significant tax reduction or a lower capital requirement can deliver a much needed competitive edge.

Fig. 3 Respondents' views of the likelihood of change in their current jurisdiction



The final component was the widespread adoption of electronic communication in the form of scanning, email, mobile phones, etc. The ability to share information and keep in touch over much greater distances made the whole idea of moving away from traditional insurance hubs a great deal more practical.

This report looks very specifically at the debate about where a company is domiciled. It is not about operations, which can be and are in many jurisdictions around the world. It asks about the advantages and drawbacks of different locations and what the future might hold for each of them.

As the chart above illustrates, respondents do not believe that the fundamentals which underpin each jurisdiction will change significantly, so that the choices they will make in the months and years to come will tend to ensue.

# Market access and infrastructure

International P&C companies taking part in the survey listed 'access to markets' as the most important single factor in choosing a domicile. This is why London remains a key location, with a significant majority of respondents considering the capital's pool of quality labour as vital to its continued success. However, the growth of communications technology means that firms can be more easily domiciled at a distance from this deep market infrastructure.

The London market has the size and scale to be able to offer an international P&C company everything it needs in terms of staff, infrastructure and an effective means of distribution. Other domiciles struggled to compete with London on this criterion, according to our respondents, but it was mentioned as a positive factor for the US, Japan and other EU domiciles.

On its own, however, this is not sufficient for those P&C companies based outside the UK to relocate there.

A plentiful labour pool was regarded as an important component of 'access to markets' by respondents. Although few of the group questioned said that this element could be classed as a unique selling point (USP) for their market, 78% of those questioned mentioned it as an important factor in keeping them tied to London.


## Issues arising

There is little doubt that London is still the world centre for underwriting expertise, even if it is not always the most capital effective or tax efficient place to underwrite some classes of business or be headquartered.


As an indication of the depth of experience available, the International Underwriting Association's liability and property reinsurance committees, discussion groups that produce model clauses and codes of practice, have some 500 members in London.

Market access is a shorthand that covers the ability to interact with brokers and customers, as well as the numerous and varied support industries such as lawyers, accountants, claims handlers and back office providers. In all of these respects London has the critical mass that comes from hundreds of years of specialisation.

The conundrum from this finding is as follows: if market access is of such primary importance to re/insurers, and London is recognised as one of the global centres for insurance with technical expertise and skills that are generally not available in sufficient quantities in most other jurisdictions, why are businesses leaving London for other locations?



London is the biggest, densest market in the world. It should offer the greatest potential growth for their business if it were not for the negative factors of tax, capital adequacy and regulatory oversight.

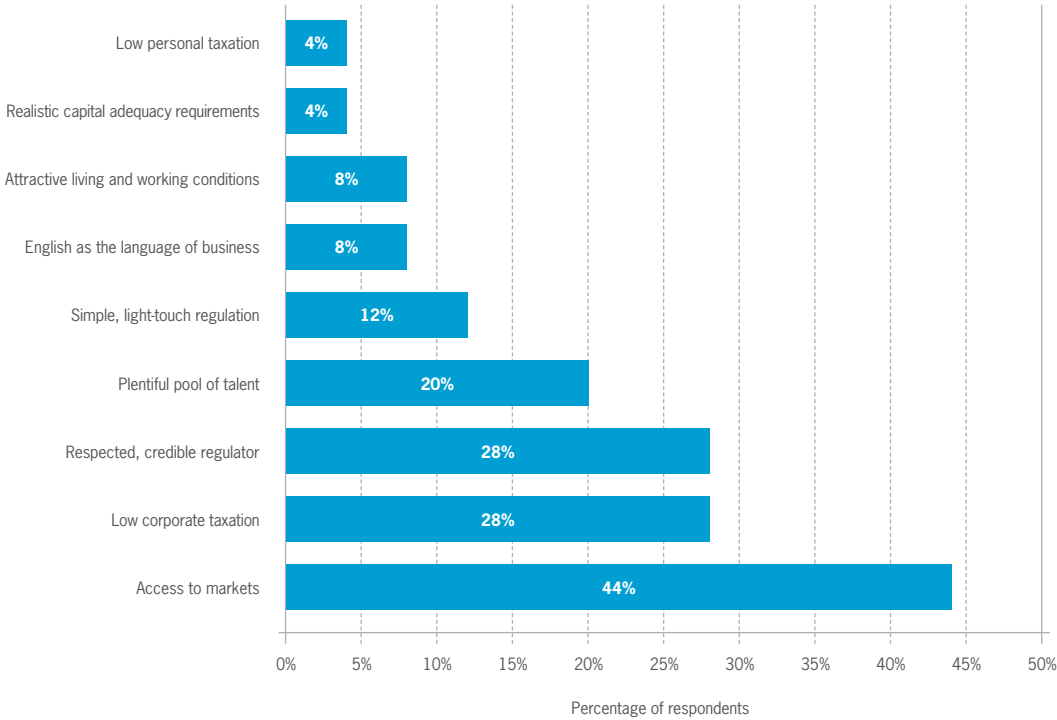


Chief Executive of a Bermudian based P&C re/insurer

In London there is a large pool of good quality labour that is expensive. In Guernsey there is a small pool of good quality labour which is relatively less expensive. Bermuda, as we all know, has a very limited pool and lots of labour market issues around, affecting people's thinking at the moment.

Chief Executive of a Guernsey based P&C re/insurer

Fig. 4 The factors keeping companies in their jurisdiction





There are a number of reasons why this position might not be as contradictory as it first appears.

### The high level of intermediation

Brokers are a vital part of the re/insurance business, being the eyes and ears – and often the arms and legs – of the underwriters around the world.


This means that the re/insurers can often be confident that the brokers will find them wherever they are. This is especially true in niche classes of business or where capacity is constrained.

The last ten years have also seen a very significant growth in delegated authority business. This strategy allows risk carriers to increase their international distribution irrespective of their location.

### The growth of communications technology

BlackBerries, email and file sharing have made geographic distance an irrelevance in terms of information sharing and, more importantly, control. When borderaux took a year to get sent back to Lloyd's from a far-flung binder holder, it was hardly surprising that unexpected losses occurred. Today, online filing and single data entry systems mean that control does not require physical interaction.

While e-commerce is still in its infancy in the world of business insurance, there is no doubt that many re/insurers are investing in more sophisticated technology as a way to give basic quotations, capture risk information or deal with straightforward claims. The ability to walk into the Room becomes a luxury, not a necessity.



I think it takes a certain mind-set to want to live on a rock that's only twenty miles long, and living conditions in and around Dublin which are as good as around London.

If you have a young executive with a family, it is much easier to get them to go to work in Zurich than Bermuda. It is that simple. These days it does not matter where you have your offices, or where you work from.

Chief Executive of an  
Ireland based P&C  
re/insurer

## The increased sophistication of management and networks

As the business model of re/insurers has evolved and technology has come to play a greater role, so it is easier to have a headquarters in one location and operations in a number of others. Class underwriters do not need to be in the same building as their CEO, and it is debatable about whether the underwriting director needs to be there too. They have the tools and reporting mechanisms to exercise control and communication remotely.

An increasing number of P&C businesses have invested in growing their international networks, moving for example from a single hub writing surplus lines business or reinsurance, to having licensed operations in the US and Asia writing direct business. This has meant that the management has become more used to managing widely dispersed businesses and people – putting in place the control mechanisms required. It is therefore a short step to deciding that your headquarters can be situated at a distance from your day-to-day business.

## Living and working conditions

According to survey respondents the softer factors such as the attractiveness of a jurisdiction's living and working conditions were relatively insignificant in deciding on their domicile.

Few would doubt the potentially attractive living conditions encountered at stereotypical offshore locations such as the Caymans, yet only a small handful of respondents referred to this as a USP for a domicile. In the qualitative interviews there was considerably more commentary on the relative merits of different locations.

As with market access, the UK scored well on this criterion with about a third of the UK companies questioned saying that quality of life would play a part in keeping them UK domiciled.

# Regulatory capital

A significant majority of respondents said that the impact of moving domiciles on the regulatory capital requirements would be a key factor in that decision. However, Solvency II will act to level this playing field and therefore this criterion will be less important over time.

Our survey found that regulatory capital was equal in importance to market access, and the survey respondents were overwhelmingly in favour of a jurisdiction having realistic capital adequacy requirements. Of the respondents who are currently domiciled in the UK, and are reviewing their jurisdictional requirements, 75% said that this factor was key in influencing their review. This is reinforced by public statements made by some of the companies which have re-domiciled. David Brown, Flagstone's Chief Executive Officer said in March 2010, that their move would "increase our strategic and capital flexibility."

Respondents to our qualitative survey were largely non-committal in relation to Solvency II's potential influence on their jurisdictional choice, with a few declaring that it would have little or no influence, while the remaining respondents qualified their answer, with one stating "only if it [Solvency II] becomes ridiculously onerous."

## Issues arising

When the business of insurance was simpler, so were the capital models that underpinned it, being mainly calculated by reference to premium income.

For the last decade this has been slowly changing as technology delivered cheaper desktop solutions that allowed risk to be analysed much more easily, and enabling actuaries to produce capital models that responded to the probability of loss and exposure.

In the US this was driven faster by the ratings agencies requiring rated insurers to use them to support financial security ratings, and the agencies still play a significant role in the development of capital requirements.

Recently the subject of capital adequacy has been in the spotlight, with the proposed introduction of Solvency II in 2012 and the external focus placed on insurers' balance sheet strength after the economic crisis of 2007-2009. While the former pre-dated the financial crisis, it is likely that the implementation of this consistent risk-based approach to capital and risk management across the EU will not only impact upon re/insurers located across these jurisdictions, but also globally as other offshore locations work towards equivalency.





## Solvency II

There is a view that Solvency II could act as a catalyst to trigger a reshuffling of insurers among jurisdictions, with the new regime seeing the removal of the group support provision. This means that insurance subsidiaries will not be able to calculate capital adequacy on a cross-group basis. Insurers are therefore considering which regulatory regime is best-suited to their operating structures under the risk-capital framework planned for 2013.

As part of this, insurers in offshore domiciles will have to consider which jurisdictions will implement regulations equivalent to Solvency II. In July 2010 CEIOPS issued draft advice on the list of non-EU (third) countries which will be subject to an “equivalence assessment” starting in November 2010. These countries, and groups domiciled there, will be able to benefit from a finding of positive regulatory equivalence in terms of reinsurance, group solvency and group supervision.

The common feature of these countries is that they all have significant bilateral trade in insurance with the EU. They include Switzerland and Bermuda (which have openly committed to aligning their prudential and supervisory regime to EU standards), China, Canada and Mexico (which are moving towards Solvency II standards), and then certain countries which vary significantly from the EU standards, for example the US.

CEIOPS’ draft advice identifies Switzerland and Bermuda (and, to a lesser extent, Japan) as being the main contenders for an equivalence assessment, with serious prospects of being recognised equivalent as early as 2013. Bermuda in particular stands out for matching emerging Solvency II standards, and also for its commitment to have in place an equivalent group supervision regime.

Despite the fact that our interviewees identified the importance of this issue in the choice of domicile, it is a serious possibility that the playing field will be levelled by Solvency II. Even as equivalent standards are being introduced around the world, there is little sign that companies are looking to move to those countries that are on a different regulatory path.

While it is interesting to contemplate whether or not there are some jurisdictions considering the creation of a more ‘capital friendly’ environment, it may be that re/insurers have become resigned to the need to get on with preparing for Solvency II’s arrival. Indeed, this would be entirely consistent with the fact that a “respected, credible regulator” is high on their list of requirements for a domicile.

# Regulation

Companies are keen on a strong regulator who is able to crack the whip in certain circumstances. Few respondents were convinced that 'simple, light touch' regulation was now desirable.

While the regulatory environment per se was ranked third by respondents as a criterion for choosing a domicile, it was seen as important that the regulator be respected and credible.

Nevertheless, respondents were not all in favour of greater regulatory intervention. One stated: "I think they [the regulators] are in massive over-reaction mode and all financial service companies are feeling the effects of that."

In the case of the UK, this finding presents an interesting dichotomy: the regulatory regime imposed by the Financial Services Authority (FSA) is renowned for its robust approach, and this has historically been a source of significant friction between the domestic and international insurance industries, politicians and the regulator.

Yet all of the UK domiciled insurers which are currently reviewing their status said that the FSA regime was a possible reason to leave. Furthermore, excessive regulation was cited by 60% of UK-based insurers asked, as a reason why the UK was at risk as a viable jurisdiction.

For Bermuda, the speed of the regulatory response (particularly to the set-up of a new business) has long been one of the location's unique selling points. However, only 40% of the respondents who were domiciled in Bermuda said the Bermuda Monetary Authority (BMA) had the credibility to be categorised as a genuine USP of the island.

There were some more positive responses in terms of sentiment towards regulators, as well as some evidence that perception and reputation are also high on the agenda.

This reinforces some of the comments that have been made publicly by those moving domicile. When ACE Limited, the Bermuda-based business insurer, decided to leave the Cayman Islands for Zurich, CEO Evan Greenberg commented in 2008 that "there is political and regulatory risk associated with the Cayman Islands."

## Issues arising

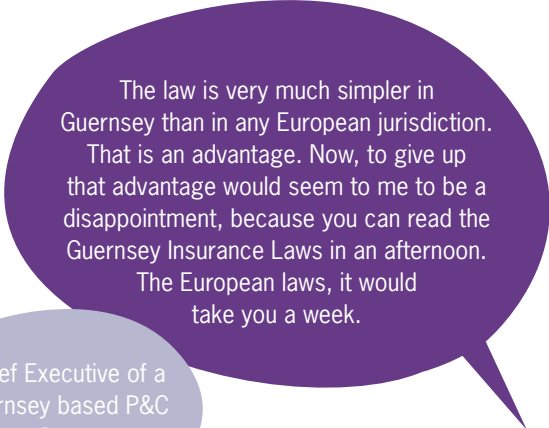
The regulatory landscape is currently undergoing significant change across almost all the domiciles under discussion.

This is largely in response to the recent financial crisis which fundamentally changed the political, and therefore regulatory, environment for financial services.


Almost inevitably, there has been a strong push for greater regulation. The day-to-day tone and approach of regulators has changed, reflecting a new assertiveness and intrusive scrutiny, as regulators respond to criticism of their performance in the lead up to the crisis. While the landscape is still evolving, re/insurance businesses will inevitably be affected to some degree.

## Bermuda


The island's success in attracting wave after wave of new re/insurers and capital has been down to its accessibility and adaptability, in particular because its regulation has been 'appropriate' to the class of insurer. Until very recently, its emphasis was firmly on authorisation rather than ongoing supervision; however, it has recently made changes to its insurance legislation so that regulation reflects the activities of the insurer, with higher-risk business subject to more stringent supervision.



The law is very much simpler in Guernsey than in any European jurisdiction. That is an advantage. Now, to give up that advantage would seem to me to be a disappointment, because you can read the Guernsey Insurance Laws in an afternoon. The European laws, it would take you a week.



Chief Executive of a Guernsey based P&C re/insurer



I believe the Irish regulator is a very (commercially) pragmatic regulator... it is not there to interfere with your business in the way that sometimes other regulators do.



Group Executive of a large EU based P&C re/insurer

A new code of conduct came into force on 1 July 2010, establishing duties, requirements and standards that registered insurers must comply within the areas of corporate governance, risk management, outsourcing, market discipline and disclosure. In addition, the BMA has significantly increased its human and operational systems resources by boosting its workforce to 150 employees and raising its budget to \$38 million to ensure that its supervisory regime is deemed to be equivalent to that of the EU.

## UK

Insurers were vocal in outlining their displeasure with Conservative plans to abolish the regulator before the election. The decision to press ahead with those plans has been met with dismay. It is felt that this level of instability, at a time when the London market needs to be sending a clear message to Europe ahead of Solvency II implementation, is not good for UK insurers. In addition, recent evidence shows that there has been an increasing exodus of staff from the regulator, although, in turn the FSA has been recruiting actively.

While the UK has stood out from many other countries across the continent because of the progress it had made towards implementation of Solvency II, largely driven by the work of the regulator, these efforts could be compromised by the current staffing situation and the winding down of the FSA by 2012.

## Ireland

The attitude in Ireland is both proactive and defensive. The IFSC in Ireland has been developed to promote Ireland as a location of choice for international business, looking to attract more insurance players like United America Indemnity and Willis, both of which have re-domiciled to Dublin in recent times.

However, there are moves for some degree of overhaul to the system as the Financial Regulator, Matthew Elderfield, warned Irish insurers earlier this year that he will be more interventionist and that front-line supervisors should be more challenging and sceptical, rather than waiting for a market failure to manifest itself and then cautiously weighing up the costs and benefits of a response.

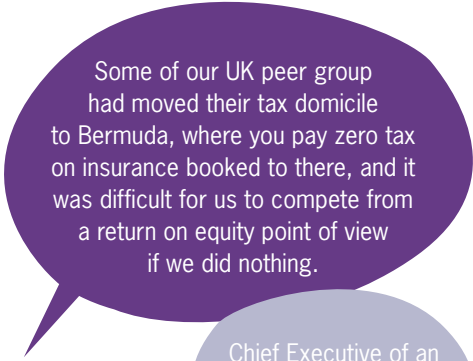
## US

While state-based regulation for insurance in the US continues, the recent signing of the Dodd-Frank Wall Street Reform and Consumer Protection Act represents a new foray by the federal government into the world of insurance regulation with the creation of a Federal Insurance Office (FIO).


One of FIO's primary responsibilities will be to monitor the insurance industry, including identifying issues or gaps in current insurance regulation that could contribute to a systemic crisis in the insurance industry or the US financial system. It will also co-ordinate US federal efforts on, and develop policy regarding, international insurance matters. The Act provides for pre-emption of state insurance regulations to the extent they are inconsistent with agreements between the US and other nations, or discriminate against non-US insurers operating in the US insurance market.

# Corporate tax

When asked to rank the factors influencing the attractiveness of a particular jurisdiction, respondents placed tax fourth out of five criteria. While the decision about domicile is a complex one, it is perhaps surprising that tax – which impacts very directly on the bottom line – should rank so low.



Some of our UK peer group had moved their tax domicile to Bermuda, where you pay zero tax on insurance booked to there, and it was difficult for us to compete from a return on equity point of view if we did nothing.



Chief Executive of an Ireland based P&C re/insurer

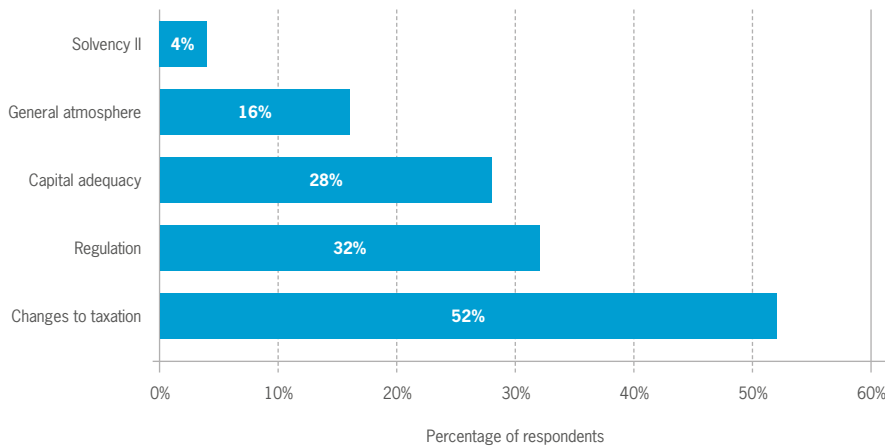
The qualitative research shows a perception that there has been a general flight away from the UK to offshore jurisdictions, a trend not particular to the insurance sector with other FTSE 100 brands such as the advertising company WPP and Shire Pharmaceuticals also having moved offshore. Nevertheless, 44% of all respondents believed that London/UK was under threat as a viable domicile for insurance and reinsurance business due to the level of corporation tax. It is worth mentioning that the fieldwork for the research was carried out before the change in government and the announcement to reduce the corporate tax rate from 28% to 24% over the next four years, starting in 2011. However, at that time 30% of the UK domiciled respondents were in the process of reviewing their jurisdictional status, and every one of those declared corporation tax as a reason for their current actions. When BRIT re-domiciled to the Netherlands in 2009 they explicitly mentioned corporate tax as an issue.

Indeed, it would take a significant reduction in the corporate tax rate in the UK to persuade companies to establish or return. Sixty-five per cent of the non-UK domiciled firms said this would need to happen for them to consider coming back, although expectations that this would happen in the near to medium term were extremely low.

It is interesting to note, however, that Chaucer Holdings Plc has recently announced they intend to remain in the UK 'for the present'. Stating that they expect to obtain significant cash flow benefit from the recent introduction of equalisation reserves and the UK Government's decision to reduce the rate of corporation tax.

Those respondents located in a number of other domiciles were in no way complacent about their tax situation, in particular in the Cayman Islands and Bermuda. The overarching problem with both geographies is the potential that the United States' tax

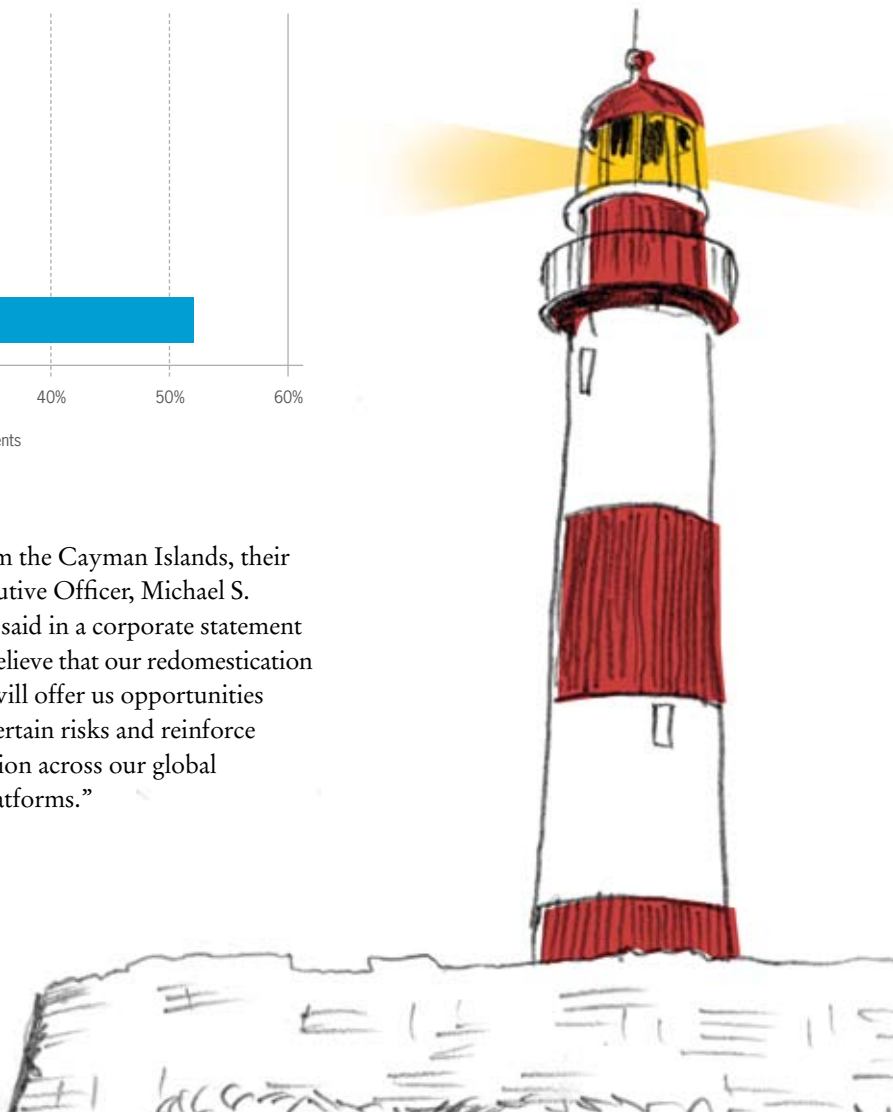
Fig. 5 The reasons jurisdictions are under threat

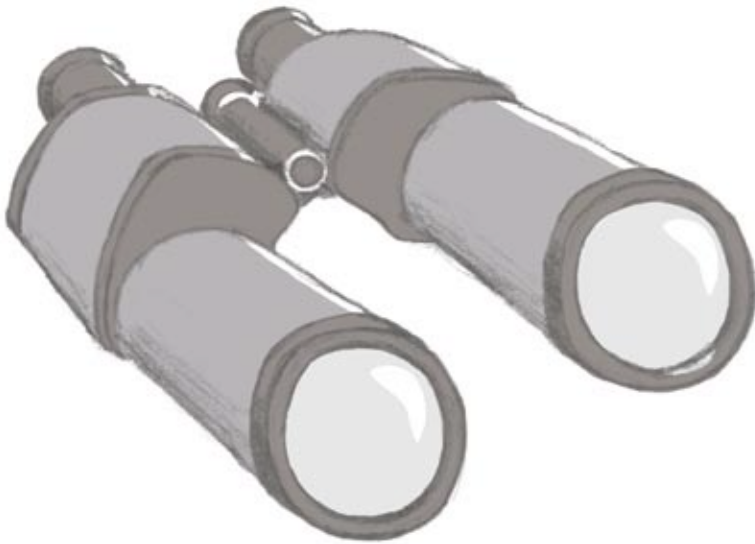


regulations will impinge on the jurisdiction’s ability to offer a zero per cent tax environment. Respondents expressed their worry about a negative attitude from the US government and that Bermuda in particular is vulnerable to some kind of tax grab from the American administration.

Some respondents were also uneasy about the general bad publicity directed towards some offshore locations in terms of tax avoidance issues. When XL shifted their place of incorporation to

Ireland from the Cayman Islands, their Chief Executive Officer, Michael S. McGavick, said in a corporate statement that: “We believe that our redomestication to Ireland will offer us opportunities to reduce certain risks and reinforce our reputation across our global business platforms.”





## Issues arising

The primary issue going forward is the fact that governments around the world are dealing with the effects of unprecedented budget deficits. For many this means looking to offshore insurance domiciles as a potential source of revenue, while for others such as Ireland, whose economic position is challenging, the concern is that they will not be able to sustain their low tax environment.

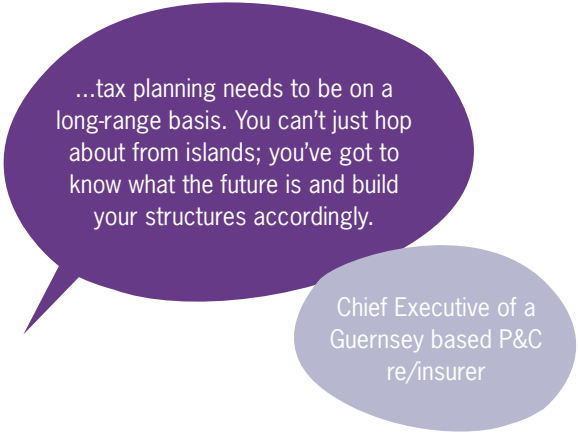
The recent Neal Bill in the US, for example, suggested denying certain tax deductions on reinsurance cessions. The Obama administration has incorporated similar measures in its 2011 budget. It is uncertain whether these proposals will even pass in their current form, given the lack of widespread support. However, critics of the measures argue that if they do, it will make the placement of reinsurance with affiliates more costly and reduce the ability of insurers and reinsurers to diversify their risks, thus reducing capacity, in particular for catastrophe risks.

A move to Switzerland helps companies to preserve the tax benefits they had in Bermuda and the Cayman Islands. While Bermuda does not impose corporate income tax and Switzerland does, the latter does not levy it on profit earned by subsidiaries overseas, and Switzerland's tax treaty with the US can be used as a shield against possible adverse US legislation. For example, "the security of a network of tax treaties" was explicitly cited by ACE Limited when their plans to relocate the insurer's holding company to Switzerland were announced in 2008.

A shift to Switzerland is not wholly without risk. Standard & Poor's removed both Transocean and ACE from the S&P 500-stock index when they moved domiciles, since the index requires companies to be based in the US. Removal from an index can hurt a company's stock performance because many funds automatically buy stocks in the index.

In Ireland there is some uncertainty over the introduction of controlled foreign company and transfer pricing rules, leading to Brit, for example, choosing the Netherlands. However, the IFSC Ireland is looking to attract more insurance players like United America Indemnity and Willis, both of which have re-domiciled to Dublin in recent times.

The new coalition government in the UK declared an overhaul of its corporation tax rates and a consultation into the relaxation of rules surrounding the taxation of controlled foreign companies. The Budget outlined by Chancellor of the Exchequer George Osborne envisaged a gradual reduction in the corporation tax levy from current levels by 2014, and a promise to include improvements in the taxation of profits made by foreign subsidiaries in the Finance Bill in 2011. It is unlikely, however, that these changes will be significant or fast enough to increase the



...tax planning needs to be on a long-range basis. You can't just hop about from islands; you've got to know what the future is and build your structures accordingly.

Chief Executive of a Guernsey based P&C re/insurer

UK's attractiveness to incoming corporates; it is also not clear that they will stem the outflow.

The results of this survey suggest that treasury departments and finance ministries around the world can drive more incorporation to their shores through their management of corporation tax levels.

However, this needs to be considered in the round alongside the more important factors of market access and credible regulation.

## Personal tax

The survey also asked how much the personal tax levels in various domiciles impacted on the decision-making process of whether to move and to where. Overall, 15% of responses said that personal tax levels were unlikely to make them change domicile. Perhaps more surprisingly, no one pinpointed personal tax rates as a unique selling point of their jurisdiction – even in the zero per cent regimes.

The apparent absence of personal tax considerations in reviewing possible domiciles appears to differentiate the re/insurance industry from its cousins in other financial services sectors, many of which are regularly concerned that personal tax will influence their ability to attract top quality staff. There could be a variety of reasons for this: the domicile may have little or no operational purpose and would therefore require very few staff on the ground, or in some cases management would not reside there at all, making low personal tax rates an irrelevance.

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