



Building a Stronger Voice for the Captive Industry: Advocacy Action Report

As the only global domicile-neutral captive insurance association, CICA leverages its neutral status to forge collaborative relationships and grow a stronger, more impactful voice for the captive industry. CICA has a long history of addressing industry issues. In recent years CICA expanded its advocacy efforts by actively monitoring emerging issues and regulatory changes in the U.S. and around the world so CICA and its advocacy partners can respond proactively to help mold laws and regulations affecting the captive industry.

One component of advocacy is tracking issues over time. The recap provided here outlines the efforts of CICA and its advocacy partners since 2005.

2023

- The Captive Insurance Companies Association provides comments to the “microcaptive” regulations proposed by the Treasury on April 11, 2023, addressing captive insurance companies that make an election as provided by section 831(b) of the Internal Revenue Code.

2022

- CICA responded to an inquiry from the General Accountability Office (GAO) and provided insights on the use of captive insurance to provide coverage for pandemic-related risks.
- CICA, the Vermont Captive Insurance Association (VCIA) and the Captive Insurance Council of the District of Columbia (CIC-DC) submitted comments to the Treasury Department regarding the changes proposed by the U.S. Department of the Treasury (“Treasury”) to the data reporting requirements for captive insurers under the Terrorism Risk Insurance Program (“TRIP”).

2021

- CICA, the Vermont Captive Insurance Association (VCIA) and the Captive Insurance Council of the District of Columbia (CIC-DC) submitted comments to the Treasury Department in response to a request for public comment regarding the participation of captive insurers in the Terrorism Risk Insurance Program (TRIP) established under the Terrorism Risk Insurance Act (TRIA).

2020

- CICA co-authored a letter to the Chairman of the Subcommittee on Housing, Community Development, and Insurance in the US House of Representatives to clarify the record regarding H.R. 4523, the Nonprofit Property Protection Act.

2019

- CICA developed “Commercial Insurance and Captive Insurance Industry: Commonly Accepted Practices” to review the structure and use of risk pools, address common misperceptions, and provide guidance on commonly accepted insurance practices.
- Interviewed by Government Accountability Office (GAO) on August 1, 2019 concerning the “GAO audit on Treasury's Terrorism Risk Insurance Program”.
- Submitted comments on EIOPA-CP-19-004 Consultation paper on proposals for Solvency II 2020 Review Package on Supervisory Reporting and Public Disclosure.
- Submitted comments to the Internal Revenue Service regarding RIN 1545-BM69 – Exception from Passive Income for Certain Foreign Insurance Companies.

2018

- CICA submitted comments on the discussion draft Report 8-10 of the BEPS Action Plan (“Aligning Transfer Outcomes with Value Creation”), Working Party No. 6 (“WP6”) to reinforce that any new OECD guidance relating to captive insurance companies should not contradict certain fundamental accounting and insurance regulations already in place and adhered to by multinational companies.
- CICA updated its Information Statement Regarding Small Captives which was originally published August 17, 2015.

2017

- CICA submitted comments to the U.S. Environmental Protection Agency supporting the use of insurance provided by a captive or risk retention group to demonstrate financial responsibility in response to the proposed rule regarding Financial Responsibility Requirements under CERCLA § 108(b) for Classes of Facilities in the Hardrock Mining Industry.
- CICA submitted comments jointly with VCIA and NRRA opposing the National Association of Insurance Commissioners (NAIC) proposal to collect expanded mid-year investment information. If the NAIC moves forward with its proposal the joint letter recommended that a small company exemption for those insurance companies, including RRGs, with premiums less than \$500 million be incorporated into the proposal.

2016

- CICA renewed its support of the Coalition for Competitive Insurance Rates and sent a letter to the US Senate Finance Committee opposing any effort to eliminate the business expense deductibility of reinsurance premiums paid to offshore reinsurance entities.

- CICA signed on to a letter generated by the Mortgage Bankers Association asking Congress to direct the Federal Housing Finance Agency to withdraw its rule containing a blanket prohibition on captives belonging to the Federal Home Loan Bank (FHLB), and asking it to adopt a new, more narrowly drawn rule.

2015

- CICA agreed to participate in the ECIROA-led effort to work with regulators to define safe haven policy forms to use in multi-jurisdictional/cross-border insurance policies while complying with all local laws and regulations.
- CICA renewed its support for the “Coalition for Captive Insurance Clarity” and legislation to clarify that the Non-admitted and Reinsurance Reform Act of 2010 (NRRRA 2010) was not intended to apply to captives.
- On May 7, 2015, CICA filed comments with the Internal Revenue Service concerning proposed Regulation IRS-2015-0015-0001 that would, in part, define “active conduct” of an insurance business to exclude the utilization of officers and employees of related entities and independent contractors. Although CICA believes that few, if any, CICA members will be directly affected if this regulation is finalized; the vast majority of captive insurance companies operate through the use of independent contractors to provide support services to their insurance business.
- CICA renewed its support of the Coalition for Competitive Insurance Rates and sent a letter to the US Senate Finance Committee opposing any effort to eliminate the business expense deductibility of reinsurance premiums paid to offshore reinsurance entities.
- CICA continued its opposition to the FHFA’s efforts to prohibit captive membership in the Federal Home Loan Bank.

2014

- CICA opposed the Federal Housing Finance Agency’s efforts to adopt proposed regulations that would change the definition of “insurance company” in such a way as to create a blanket prohibition on Federal Home Loan Bank membership by captive insurance companies and phase out membership of existing captive members of the FHLB over a five year period.
- CICA spearheaded the captive industry effort opposing a proposal at the NAIC to define multi-state reinsurers in a vague way that could impose NAIC accreditation standards on most captive reinsurers. CICA worked with captive domicile associations, domicile captive regulators, domicile state insurance commissioners, and the NAIC to detail the numerous problems with the proposal.
- CICA joined a coalition in successfully opposing a legislative budget proposal in New York State that would have taxed any captive insurance company writing any policies in the State of New York.
- CICA renewed its support of the Coalition for Competitive Insurance Rates and sent a letter to the US Senate Finance Committee opposing any effort to eliminate the business expense deductibility of reinsurance premiums paid to offshore reinsurance entities.

- On January 15, 2014, CICA distributed a Request for Proposals to a number of potential academic partners to perform research and draft a formal White Paper on the captive insurance industry.
- The CICA Task Force on Transfer Pricing continues its work to draft Best Practices Guidelines on Transfer Pricing.

2013

- In April 2013, CICA renewed its participation in the Coalition for Competitive Insurance Rates, the coalition opposing the so-called “Neal” Bill and its progeny.
- Also, in April 2013, CICA became aware of a proposed report from the Organization for Economic Cooperation (OECD) on “Base Erosion and Profit Shifting” that specifically referred to captive insurance companies as vehicles for tax avoidance.
 - On May 1, 2013, CICA and ECIROA (European Captive Insurer and Reinsurer Owners’ Association) filed formal comments with the OECD objecting to that characterization and asking to be heard on this issue. When no response was forthcoming, CICA sent a second letter to the OECD Secretary-General, along with the OECD Heads in Germany and the United States.
 - CICA and ECIROA are continuing their efforts to provide guidance to the OECD on the true nature of the traditional captive insurance market in order to blunt or ameliorate the impact of the Base Erosion and Profit Shifting Report.
- On June 20, 2013, CICA sent a letter to the President of the NAIC commending him for rejecting the call of the New York Superintendent of Financial Services for a national moratorium on captive insurance transaction and received a letter thanking CICA for its letter from the NAIC President dated August 15, 2013.
- In 2013 CICA was the organizing force behind the Captive Association Leadership Council, a broad-based group of leaders from all captive associations who gathered at the 2013 CICA International Conference and by conference call on September 6, 2013. This group will meet regularly to discuss topics of mutual interest that cross domicile boundaries, including legislative and regulatory issues.
- In 2013 CICA formed a Task Force to draft “Best Practices Guidelines for Transfer Pricing” in response to the OECD’s Report on Base Erosion and Profit Shifting.
- In 2013 CICA began the process of creating a White Paper on the captive insurance industry as additional documentation for opposition to the OECD’s BEPS Report.

2012

- On June 28, 2012, CICA responded to the US Department of Labor’s Request for Information on Stop-Loss Insurance with the position that stop-loss insurance is not “health insurance”, but rather, is indemnity insurance to cover the liability of an employer to pay the expense of their employees’ health care and that the use of captives for stop-loss create economic efficiency in the market.
- On August 27, 2012, CICA provided comments to the FIO in response to the FIO’s notice and request for comments on the U.S. and global reinsurance market. CICA’s comments were endorsed by the National Risk Retention Association, the Missouri Captive

Insurance Association, the Montana Captive Insurance Association, the Nevada Captive Insurance Association, the South Carolina Captive Insurance Association, the Tennessee Captive Insurance Association, and the Vermont Captive Insurance Association.

- In the fall of 2012 CICA engaged the services of Mike Mead to track legislative and regulatory developments and to represent CICA at the NAIC.
- On November 15, 2012, CICA provided comments to the NAIC on the NAIC's Discussion Draft White Paper on Captives and Special Purpose Vehicles.
- On December 13, 2012, CICA formally joined the Clarity for Captive Insurance Coalition, a group whose goal is to clarify that the Non-Admitted and Reinsurance Reform Act of 2010 was not intended to cover captive insurers, thereby ensuring no change in the tax treatment of captive insurance companies at the state level.

2011

- On March 28, 2011, CICA filed formal comments with the Federal Housing Finance Agency on the proposed rule concerning the eligibility of captives for membership in the Federal Home Loan Bank.

2010

- In March 2010, the CICA Board formally approved the creation of a Legislative Advisory Committee, along with a charge for the Committee, and began recruiting members of the Legislative Advisory Committee.

2009

- In April of 2009, CICA engaged the services of Jim McIntyre in Washington, DC to "monitor federal legislation and regulatory activity to determine whether any such proposals are of interest to the captive industry." It is important to note that this engagement specifically excludes lobbying services, which would require a separate agreement.

2008

- In late 2007 and early 2008 CICA mobilized and funded a strong opposition to the IRS Proposed Regulation on Consolidated Returns
 - CICA formed the Coalition for Fairness to Captive Insurers (CFCI)
 - CICA and VCIA raised funds to support the Coalition's effort
 - CFCI Developed both a technical legal response and a political strategy
 - CICA representatives met with representatives of the Department of Treasury and IRS
 - Dennis registered as a federal lobbyist
- CICA continued support of efforts to support expansion of the Liability Risk Retention Act in 2008 through the present
- CICA reviewed and commented on IRS Revenue Ruling 2008-8
- CICA responded to IRS Notice 2008-19 on protected cell captives

- CICA joined the Coalition for Competitive Insurance Rates opposing the Neal Bill in 2008
 - CICA continued its membership in Coalition for Competitive Insurance Rates in 2009, 2010, 2011, 2012 and 2013.

2007

- CICA submitted comments on IRS Revenue Ruling 2007-47 on unavoidable obligations to remediate

2006

- CICA joined the Coalition to Expand the Risk Retention Act in 2006
- CICA submitted formal comments in response to the 2006 FASB invitation to comment on the bifurcation of insurance and reinsurance contracts for financial reporting

2005

- CICA submitted formal comments in response to IRS Notice 2005-49:
 - Whether cell captive arrangements constitute insurance for purposes of tax treatment
 - “loan backs” between related parties in a captive
 - Homogeneity in determining risk distribution
 - Tax issues raised by transactions involving finite risk