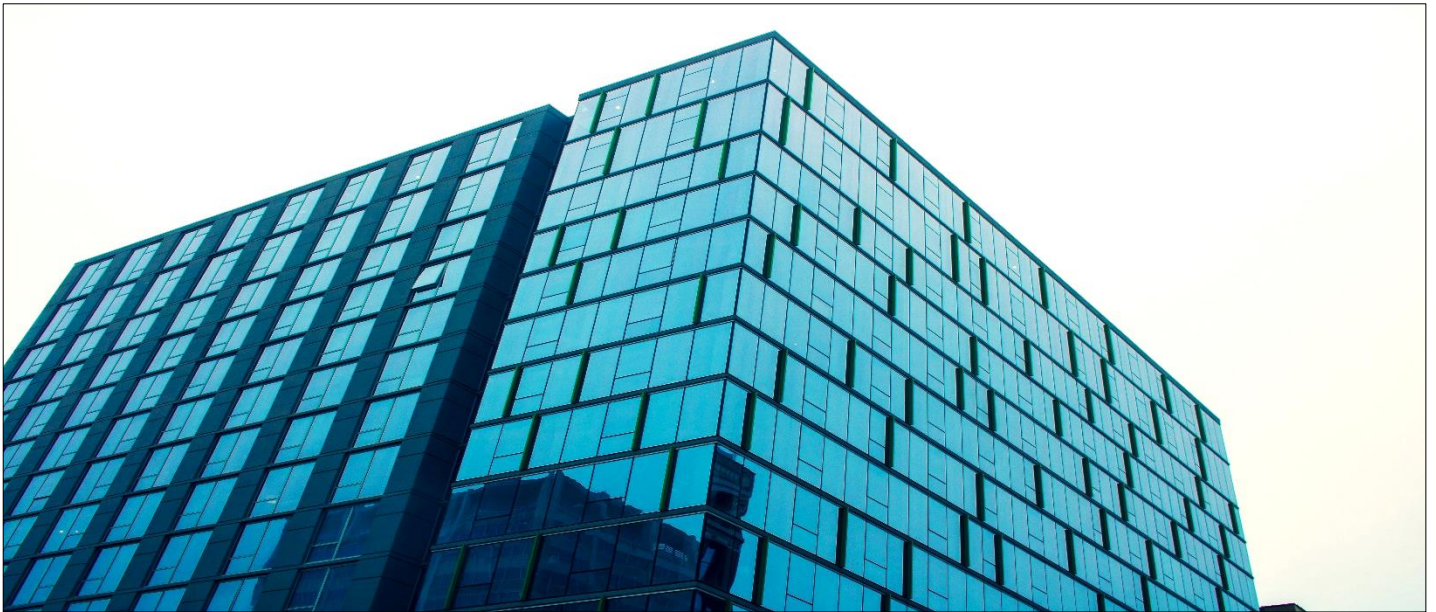


LEGAL ALERT

The Captive Insurance (Amendment of Schedule) Regulations 2023



The Captive Insurance Act 2015 (“**Act**”) which became operational as from 29 January 2016, provides the legal framework governing the operation of pure captive insurance businesses. The Act was restricted to pure captive insurance companies whose main business purpose is to insure the risks of its owners and affiliated companies.

Now, the [Captive Insurance \(Amendment of Schedule\) Regulations 2023](#) (“**Regulations**”) has amended the Act such that other captive insurance, including third party captive insurance business and multi-owner pure captive insurance business, are also covered.

The Amendments brought in the schedule to the Act

The scope of the Act was previously restricted to businesses undertaking liability with respect to the risks of the parent and of any affiliated entity, catering for only pure captive insurance businesses (“**Pure Captive**”). The amended schedule to the Act changes the description of related business under pure captive insurance by replacing “affiliated corporation” with “any entity in which the ownership of the parent exceeds 50 percent.”

The amendments brought by the Regulations now extends the application of the Act with the introduction of three separate classes third party captive insurance businesses (“**Third Party Captive**”) and multi-owner Pure Captive.

Class 1 Third Party Captive provides for mandatory related Pure Captive and optional unrelated Pure Captive or business of undertaking long-term insurance business with respect to the parent or entities in which the ownership of the parent exceeds 50 percent. The limitations to such unrelated business are listed in the schedule and include limitations to the gross written premium.

Class 2 Third Party Captive equally engages related Pure Captive as mandatory activity. The Class 2 Third Party Captive can undertake similar unrelated business as Class 1 or the business of undertaking liability with respect to the risks of any persons in which the parent or affiliated corporation (as defined in the Act) has no ownership but to whom the parent or affiliated corporation is related by virtue of an insurable interest. The limitations of applicable to the Class 1 Third Party Captive will also apply to the Class 2 Third Party Captive.

Class 3 Third Party Captive are restricted to the mandatory business of undertaking liability with respect to risks linked to the core product or service of the parent and entities in which the ownership of the parent exceeds 50 percent. This would however be subject to other restrictions as may be specified in Financial Services Commission (“FSC”) rules. Unrelated business is not allowed under Class 3 Third Party Captive.

Multi-owner Pure Captive are obligatorily engaged in the business of undertaking liability with respect to the risks of the owner, or risks related to or arising out of the business or operations of the owner, provided that the owner shall be an entity of a common industry or related as the FSC may determine. Multi-owner Pure Captive cannot involve unrelated business similar to the Class 3 Third Party Captive.

Impact of the Regulations

The inclusion of additional categories will imply further rules from the FSC to regulate these categories. The rules should highlight the requirements for each category in terms of solvency and capital.

These new businesses will be able to avail of advantages offered by the Mauritian jurisdiction and the use of specific structures for asset and liability segregation such as protected cell companies. It is uncertain whether any additional incentives will be offered to such entities.

Conclusion

The Regulations to expand the net of the captive insurance business have been long overdue. There are currently only two Pure Captive licenses and five captive insurance agents active.¹ The new categories of captive insurance business can provide a much-needed boost to the competitiveness of Mauritius as an international financial centre.

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About Prism Chambers

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¹ As per the statistics published by the FSC (October 2023) which can be accessed [here](#).