

# US CAPTIVE REVIEW

Ruben Gely-Ortiz of the Puerto Rico International Insurers Association speaks to *Captive Review* about Puerto Rico's ongoing captive insurance development

**Captive Review (CR):** Could you provide a brief background Puerto Rico's first International Insurers Association and what led to its creation?

**Ruben Gely-Ortiz (RGO):** The Puerto Rico International Insurers Association (PRIIA) was formed in 2015 to bring together the various international insurers registered under Puerto Rico's International Insurance Centre. Our intention is to create a single body that can respond to and advise the related parties on insurance issues and to serve as a single voice in discussions with Puerto Rico's Office of the Commissioner of Insurance, who regulates the insurance industry. One of the main focuses of the PRIIA is to contribute in the promotion of Puerto Rico as an offshore jurisdiction for International Insurers and to serve as a guide for companies interested in entering the island's International Center.

**CR: How has Puerto Rico's captive industry evolved and what have been the vital contributing factors?**

**RGO:** Puerto Rico's captive insurance industry started as one of the various by-products available through the International Insurance legislation passed in September 2004. This legislation created a framework for captive insurance structures in a domicile that provides a combination of low political risk, favourable tax legislation and accredited regulatory environment. Puerto Rico's legislation provides for the formation of standalone, association and protected cell captives. In 2015 alone, Puerto Rico's captive industry grew 74% in written premium (compared to 2014), almost all of that growth came through new US protected cell captives.

**Ruben Gely-Ortiz**



**Ruben Gely-Ortiz** is captive manager for Advantage Insurance, Latin America focused business developer and advocate for Puerto Rico's International Insurance Center. He specialises in offshore 'protected cell' risk transfer vehicles and reinsurance arrangements.

An important contributing factor to Puerto Rico's growth has been the commitment of both private entities and government agencies to promote its international insurance legislation abroad. Also, the Department of Insurance has had an excellent track record in providing expedited support as well as processing applications for captives in Puerto Rico.

Another critical factor was the approval of the tax decree system by Law 98 of 2012, which provides for a contract between the government and the insurer to secure its tax regime for no less than 15 years, renewable on two additional terms.

**CR: How has the association united top service providers for captives and other insurers? What impact will this have on the captive environment?**

**RGO:** The association, since its inception, has been very inclusive. Every insurer that joins is encouraged to invite their providers to join, as well. We are trying to gather and organise all the international insurers, and different providers so we can all benefit and learn from each other while strengthening Puerto Rico as a domicile.

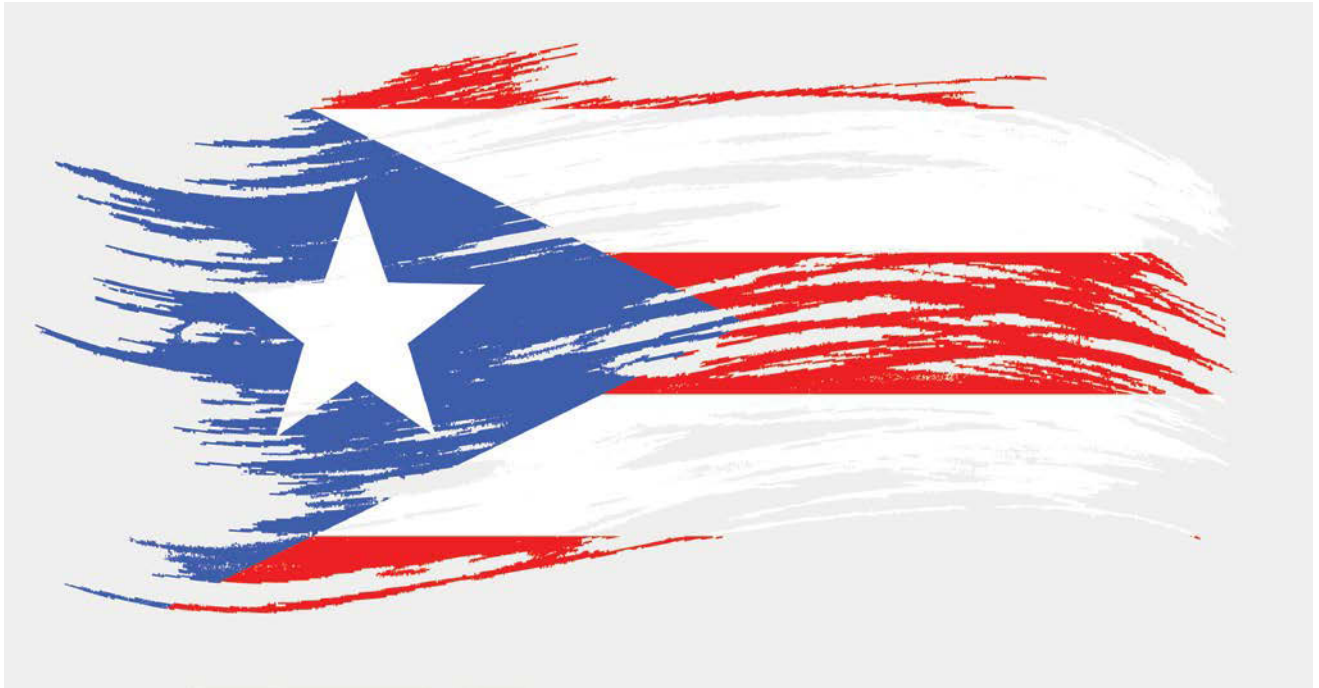
**CR: The association is taking charge of the promotion of Puerto Rico's International Insurance Centre, which was traditionally done by Department of Economic Development, why is this and what will this mean for the captive market?**

**RGO:** PRIIA is looking to complement both the government and private entities in the effort of promoting Puerto Rico's International Insurance Centre. In order to compete with other established domiciles we all need to unite efforts and make sure we are all rowing in the same direction. PRIIA's objective is to provide a platform that allows international insurers in Puerto Rico to unite efforts while looking for the best interest of the industry. All promotion efforts done on behalf of International Insurance Centre have positioned Puerto Rico where it is today. PRIIA will help and join in on those efforts as we continue to grow and position Puerto Rico as a leading captive insurance and private placement life insurance domicile.

**CR: How does Puerto Rico differentiate from regional emerging markets, an increasing amount of captive legislation passing States and the well-established domiciles surrounding it?**

**RGO:** What differentiates Puerto Rico from other domiciles with captive legislation is its capacity to offer attractive "offshore" tax incentives while remaining within a US rule of law territory and its full accreditation by the NAIC.

Puerto Rico is not considered an emerging market, it is the leading jurisdiction in Latin America when measured by penetration index (written premium/GDP). With over \$12.2bn in combined written premium, Puerto Rico



is definitely a well-matured and experienced market that is now open for international business.

**CR:** How does the recently approved “Promesa” law affect Puerto Rico’s International Insurance Centre and do you foresee the domicile to see a reduction in business volume as a result?

**RGO:** The Puerto Rico Oversight, Management and Economic Stability Act (Promesa), which was enacted last month, aims to establish a framework for Puerto Rico to undergo an orderly restructuring of its cumulative public debt obligations. Promesa establishes the Financial Oversight and Management Board to oversee the development of budgets and fiscal plans for Puerto Rico’s instrumentalities and government.

However, a review of Promesa shows that it does not propose changes to the tax status and/or operations of international insurers established under the “Puerto Rico International Insurance Center” or to the public policy which led to its creation in Puerto Rico. In fact, as published in a recent memorandum prepared by PRIIA founding member Pedro Vidal, “the newly adopted federal law reaffirms the authority of the government of Puerto Rico to continue entering into tax abatement and relief agreements such as those maintained by international insurers operating under the international insurance centre by providing that Promesa may not be interpreted as limit-

ing the power of the Puerto Rico government to continue entering into tax abatement or relief agreements with, modifying the same or enforcing two compliance with the terms and conditions of such agreements.

“Puerto Rico’s captive insurance industry started as one of the various by-products available through the International Insurance legislation passed in September 2004”

Promesa is generally viewed as positive in the sense that it ends the uncertainty to which investors have been subject as a result of Puerto Rico’s debt restructuring process. We feel confident that the International Insurance Center will remain strong in spite of fiscal challenges which Promesa intends to address.

**CR:** What regulatory updates or new products can we expect to see from Puerto Rico over the next 12 months?

**RGO:** In terms of regulatory updates, the DOI recently issued Rule 80 which adopted a number of standards to be followed by international insurers in Puerto Rico. Some standards that Rule 80 covers apply to the name under which insurers must conduct their business, disclosures that need to be made in the insurance policies they issue, minimum capital requirements and the use of letter of credit, the premium and liquidity ratios that need to be met by insurers, requirements with respect to annual reports and accounting standards which are permitted, admissible investments, and annual license fees.

New risk pools will be organised in order to offer alternatives to captive users with difficult to comply with 831(b) risk distribution requirements. But in fact we expect to have more non-831b captives being domiciled in Puerto Rico in the next years. We are seeing a trend of captives in Puerto Rico operating as reinsurers to US fronting companies, basically providing an alternative to the 831(b) structure. Nonetheless, we expect protected cell captives to remain as the prevailing platform for captives.

Captives owners can expect Puerto Rico to continue solid, expanding with new developments in captive insurance applications. Puerto Rico’s very own source of growth will be those initiatives of the new breed of investors which have relocated to Puerto Rico in search of favourable tax incentive synergies. 🍷