To: Our Clients and Friends June 17, 2013

Missouri Modifies Captive Insurance Law to Permit Sponsored Captives; Texas Adopts Captive Insurance Law

On May 16, 2013, Missouri adopted legislation modifying its captive insurance law to permit the formation of sponsored captive insurance companies and making certain other changes regarding captive insurance company formation and organization, including lowering the minimum capital and surplus requirements for an association captive insurance company from $750,000 to $500,000.

Single parent or pure captives are insurance companies formed to insure the risks of a parent company and its affiliated entities. A sponsored captive insurance company is structured with various cells created around a central core established and capitalized by a sponsoring entity, with each cell insuring only the risks of its cell owner. The assets and liabilities of each cell are segregated from each other and from the sponsored captive insurance company's general account through a participant contract between the sponsored captive insurance company and the cell. Minimum capital and surplus is provided by the sponsoring entity. Missouri's law also permits incorporated protected cells, which can be established as corporations or limited liability companies separate from the sponsored captive insurance company. Participation in a sponsored captive is an alternative for companies that want to obtain captive insurance benefits but do not want to form their own single parent captive or participate in a group captive. The new law goes into effect on August 28, 2013.

On June 3, 2013, Texas became the latest state to permit the formation of captive insurance companies. The Texas law authorizes only single parent captives and requires, as a condition to being issued a certificate of authority to form a captive in the state, that affiliates of the captive insurance company have "significant operations" in the State of Texas. The Texas law will not permit captive insurance companies to reinsure certain types of risk, including accident and health insurance or workers' compensation insurance. Minimum capital and surplus for a pure captive will be $250,000. Premium taxes will be charged on all business written by the captive at an overall rate of .5% (subject to variances by line of business) and capped at $200,000. The new law goes into effect on September 1, 2013.

Forming or participating in any type of captive insurance company involves significant legal, tax and risk management issues and requires consideration of each company's unique situation and objectives. Bryan Cave's Captive Insurance Team regularly assists clients with the design, formation and licensing of captive insurance companies, and advises on corporate, regulatory and tax aspects of captive insurance companies. Clients of Bryan Cave's Captive Insurance Team include Fortune 500 companies, national associations and privately held businesses.

For questions or further information, please speak to your regular Bryan Cave contact, a member of our Captive Insurance Team, or the authors of this client alert:

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