

## Why the Basel groups use captives

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The pharmaceutical and chemical groups of Basel face a risk profile that makes captives attractive. Their factories, laboratories and warehouses are worth many billions of francs and are concentrated in a few locations, in Basel itself, in the Fricktal, in Visp and in production sites abroad. Their products are used by millions of patients, which exposes them to product liability claims that can be large and long-tailed. They run clinical trials in many countries under laws that require insurance cover for trial participants. They store and transport goods that are valuable, sensitive to temperature and sometimes hazardous. These risks are partly insurable in the commercial market, although the price and the conditions vary with the cycles of the market and some risks are hard to place at any price.<sup>1</sup>

According to their annual reports, the large Basel groups have long used self-insurance and captive arrangements as part of their risk financing. Roche and Novartis have each reported that they retain a significant part of their property and liability risks through group-owned insurance or reinsurance companies and buy commercial cover above their retention. Syngenta, Lonza and other groups of the region have described similar arrangements in their reports. Because the names, domiciles and capital of these vehicles change over time, the brief descriptions in the annual reports must be read with care.<sup>2</sup> For the purposes of this chapter it suffices to note that each of the large groups appears to operate at least one captive or comparable vehicle, in Switzerland or abroad, which retains the lower layers of its risks and buys reinsurance in the market.

The spin-off of Sandoz from Novartis in October 2023 illustrates the practical consequences of a captive for corporate transactions. When a business is separated from a group, the new company must build its own insurance programme, while the existing captive must decide how to deal with claims arising from the past activities of the separated business. Long-tail product liability claims, in particular, may surface years after the

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separation and have to be allocated between the parties under the separation agreement. Similar questions arose when Novartis and Ciba-Geigy merged in 1996, when Syngenta was formed in 2000 from the agricultural divisions of Novartis and AstraZeneca and when Clariant and Ciba Specialty Chemicals were spun off.<sup>3</sup> In transactions of this kind, the captive becomes a subject of due diligence and negotiation in its own right, because its reserves and reinsurance contracts represent value as well as liabilities.

### 1 Notes

1. On the risk profile of the pharmaceutical and chemical industry and the use of captives by its groups, see the risk sections of the annual reports of the Basel groups and the literature on pharmaceutical risk management. To be verified. ↩
2. See the sections on risk management, insurance and provisions in the annual reports of Roche Holding AG, Novartis AG, Syngenta Group, Lonza Group AG and Sandoz Group AG; on the group-owned insurance and reinsurance subsidiaries, see the lists of subsidiaries in the notes to the consolidated financial statements. Names, domiciles and status to be verified. ↩
3. On the spin-off of Sandoz Group AG from Novartis AG (completed on 4 October 2023), the formation of Syngenta (2000) and the earlier separations in the Basel chemical industry, see Part G of this book and the reports of the companies; on the treatment of insurance and captive arrangements in separation agreements, see the literature on M&A and insurance. To be verified. ↩

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