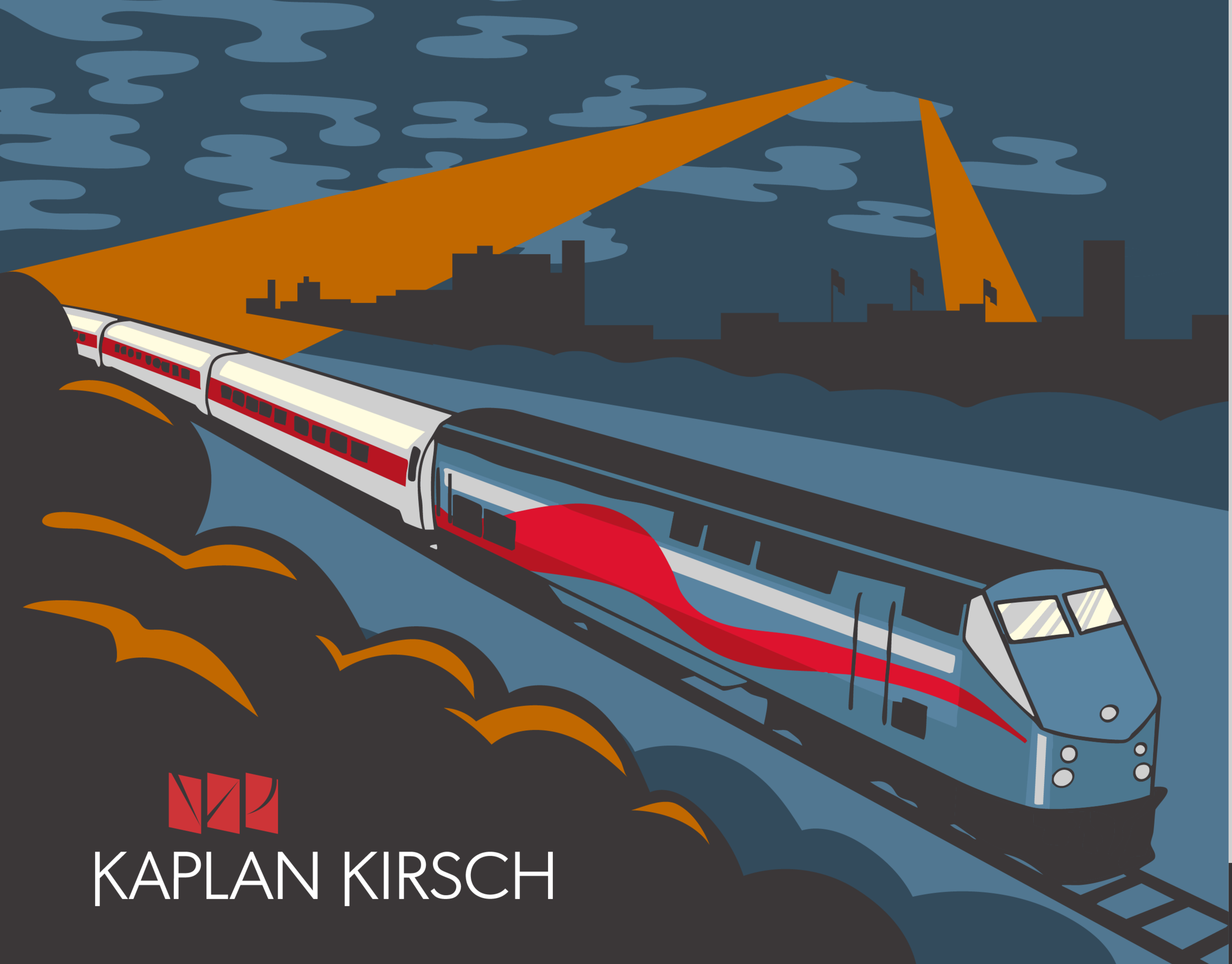

October 30, 2025

Swimming Out of the Deep End: Insurance Pools and Liability Caps for Passenger Rail

Commuter Rail Coalition

Speakers

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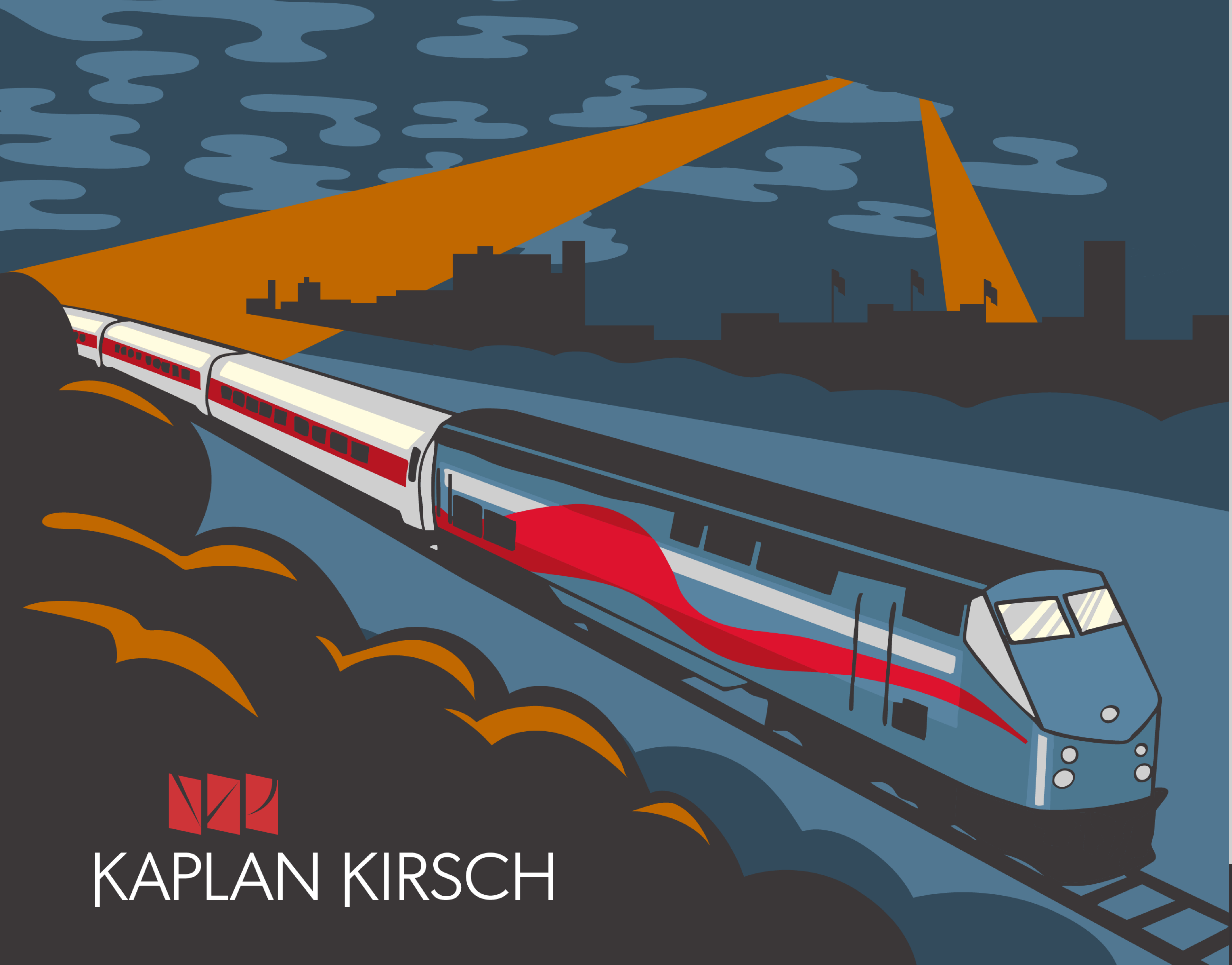

Why Are We Here?

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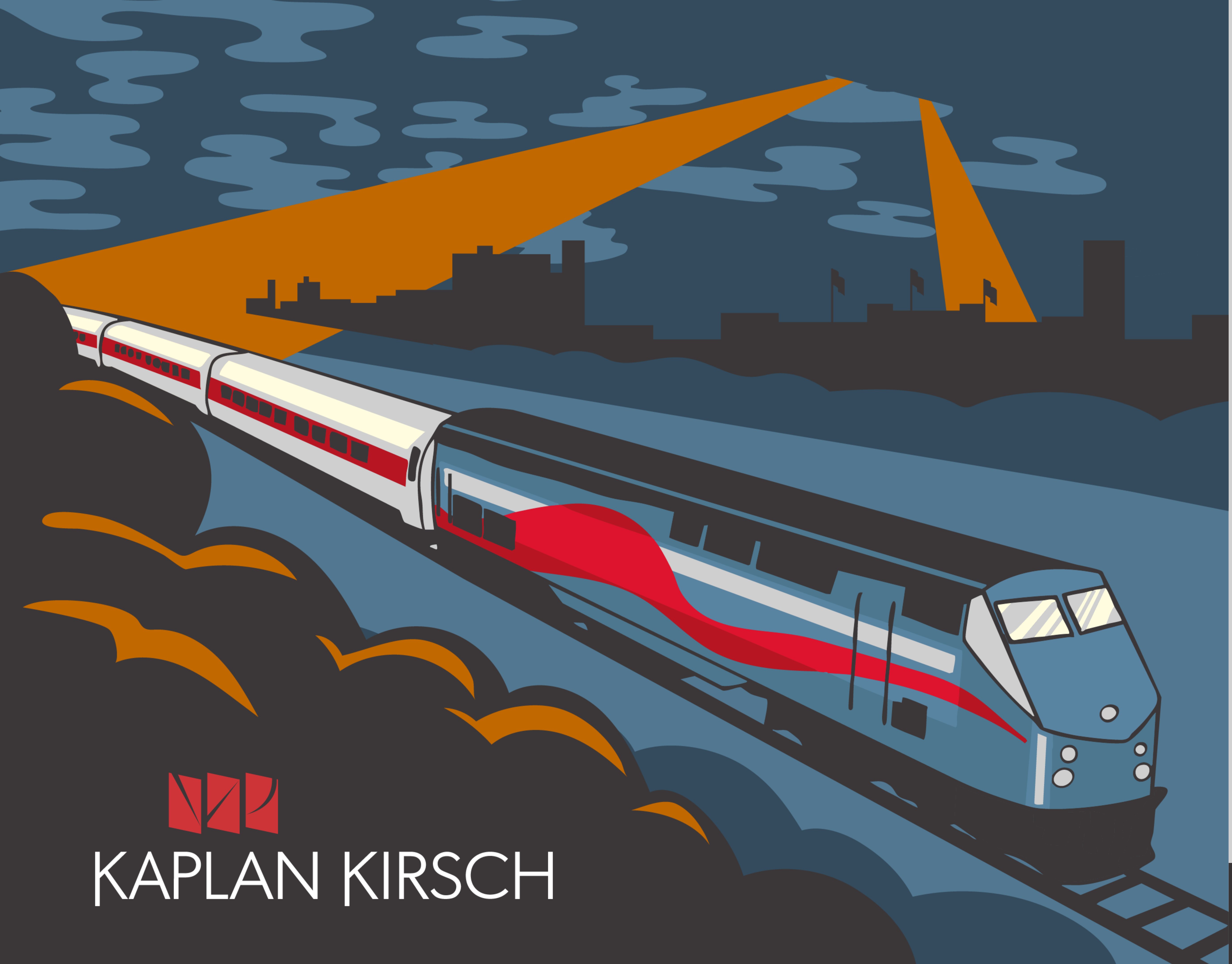
Federal Passenger Rail Liability Cap

- Federal law caps passenger rail liability – 49 U.S.C. § 28103
    - Originally set at $200M in 1997
    - Required to be adjusted for inflation (CPI) every five years (FAST Act Section 11415(b))
    - Currently set at $323M in 2021
    - Inflation expected to increase cap to almost $400M in early 2026
- Federal law provides that new caps become effective 30 days after 5-year adjustments
    - Serious impact on ability to secure higher limits
- Passenger Rail Liability Adjustment Act (H.R. 5697)
    - The new limits would be effective 90 days vs 30 days post legislation



Impact on Insurance Market

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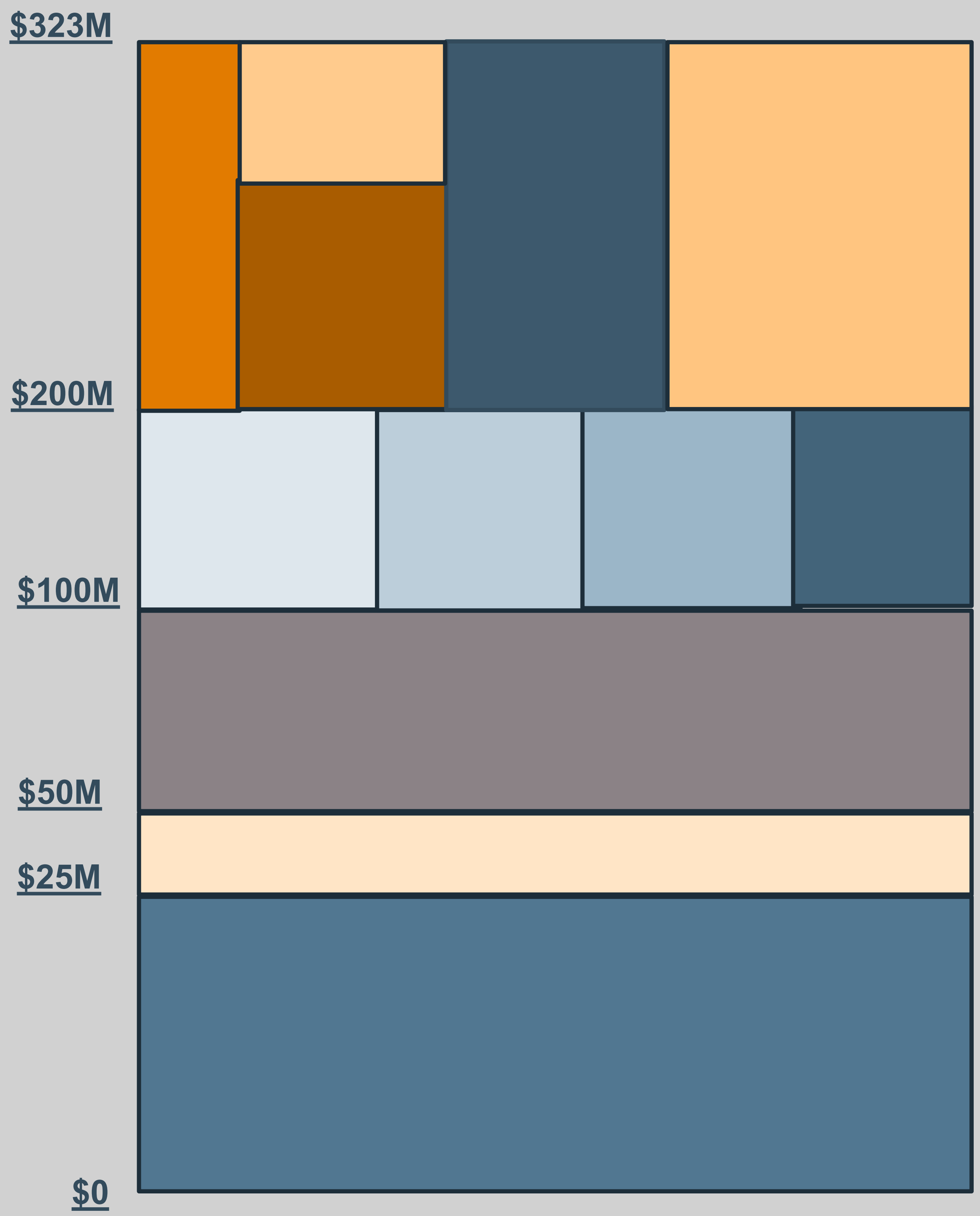
Impact on Insurance Market

- Limited carriers in the market who are willing to support excess rail liability
  - No current U.S. excess casualty markets for heavy passenger rail
  - Must rely on international markets (principally London, Bermuda and Munich)

- Available capacity across carrier partners fluctuates annually

- Due to the limited capacity and given the high demand, the market has remained hard and premiums continue to increase

Building an Insurance Tower



- What does it meant to build an insurance tower? – Think "Tetris"
- Identify which carriers have capacity and at what rate
- Each box represents a different carrier's level of participation based on their appetite for the risk
- The ultimate goal is to "complete" the tower and source 100% capacity for the desired limits

- **Question:** Where will the capacity come from as the cap increases with limited markets to support passenger rail from an underwriting perspective?

Searching for Alternatives to the Traditional Marketplace

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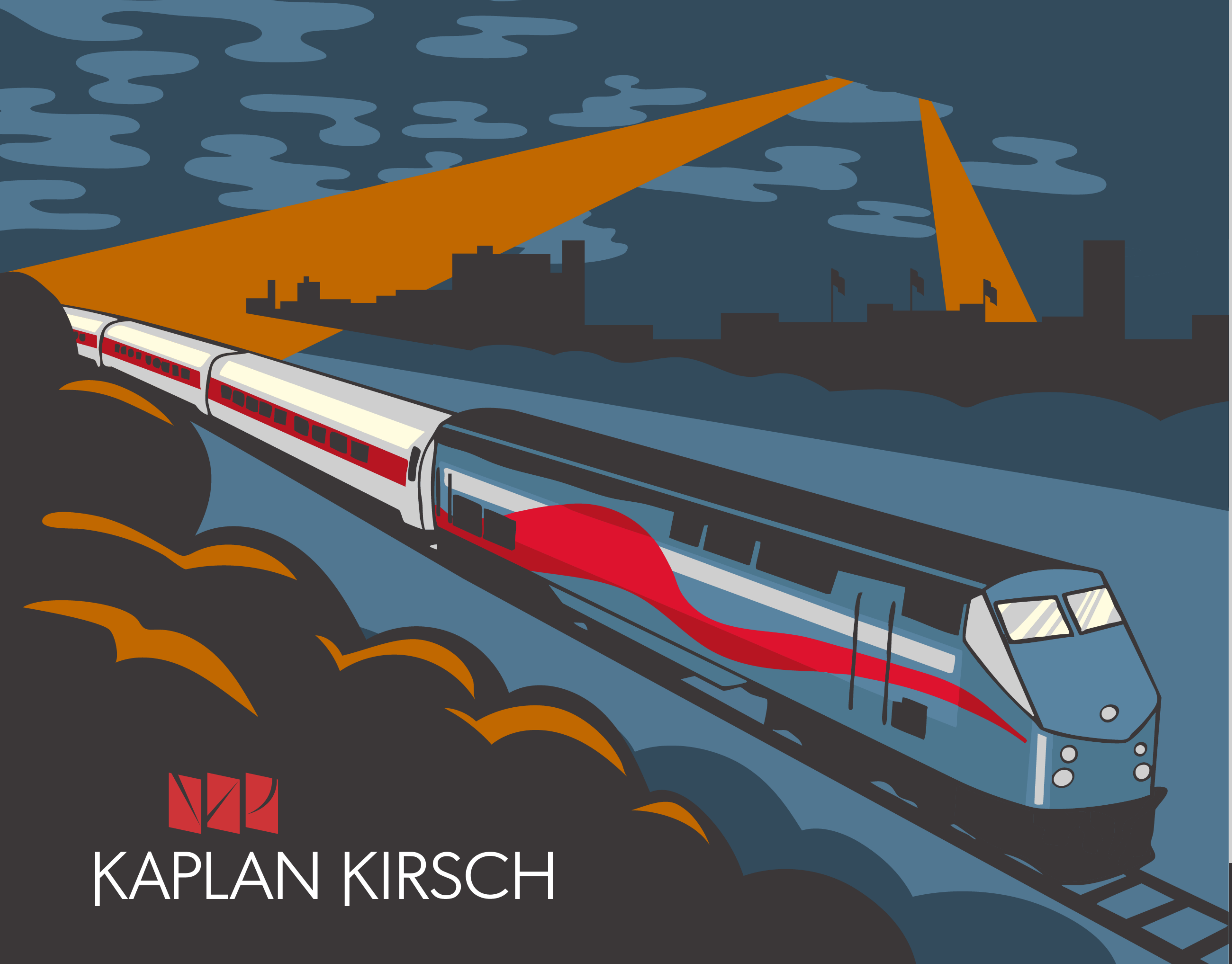
- Risk Pools
- Federal “Backstop” (Price-Anderson Nuclear Industries Indemnity Act, 42 U.S.C. Ch. 23 (1957)
- Resurrect previously established Joint Self-Insurance Funds
- Evaluate Alternative Risk Solutions and the Feasibility of Establishing Captive Insurance Companies



What is a Captive?

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What is a Captive?

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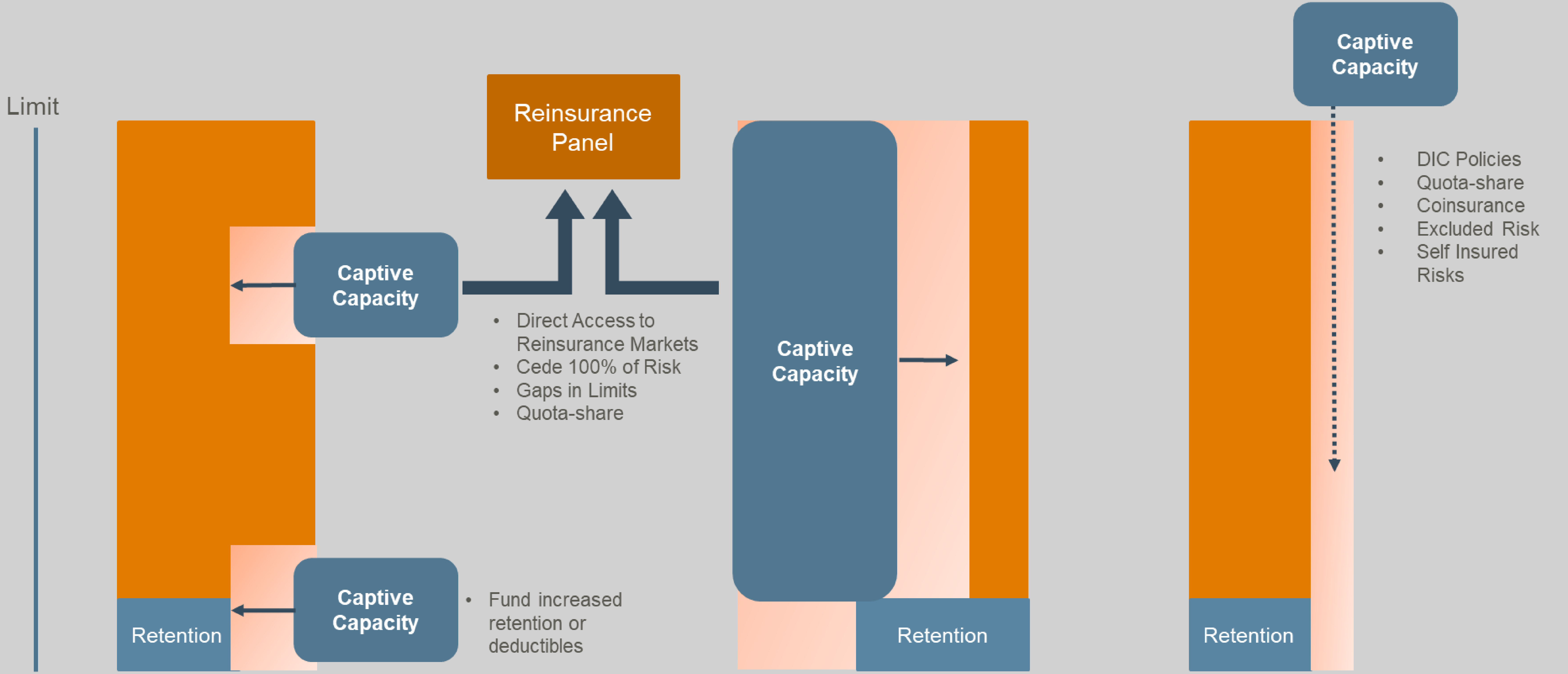
A captive is a licensed and regulated insurance company that is designed to insure the risks of its owner, affiliates, or a group of companies. It issues policies, collects premiums, and pays claims.

A captive will do the same 4 things that commercial carriers do:

- Manages a loss fund
- Pays losses to policyholder from loss fund
- Accrues investment income on premiums
- Returns underwriting profit to shareholder(s)

Basic Captive Diagram

If You Have Seen One Captive….



Defining the objectives

There are many reasons why organizations consider forming a captive but most, if not all, fall into the following three categories:

Strategic objectives

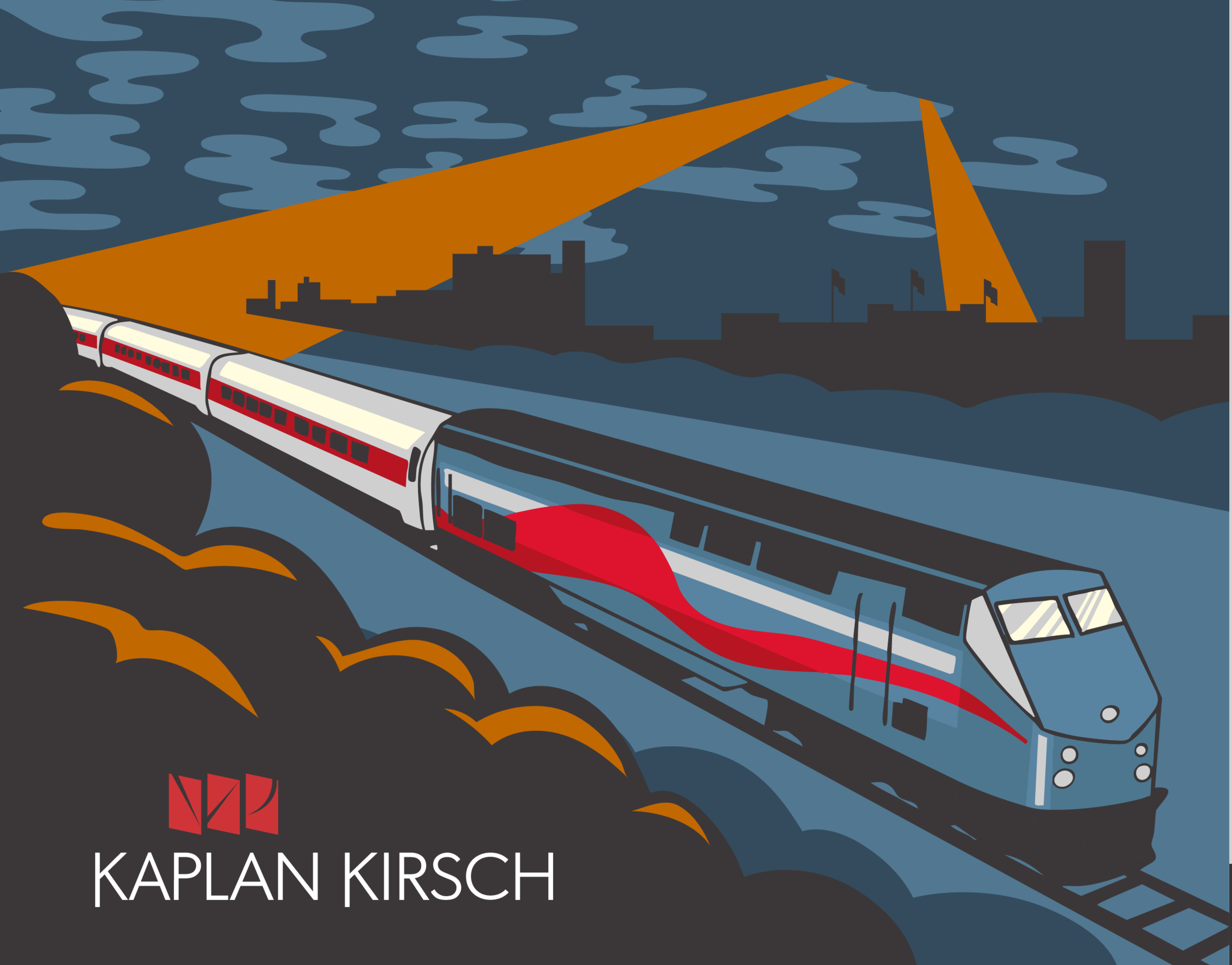
The principal reason for the initial formation and growth of captives was and remains the difficulty in obtaining insurance coverage from the traditional marketplace. Captives are used strategically to access fronting or reinsurance markets (the insurance that insurance companies take out to spread their risk), provide flexibility of coverage when markets are actively seeking to restrict or remove cover and fill in gaps in commercial policies.

Operational objectives

Captives are used to centrally manage and fund risk management initiatives, control claims and capture data. Captives provide a source for data analytics and therefore additional means to track results, measure decisions and introduce operational efficiencies.

Financial objectives

Successful captives build up reserves and retained earnings to increase an organization's resilience to risk. Prices and benefits are still subject to the laws of economics, but captive insurers do not have to prioritize profit, allowing them to charge premiums based on their own risk record and not that of the market. They can even give an organization the chance to develop the capital they need for risk management initiatives.



Metra’s Captive Journey

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Why did a Captive Make Sense for Metra?

- Metra’s loss expectation is lower than the traditional insurance market
- Metra was seeking a profit center using insurance to generate an income stream for the railroad's insurance needs only
- Metra has a good and predictable historical loss experience
- Metra has good loss control programs in place

Metra's Captive Journey

- **2021**
  - Introduction to Captive Concept and Review Potential Applicability for Metra
  - Conduct Initial Captive Feasibility Study
- **2022**
  - Due Diligence for Establishing a Captive (Statutory, Legal & Administrative Basis)
- **2023**
  - Update Feasibility Study Findings
  - Evaluate Captive Domiciles
  - Socialize Captive Concept with Key Stakeholders within Metra
- **2024**
  - Present to Board
  - Obtain Second Opinions from Tax & Legal Counsel
  - Decision to Form Captive Insurance Entity as part of 2025 Renewal Cycle
- **2025**
  - Establish Captive & Begin Writing Coverage

Due Diligence Process

Statutory Basis

- Regional Transportation Authority Act (70 ILCS Sec. 3615)

- Specifically, 70 ILCS Sec. 3615/2.20(a)(viii) [General Powers]:

- "To provide for the insurance of any property, directors, officers, employees or operations of the Authority against any risk or hazard, and to self-insure or participate in joint self-insurance pools or entities to insure against such risks or hazard…" (emphasis added).

Due Diligence Process

Legal Basis

- Legal Opinions: Solicited legal opinions from (3) prominent law firms skilled in insurance and government affairs matters

- Consensus: “Because the RTA Act expressly grants Metra the power to self-insure to guard against risks to Metra’s property, directors, officers, employees and operations and because captive insurance arrangement constitute a type of self-insurance, Metra has the lawful authority to form, or participate in, a captive insurance company as long as it complies with all other terms of the [Insurance] Code and its implementing regulations.”

Due Diligence Process

Administrative Basis

- Illinois Department of Insurance

- There is nothing…that would prohibit the unit of government to form a pure captive. There is even a definition of what a unit of government would entail [sic]. Should they form a captive, [t]hey would be an insurance company and subject to filling all of the necessary requirements that an insurance company would be subject to."

- *Marcy Savage, Assistant Deputy Director, Corporate Regulatory Section, Illinois Department of Insurance, Springfield*

Navigating Board Discussions

"What exactly is a captive?"
"Are captives a new concept?"
"Are we the only ones forming a captive?"
"Have we gone out for a second opinion?"

Metra’s Captive Insurance Company

- Recently established single parent captive or “pure” captive in 2025

- Domiciled in Vermont
  - Top US Domicile with dedicated Captive Division within Vermont Department of Insurance
  - Proven track record with similar organizations and has experience with quasi-governmental institutions

- Initial Captive Program
  - In the traditional insurance market, the pricing for certain layers of excess rail liability insurance became significantly more expensive than in prior years despite Metra’s strong loss experience
  - Captive was formed to fund for a portion of the Excess Rail Liability Exposure

- Future opportunity for Captive Program Expansion
  - Access reinsurance markets directly to help source capacity as the Cap Increases
  - Ability to increase retained risk within the Excess Rail Liability Tower to adapt as capacity needs change
  - Incorporate additional lines of coverage such as property, medical stop loss, etc.

Captive Evaluation Process

Risk Assessment

- Preliminary meeting
- Identify Risks
- Identify Scope of Project
- Captive 101

- Timeframe: 1-2 months

Actuarial & Feasibility Study

- Actuarial Analysis
- Captive Structure
- Financial Impact
- Domicile Analysis

- Timeframe: 1-2 months

Captive Formation

- Business Application
- Liaise with Regulators
- Regulatory Review & Approval
- Draft policy language

- Timeframe: 2 months

On-Going Captive Management

- Accounting
- Compliance
- Payment of Claims
- On-Going Strategic Planning

- Timeframe: Annual

Generally, the timeline to evaluate and form a captive insurance company is a 6-month process.
However, the timeline can vary based on internal decision-making process and selected domicile

Key Parties & Responsibilities

Tax

Inception:
- Determine the captive's tax position
- Identify any state considerations
- Prepare tax memos

Ongoing:
- Preparation of tax returns – consolidation with parent tax return or stand alone
- Federal tax payments if appliable

Treasury

Inception:
- Establish captive bank accounts and fund initial capital
- Implement captive investment policy

Ongoing:
- Remit premium payments to captive
- Make payments on behalf of captive (if not outsourced by captive manager)

Finance / Accounting

Inception:
- Work with captive managers on mapping of accounts to parent company trial balance and consolidation process.
- Select captive financial year end
- Confirm basis of accounting

Ongoing:
- Ongoing consolidation of captive financials
- Involvement in annual audit process

Legal

Inception:
- Determine legal structure of captive
- Determine where in the parent organization structure the captive will sit.

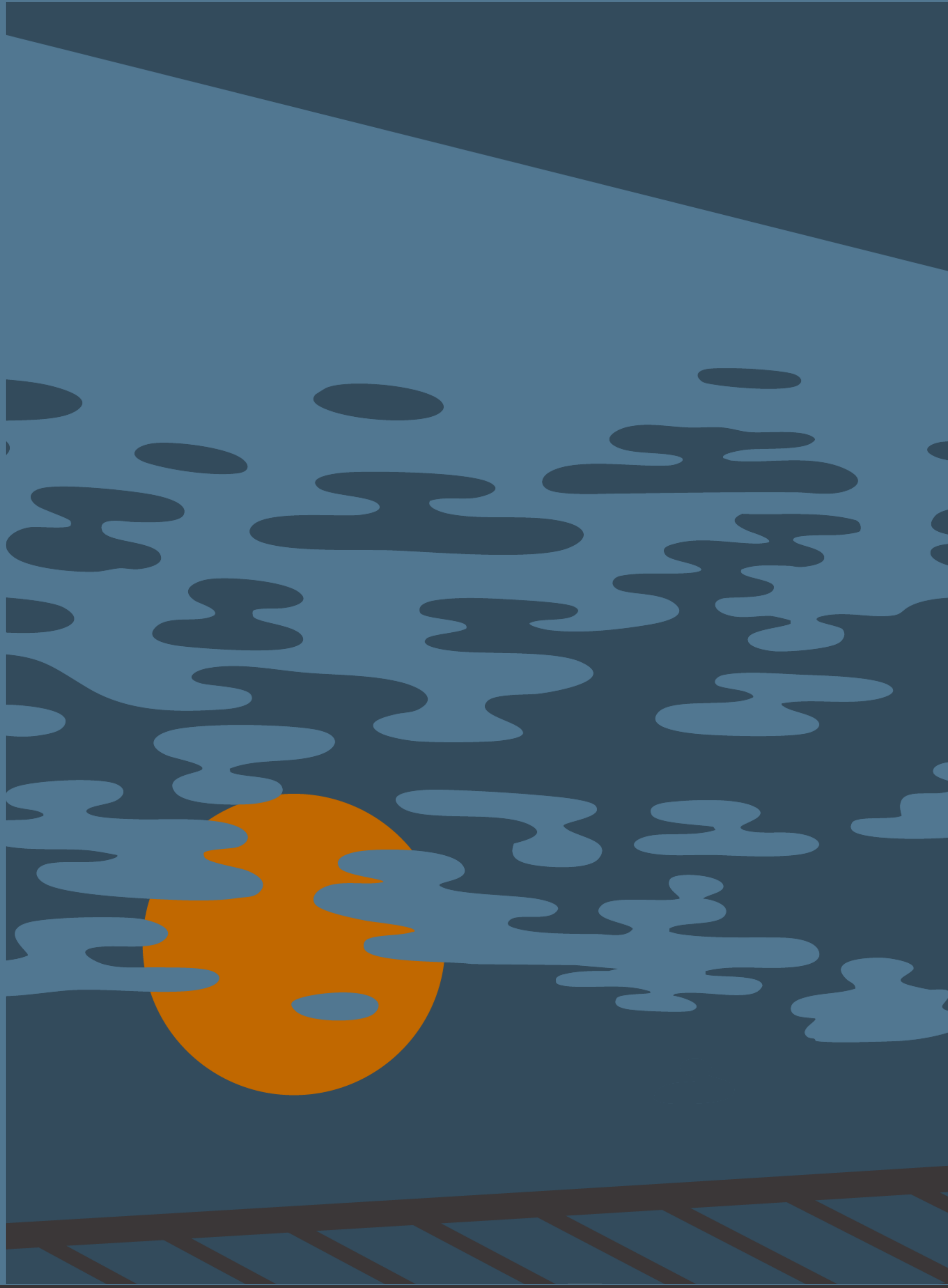
Ongoing:
- Further involvement from legal may be needed dependent on whether outside captive legal counsel is engaged
- Potentially support captive board meetings

Communication with key stakeholders is critical to a successful captive formation

Key To Success & Best Practices

- Every client is different, and every captive is different
- Evaluation process can be lengthy – best to start initial conversations early and well in advance of renewal cycle
- Identify key stakeholders and decision makers
- Education, Education, Education
- Partner with industry professionals who have expertise in captive programs
    - Brokers, Captive Managers, Domicile Regulators, Carrier Partners
- Captives are not a silver bullet to hard market solutions – they are strategic long-term solutions and can be very effective solutions if structured appropriately

Questions?



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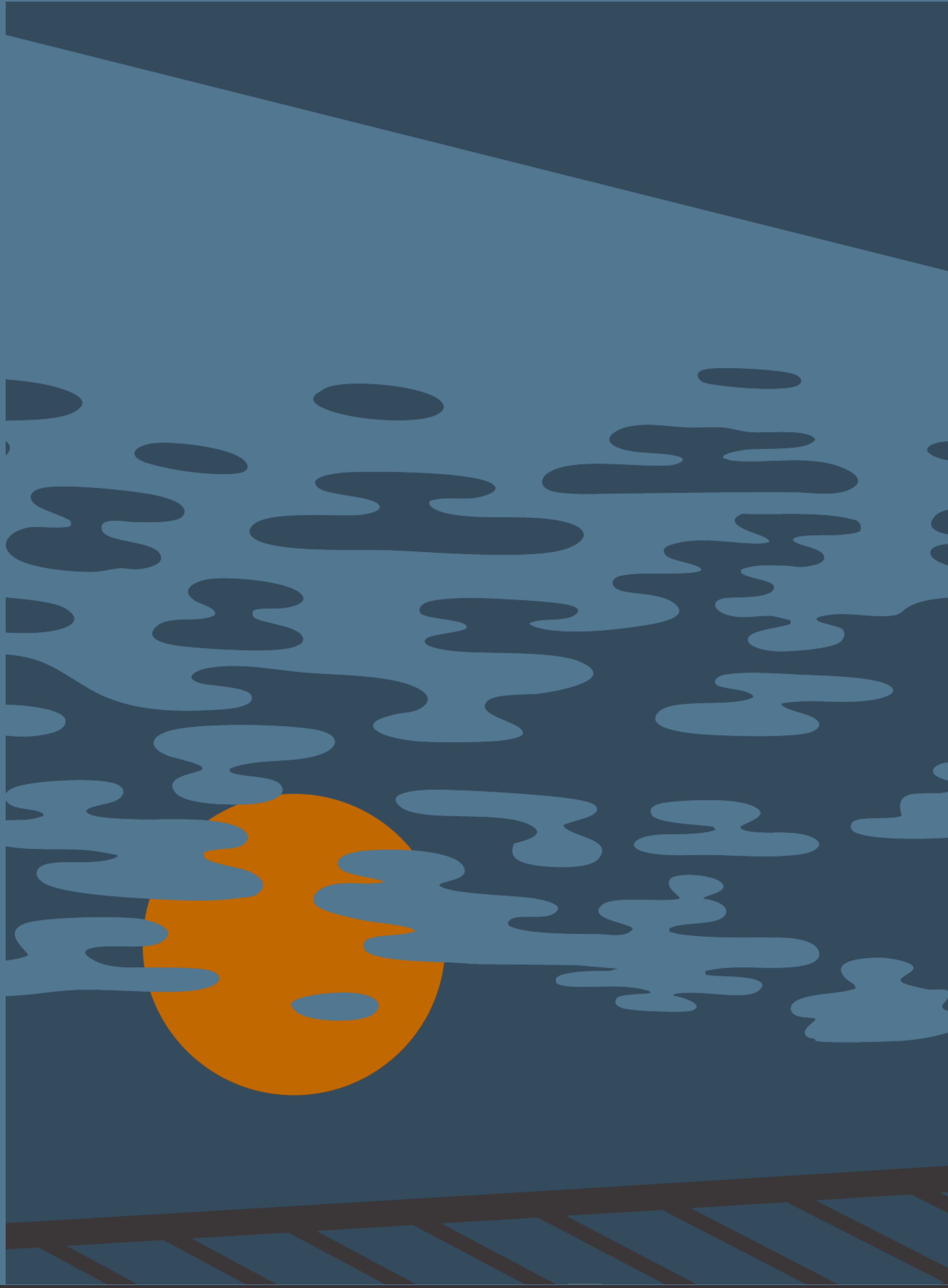
Thank You!



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