# CAPTIVE REVIEW

MARCH 2015

# WORLD DOMICILE UPDATE

**CASH APPEAL**
SHOULD TRADE CREDIT INSURANCE BE A CONSIDERATION FOR CAPTIVES?

**THE DEBATE**
INDUSTRY GOES TOE-TO-TOE ON THE 831(B) TAX ELECTION

**AWARDS**
RECOGNITION OF EXCELLENCE IN THE UK CAPTIVE INDUSTRY

THE ESSENTIAL GUIDE TO ALTERNATIVE RISK TRANSFER


**231** NO. OF CAPTIVES

**21** LICENSED INSURANCE MANAGERS

**20BN** TOTAL CAPTIVE PREMIUM ($)

**62.9** TOTAL AUM ($BN)

**10,000** LICENCE FEES ($)

**0%** CAPTIVE TAX RATE*

**$125** MIN CAPITALISATION (000) SINGLE PARENT/PURE

**RANDY GRAHAM** REGULATOR NAME

**YES** CELL CAPTIVE LEGISLATION

**33** NO. OF ACTIVE CELLS

For decades, Barbados has ranked among the top 10 domiciles worldwide. Two types of Barbados captive insurance companies exist:

- Exempt Insurance Companies (EICs), exempted from taxation for the first 15 years of its existence. The next 15 years is limited to 8% on taxable income up to a maximum of $125,000.
- *Qualifying Insurance Companies (QICs) that pay corporate taxes at an effective rate of 1.75%.

A QIC insures risk and receives premiums that both originate outside Barbados, and includes the business of an underwriter, broker, agent, dealer or sales person in respect of that business. A QEC differs from an EIC in that it may insure up to 10% of local risk. Therefore 90% of its gross premium income and 90% of all risks must originate outside of the CARICOM region.

Among the benefits available to captive insurance entities are:

- Ease and speed of incorporation and licensing
- Tax concessions for specially qualified employees
- No capital gains tax
- Exemption from withholding tax on dividends, interest, management fees or other income paid to non-residents
- Exemption from exchange controls
- Regulatory filings that use international accounting standards.

Both segregated cells and separate account companies can be established in Barbados.

On 31 December 2014, the Financial Services Commission reported 231 active captive insurance companies in Barbados with Canadian and US captives accounting for 81% of the total number. Other sources of investment include Europe and the Caribbean. The country's recognition within Latin America as a captive jurisdiction, continues to grow.

Further information on setting up captives in Barbados is available at www.investbarbados.org and www.fsc.gov.bb.

# HAWAII

**194** NO. OF CAPTIVES

**17** LICENSED INSURANCE MANAGERS

**2.9BN** TOTAL CAPTIVE PREMIUM ($)

**15.6BN** TOTAL AUM ($)

**300+** LICENCE FEES ($)

**0.25%** CAPTIVE TAX RATE*

**$100** MIN CAPITALISATION (000) SINGLE PARENT/PURE

**SANFORD A. SAITO** REGULATOR NAME

**YES** CELL CAPTIVE LEGISLATION

**0** NO. OF ACTIVE CELLS

Hawaii is the strategic hub of the pacific and a captive insurance paradise. The state is a well-rounded domicile that is home to captives from around the world with total assets under management valued at $15.6bn in 2013.

"We are the domicile that owners turn to when they want an experienced and predictable place to set up their captive," said Sanford Saito, deputy commissioner & captive insurance administrator.

"We continue to see positive growth and interest in companies from the US and Asia-Pacific region, with 15 new captives licensed in 2014."

Hawaii captive insurers enjoy a stable regulatory environment, fair and efficient captive laws, and a lower premium tax structure. *[1]The highest premium tax rate is 0.25% on premiums up to $25m with declining tax rates as follows:

- 0.15% on premiums from $25m up to $50m
- 0.05% on premiums from $50m up to $250m
- 0.00% on premiums more than $250m

Hawaii has no minimum premium tax, while our maximum premium tax is $200,000. We do not tax assumed reinsurance premiums or captive premiums that were already taxed elsewhere.

The state's captive insurance branch offers a dedicated full-time staff with 15 employees that focus solely on the needs of captive insurers and regulation. The support of Hawaii's governor and legislators has helped to ensure that the branch is fully staffed and ready to serve captive owners.

Hawaii's captive laws were enacted in May 1986 making the state one of the first few domestic domiciles. Hawaii is the fourth largest domicile in the US and 11th in the world based on total number of active captive licences.

For more information about forming a captive in Hawaii, please visit www.captiveinsurance.hawaii.gov or call (808) 586-0981.


**47** NO. OF CAPTIVES

**23** LICENSED INSURANCE MANAGERS

**5BN** TOTAL CAPTIVE PREMIUM ($)

**5.5BN** TOTAL AUM ($)

**7,500** LICENCE FEES ($)

**0.072–0.38%** CAPTIVE TAX RATE

**250** MIN CAPITALISATION ($000)

**MARIA SHEFFIELD** REGULATOR NAME

**YES** CELL CAPTIVE LEGISLATION

**0** NO. OF ACTIVE CELLS

Central to the heartland of America, Missouri offers real opportunities for business success: (1) Missouri has remained in the Pollina Corporate Real Estate's top 10 pro-business states for four years; (2) Missouri has the third most diversified economy in the US with a GDP exceeding $258bn (BEA, 2012); (3) Missouri ranks in the top 10 states for regulatory environment (Forbes, 2013).

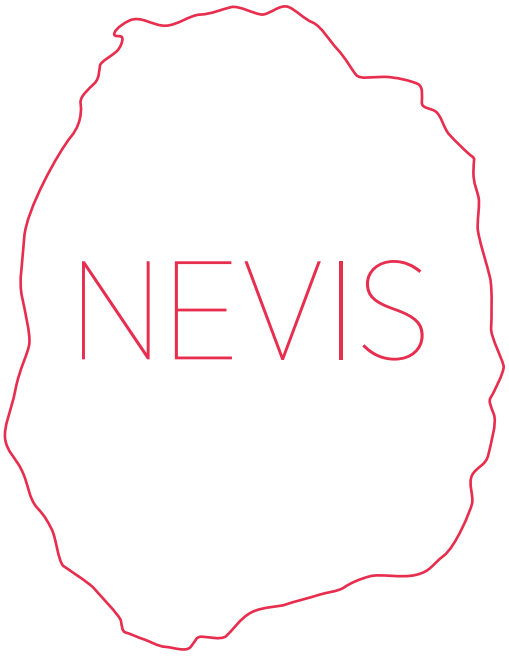
Get the peace of mind that comes from locating your captive in a stable, business-friendly Midwestern domicile.

There are lots of captive domiciles to choose from, but none this close to home. Missouri is located in the heartland of America with two major metropolitan areas offering easy access to companies interested in maximising efficiency and controlling expenses. Missouri is a leader in the alternative risk transfer market, dedicated to a regulatory environment where businesses can grow and prosper. Our laws are similar to most active domiciles and were enacted to benefit the state of Missouri and those firms that would prefer to keep their captive closer to their base of operations.

Missouri captives include Fortune 500 companies as well as small-business owners writing compensation deductibles, property and casualty lines, professional and general liability, life reinsurance and much more.

Experience the difference: the Missouri Department of Insurance, Financial Institutions and Professional Registration has a full-time team dedicated solely to the captive industry. Missouri appreciates the opportunities for economic development within the captive industry and has dedicated the resources necessary to support its success. Our knowledgeable team ensures the licensing and ongoing regulatory process is efficient and effective. We approach each captive individually to allow for innovation and success. All fees are deductible from premium tax – another reason captives of all types and sizes call Missouri home.

Contact Maria Sheffield, (573) 522-9932, Maria.Sheffield@insurance.mo.gov and visit our website: https://insurance.mo.gov/captive.




**281** NO. OF CAPTIVES

**18** LICENSED INSURANCE MANAGERS

**340.8M** TOTAL CAPTIVE PREMIUM ($)

**800.8** TOTAL AUM ($M)

**1,200** LICENCE FEES ($)

**0%** CAPTIVE TAX RATE

**10** MIN CAPITALISATION (000) SINGLE PARENT/PURE

**HEIDI-LYNN SUTTON** REGULATOR NAME

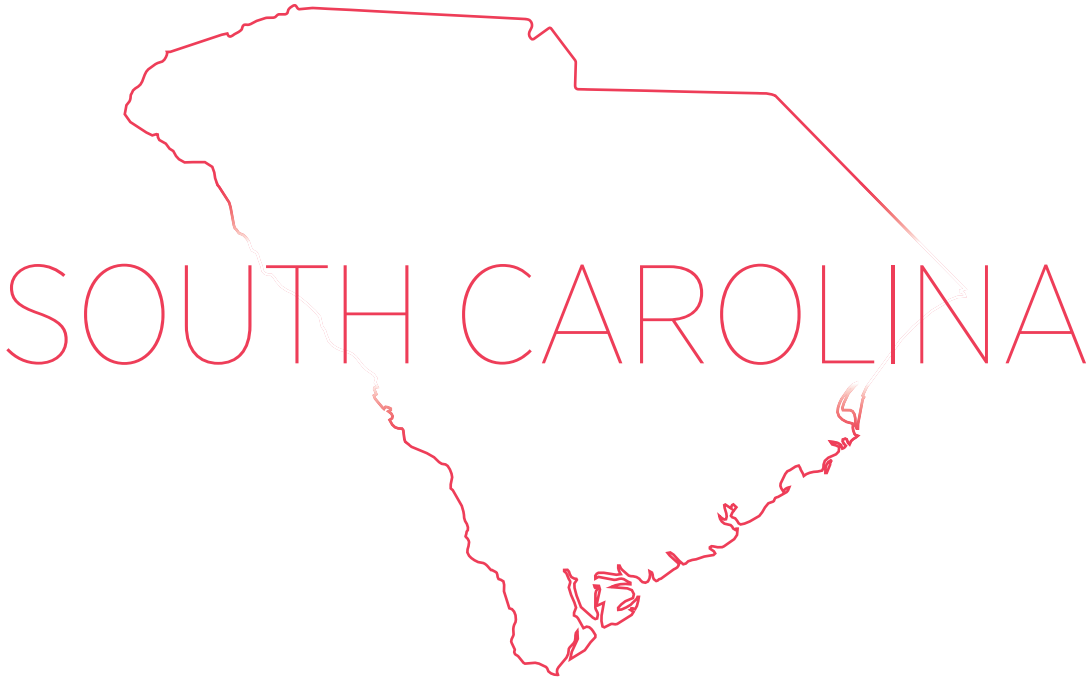
**NO** CELL CAPTIVE LEGISLATION

**NA** NO. OF ACTIVE CELLS

Nevis is a stable and business friendly jurisdiction that is historically a former colony of the British Empire and now a member of the Commonwealth of Nations. Nevis has steadily built a solid reputation as a preferred captive domicile since 2004. Nevis is being increasingly recognised for its responsive, regulatory appropriateness and efficient handling of its international captive insurance operations. The jurisdiction has been utilised overwhelmingly by micro to small-sized captives that are seeking an environment that suits their purpose and understands their need. Captives that are domiciled in Nevis tend to be formed by families, professionals and small business owners who use the captive to supplement existing traditional policies.

Considering that these captives are associated with low risks, the corresponding regulatory framework is in place to ensure that proper and appropriate due diligence requirements are in place for new and ongoing business. As such, the relevant insurance legislation provides a sound regulatory framework for the operation of these captives, in addition to an astute Financial Services Commission to supervise ongoing monitoring of the entities. It must be noted that an important aim of regulation is to ensure that legitimate businesses can access financial services and Nevis as a jurisdiction is cognisant of this principle and ensures its facilitation. Nevis is therefore your ideal captive domicile.

> "Captives that are domiciled in Nevis tend to be formed by families, professionals and small business owners"




**158** NO. OF CAPTIVES

**25** APPROVED MANAGERS

**3.7BN** TOTAL CAPTIVE PREMIUM

**NA** TOTAL AUM

**300** LICENCE FEES ($)

**0.25–0.4%** CAPTIVE TAX RATE

**250** MIN CAPITALISATION ($000) SINGLE PARENT/PURE

**W. JAY BRANUM** REGULATOR NAME

**YES** CELL CAPTIVE LEGISLATION

**29** NO. OF ACTIVE CELLS

With all the emphasis on the numbers, I must emphasise that measuring the success of a domicile's captive programme is not just a numbers game. In South Carolina we believe that quality still matters, and in fact trumps all other considerations. In line with this philosophy, we declined to entertain applications from several prospective captive owners last year.

Another very big highlight from 2014 is that four new captive management firms opened offices in Charleston last year: JLT Towner, Willis, R&Q, and Somers Risk Consulting. We have already licensed captives brought to us by three of those firms, and expect to license a new captive from the fourth one in the next couple of months. The heads of three of those Charleston offices all arrived in SC with substantial captive management experience gained in other highly reputable domiciles (Bermuda, Cayman, and Vermont).

> "In South Carolina we believe that quality still matters, and in fact trumps all other considerations"

We are seeing the Charleston offices of a number of our captive management firms develop into substantial regional servicing hubs for captives domiciled not only in SC, but also in other states. This represents a very real investment in and a vote of confidence for our domicile, and deepens the pre-existing pool of experienced captive practitioners already resident in Charleston. This was one of the most significant of the many positive developments for the SC captive programme in 2014, one that further strengthens and clearly differentiates our domicile.

# DOMICILE REVIEW

The year-end figures from across the jurisdictions provide a snapshot of where's hot for captives. But what are the stories behind the numbers?

Raw statistics rarely tell the full story, but when great stock is put on impressive gains by the jurisdictions themselves it feels right to dig a little deeper to understand what the movements mean.

In Europe, the picture is a relatively familiar one with Guernsey continuing to lead the charge. As well as its continued progress in the cell and insurance-linked securities (ILS) areas, there were 16 new captives licensed.

In terms of European challengers to the Guernsey story, only Luxembourg (10) and the Isle of Man (6) rival for new formations.

Luxembourg, however, had 12 captives close during 2014 while the Isle of Man lost seven meaning both made a net loss.

Malta's growing reputation as an attractive onshore European Union (EU) option has yet to translate into hard figures.

While Guernsey's captive growth could be seen as modest compared to some of its North American peers, it continues to make serious progress as a well-rounded international insurance centre. The total number of international insurers is now at 797, with 321 counted as captives and cell companies.

Written by
**Richard Cutcher**

Within 67 protected cell companies (PCCs), there are 436 cells and within 12 incorporated cell companies (ICCs) there are 40 cells.

The latter figures are expected to grow significantly during 2015 after pension schemes begin waking up to the opportunities ICCs provide to facilitate longevity swaps.

Towers Watson, in partnership with Wilis, and PwC, in partnership with Artex Risk Solutions, have both established ICCs in the previous six months to carry out such transactions.

"We continue to see growth in new entities related to ILS transactions but also a steady stream of more conventional captive insurance vehicles," says Dominic Wheatley, chief executive of Guernsey Finance. He says: "Much of our business continues to originate from the UK but the figures show the truly international nature of our client base, with a growing number coming from domiciles in Europe and much further afield."

The impending Solvency II implementation continues to cloud matters in Europe.

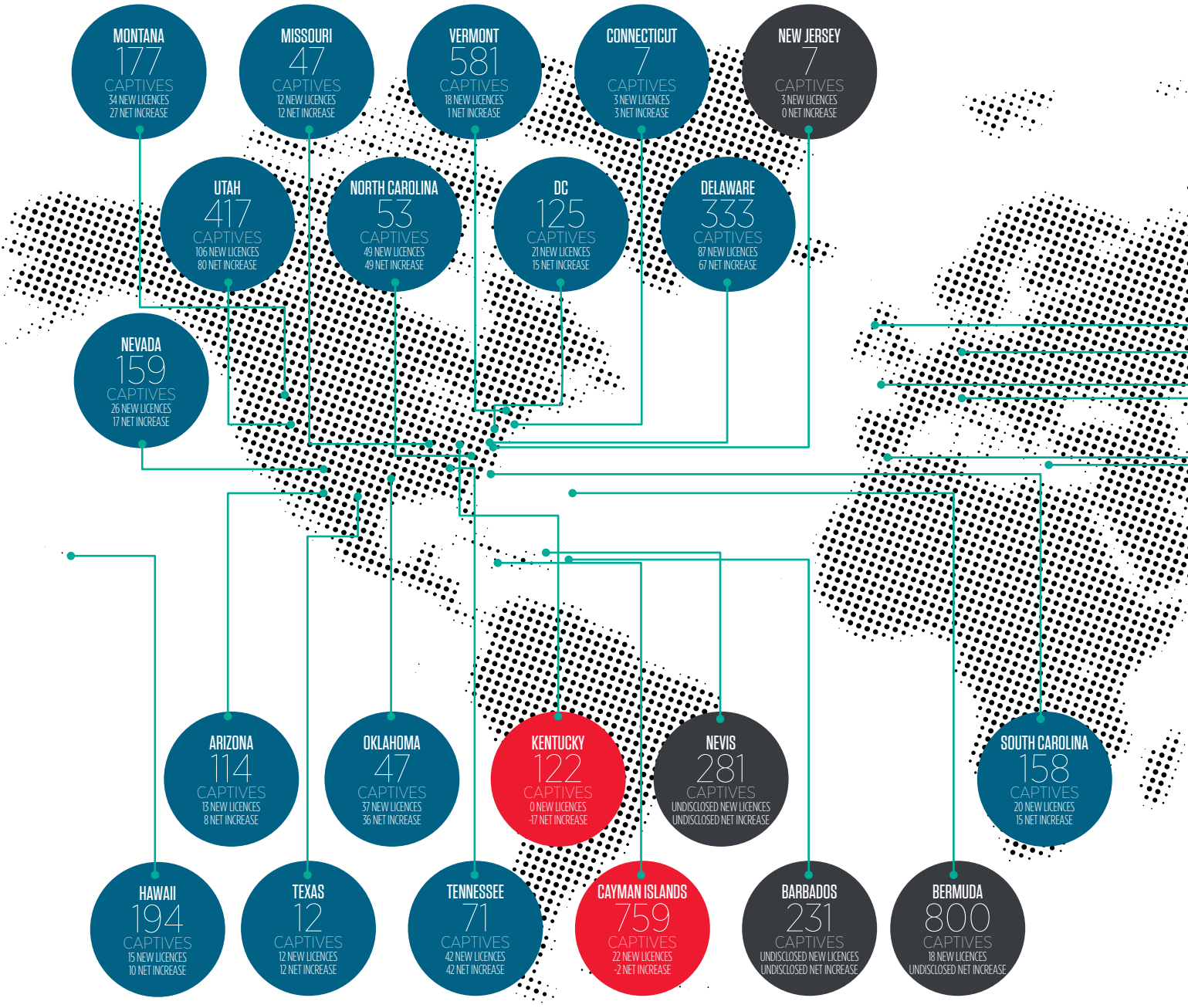
While there has not been as much movement between on- and offshore domiciles on the continent as might have been expected, as 1 January 2015 nears hesitation around new formations has remained.

There is a feeling prospective and established owners have a "wait and see" attitude, particularly with regards to what solvency requirements the offshore domiciles will respond with.

David Vick, chief executive at the Isle of Man's Insurance and Pensions Authority, tells *Captive Review* their activity has largely been consistent over recent years.

"Traditionally our market has been quite focused on the UK and, in the majority, that continues to be the case," Vick says.

"With regards to the seven captives we have lost, some of that is down to the natural life cycle of a captive coming to an end, but you are also seeing consolidation of vehicles




as parent companies end up with more than is needed through mergers and acquisitions."

## American surge

The situation in Europe is in stark contrast to the United States where, from the figures released to date, there were around 500 new licenses in 2014.

Vermont remains out in front, but Utah (106 new licenses) and Delaware (87) are still reporting strong figures.

Add to that the impressive numbers from emerging domiciles such as North Carolina (49), Tennessee (42) and Oklahoma (37) and it is apparent the appetite for captive solutions is strong in America.

Utah has long been known as a hub for smaller captives making the 831(b) tax election, but David Snowball, captive insurance director in the state, tells *Captive Review* they are seeing increased interest from larger companies.

"We go through the same regulatory process for any insurance company," he says. "We don't look at it as whether they are an 831(b) captive or not."

Snowball says Utah has been licensing vehicles across a range of industries, but similar to most jurisdictions there is considerable interest from the healthcare sector.

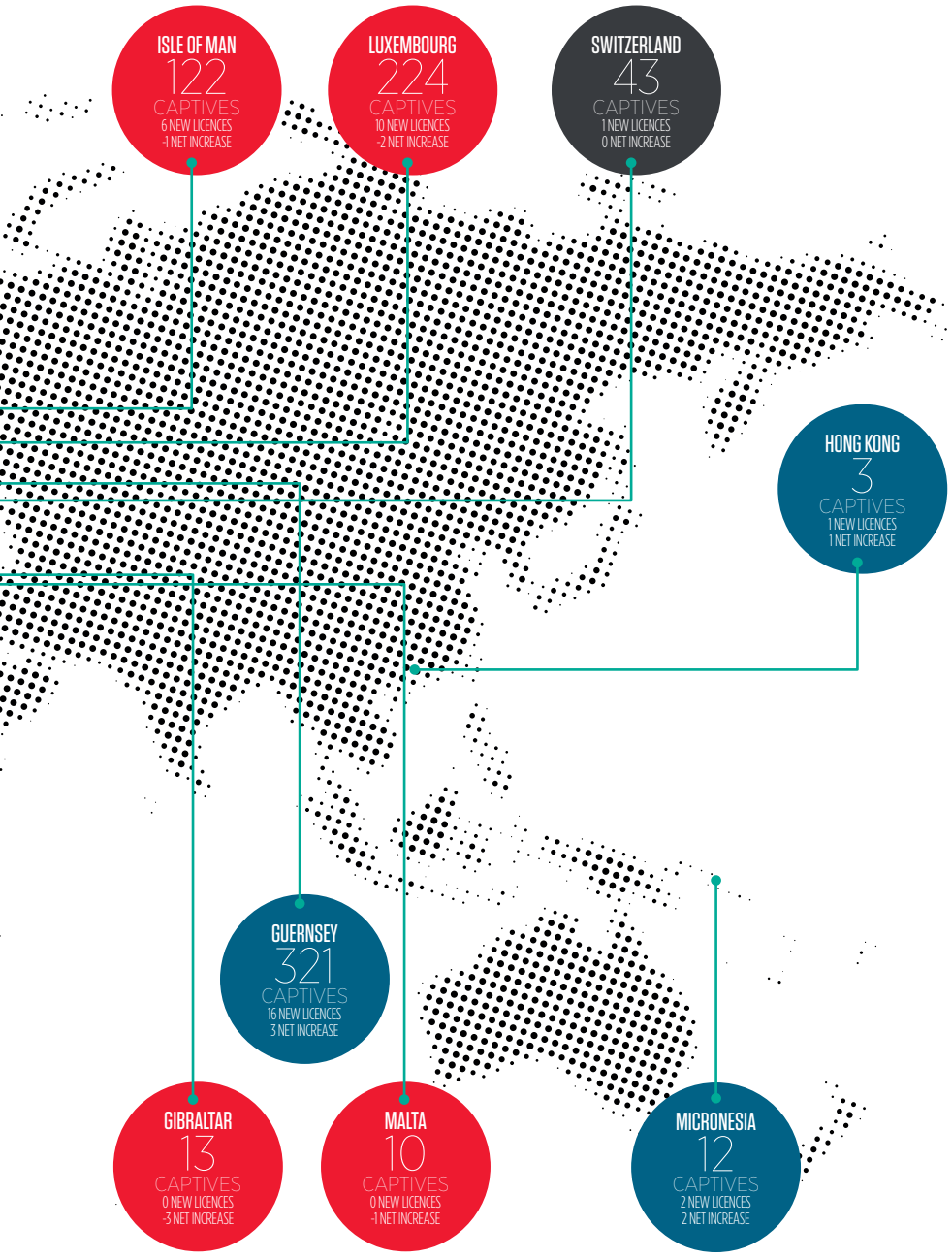
The emerging domiciles cited above have all raised eyebrows and caught the attention of the industry.

Tennessee has been gathering momentum since it re-worked its captive laws in 2011.

As well as 42 new single parent captives, there were 194 new cells. There are now 206 cells in total.

For Michael Corbett, director of captive insurance in Tennessee, while the numbers are pleasing it is important to ensure the department is implementing sound regulatory practice.

"I am confident we are doing what needs to be done to understand the types of risks that




we are taking on," he tells *Captive Review*.

"Do we have the depth of experience of some of our cousins? Of course not and I understand that. It makes me that much more vigilant to look at those linchpins that are potentially problematic."

Corbett highlights the risk pools which provide the risk distribution needed by cell companies as one area where strong and sophisticated regulation is important.

"We look at what the Internal Revenue Service (IRS) is saying and we work very hard with those small handful of pool managers that we are aware of to make sure that the pool is increasing in strength each year," he adds.

North Carolina was significantly boosted by one firm – Management Services International – re-domesticating 16 smaller captives to the jurisdiction in one go in September.

The IRS is taking an increasingly aggressive and public stand against some uses of the 831(b) tax election (see page 9) and there has been suggestions this might scare off and reduce the number of new captives.

On the flipside, however, the Senate Finance Committee is standing by its proposal to increase the premium threshold to $2.2m which would open up the 831(b) tax election to more captives.

Raymond Martinez, North Carolina's senior deputy commissioner, tells *Captive Review* the department is confident all licenses are bona fide insurance companies.

"We have a staff actuary who reviews all of the business plans and the feasibility studies," Martinez says. "He makes sure that whatever risks are encompassed in that business plan are appropriately priced and that there is in fact risk. So as far as we are concerned this is insurance, regardless of what the IRS says."

States such as Montana (34), Nevada (26) and South Carolina (20) all maintained steady growth. South Carolina's performance was particularly welcome when considering there were just three additions in 2013.

The recovery in the jurisdiction has primarily been put down to the arrival of Jay Branum in October 2013.

"When Jay came on board it created a degree of excitement because of his experience and what he brought to the table," Jeff Kehler, captive programme administrator at the South Carolina Department of Insurance, said. "The department's personnel and processes were reorganised and in my mind that is what opened the floodgates."

## Centre shift

The three traditional captive giants of Bermuda, the Cayman Islands and Vermont all had relatively modest years.

Bermuda added 18 captives (16 new licenses and two reclassifications), but has not released the number it lost during 2014. It now stands at 800 captives.

The Cayman Islands added 22 new licenses but had a net loss of two, leaving it on 759.

There were 16 new licenses, two re-domestications and 17 closures in Vermont. It has 581 active captives.

All three domiciles have long been the go-to captive destinations for some of the world's biggest companies. The fact is, however, companies of such a size are likely to have already established those entities.

Add to that the increased competition from the growing number of domiciles and the continued scrutiny of offshore arrangements and it is not surprising the traditional centres have slowed down.

"We have been at a plateau in terms of the number of captives for quite a few years now," David Provost, deputy commissioner in Vermont's Captive Insurance Division, tells *Captive Review*.

"Between the soft insurance market and the other states emerging as captive domicile choices it is not going to show up as big numbers in any one place anymore."