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ESSENTIAL ANNUAL INTELLIGENCE AND INSIGHT FROM THE WORLD'S LEADING INTERNATIONAL FINANCE CENTRES

Welcome to **IFC World 2017**. We are very proud to publish this second edition of our yearbook of the offshore world which looks at the place that international financial centres occupy in relation to one another, the ways in which they relate to, and are coping with, the latest important trends and the prospects that they have for survival and prosperity, both singly and together.

In this comprehensive annual, we draw on the expertise of some of the foremost authorities on the offshore world and also on our suite of publications: *WealthBriefing*, *WealthBriefingAsia*, *Family Wealth Report*, *Compliance Matters* and *Offshore Red*. The earlier sections of this edition contain insights from the leaders in the field, while the latter part contains a directory of the world of international financial centres. We hope that you will find the result informative and of lasting value.

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INTERNATIONAL VIEW: KEYNOTE ARTICLES

THE PANAMA PAPERS: THE REVELATIONS THAT ROCKED THE OFFSHORE WORLD

** by Chris Hamblin, editor of IFC World*

It was in April 2016, just during the publication of our first edition, when the Washington-based International Consortium of Investigative Journalists published information from a massive data-leak that shone a searing light on the part that Mossack Fonseca, the fourth largest provider of offshore services in the world, played in obscuring the beneficial ownership of wealth on behalf of its customers. The political storm that followed is still reverberating around the offshore world and has changed the climate of business there forever, with no end in sight.

A month later the ICIJ issued more information on hundreds of thousands of accounts in a "searchable database that strips away the secrecy of nearly 214,000 offshore entities created in 21 jurisdictions, from Nevada to Hong Kong and the British Virgin Islands."

The data came from the Panamanian law firm's files. The hacker or leaker has never been caught. The roll-call of customers, which the ICIJ has made available on its online database, includes tax-evaders, drug-dealers, corrupt politicians and Mafiosi. Half of all the companies that are mentioned in the data were incorporated in the British Virgin Islands. The papers reveal the offshore holdings of 140 politicians and public officials, including 12 current and former world leaders, who used the offshore entities to hide the ownership of their assets. The papers' worth to governments the world over, embarrassed as they may have been initially, is also evident because some of them are already using the revelations to justify more surveillance, more government involvement in financial firms, and more compliance activity.

Rather suspiciously, and especially so because the leaks came from the Western Hemisphere, no American politicians have been embroiled in the scandal. The Panamanians, for their part, refer to the leaks as the Mossack Fonseca Papers and dislike hearing them called by the usual name of the Panama Papers. The ICIJ, the Germany *Süddeutsche Zeitung* (which is reputed, rightly or wrongly, to be infested by people from the US Central Intelligence Agency) and other 'media partners' made this information available to the public.

PENDING PROSECUTIONS

The law firm itself appears to be less than squeaky-clean, never mind its customers. Legal papers presented to a US District Court in Las Vegas claimed that it had created 123 companies in Nevada that a crony of Argentina's former president used to steal millions of dollars from government contracts. The court issued a subpoena ordering Mossack Fonseca to hand over details about any money that might have flowed through those companies. The law firm, according to the ICIJ, did not want the information to become public, so it denied that MF Corporate Services (Nevada) Ltd, which was running its business in Vegas, was actually part of its group. The ICIJ, on its website, recounts how Jürgen Mossack swore an oath to that effect, but its cache of records "show that the Nevada subsidiary was wholly owned by Mossack Fonseca [and] behind the scenes, the firm took steps to wipe potentially damaging records from phones and computers to keep details of their clients from the United States justice system."

> *Mr Cameron senior used a Bahamian bishop to sign many documents*

Emails, according to the ICIJ, show senior figures at the firm asking for evidence of company ownership of the Nevada operation to be hidden from the prying eyes of investigators, and for people to remove papers from Nevada to Panama, the better to throw the authorities off the trail.

The *Wall Street Journal* reported in July that US prosecutors, led by the Manhattan US attorney's office and the Justice Department's main office in Washington, had commenced criminal inquires relating to the Panama Papers. They are reportedly looking at a handful of lower-level Mossack Fonseca employees, but are planning to widen their probe with a view to finding out whether the firm knowingly helped its clients launder money or evade taxes. They also suspect the firm of helping people cover up bribes to foreign officials in contravention of the *Foreign Corrupt Practices Act 1977*.

Governments in several countries launched civil and criminal tax evasion investigations in relation to the leaked data in 2016. By October, they include the United States of America, Australia, Canada, Denmark, France, Germany, India, Israel, Malta, Norway, Pakistan, Singapore, Spain, Sri Lanka, Sweden, and Thailand – a mixture of offshore and onshore jurisdictions.

The whole torrid saga now seems to have come to a head with the arrest of Mossack Fonseca's partners and the takeover of FPB Bank by the Panamanian Superintendency of Banks. Offshore companies registered by the law firm allegedly helped the tiny bank move clients' money out of Brazil illegally.

PEP LESSONS

So many lessons about 'politically exposed persons' or PEPs have been drawn from the recent revelations that it is hard to know where to begin. There have, however, been a few obvious choices.

ICELAND

Sigmundur Davíð Gunnlaugsson, the prime minister of Iceland who had to resign soon after the papers became public, secretly owned Wintris, a company based on the Caribbean island of Tortola, which owned and still owns debt in some of Iceland's failed banks just at the time when he was involved in political decisions about their future. His wealthy wife, née Anna Sigurlaug Pálsdóttir, owned half the company with him. He never divulged his shareholding to the compulsory Icelandic parliamentary register for MPs' financial interests. When asked the simple question "what can you tell us about a company called Wintris" during an English-language interview with SVT, a Swedish television company, he smirked guiltily, lapsed into Icelandic and, after floundering for less than half a minute, rose to his feet and walked out of the room.

THE HEIR TO BLAIRMORE

When British opposition leader Jeremy Corbyn pointed out that the Panama Papers had revealed tax evasion "on an industrial scale" and suggested that the secretive company set up by premier David Cameron's late father might have ensured that "tax has not been paid," calling for an investigation into the matter, Cameron himself refused to answer questions about the family finances before finally admitting, with perfect composure but a very red face, that he had indeed benefited from his father's offshore trust.

> *Putin's network is held together by ties of personal loyalty*

At the outset, the prime minister's spokesmen denied that he and his wife had anything to do with Panama, the jurisdiction from which Mossack Fonseca operates. They chose not to confirm or deny whether the Camerons had used that firm to obscure their holdings or whether they still had a stake in the fund. Rather damagingly for the premier's image, they kept bringing up his many diatribes against tax evasion as some sort of indication that he was not involved. Tim Farron, the leader of the tiny Liberal Democrat Party, stated with some justification that, despite his windy rhetoric, Cameron had "done nothing to ensure that UK overseas dependencies such as the Cayman Islands, the Bahamas and the British Virgin Islands give the transparency that taxpayers deserve."

Nobody has yet accused any member of the Cameron family of evading taxes or committing any crimes.

This is still not relevant to anti-money-laundering (AML) compliance at banks in the United Kingdom as the desire of the Financial Action Task Force or FATF, the world's AML standard-setter, to promote 'enhanced/extra due diligence' for domestic PEPs has still not been enshrined in British law, and it may never be relevant in view of HM Government's decision last year to exempt Members of Parliament – and therefore perhaps Cameron himself – from the most stringent 'due diligence' checks.

Three Conservative former MPs and dozens of party donors were swept up in the revelations as well. The three most senior were Lord Ashcroft, the entrepreneur who resides in Belize, Baroness (Pamela) Sharples and Michael Mates, who was an MP and minister in the 1990s.

MEN OF STRAW, OFFSHORE

It is a classic offshore trick to anonymise holdings (whether for illicit purposes or otherwise) by convincing local residents in tax havens to sign documents and act as 'front men' (the rather uncharitable money-laundering term is 'strawmen,' although the Camerons were not accused of that crime) in place of the real investors. Mr Cameron senior, who died in 2010, opened a company in the Bahamas that did just that, using a local bishop to sign many documents. It was an investment fund for high-net-worth individuals called Blairmore Holdings Inc. It is reported to have invested dozens of millions of pounds on its clients' behalf. One of those clients was the Rolling Stones' bank, Leopold Joseph.

The London *Guardian* has stated categorically that in 30 years Blairmore has never paid a penny of tax in the UK on its profits. A prospectus that it issued in 2006 said that the fund "should be managed and conducted so that it does not become resident in the United Kingdom for UK taxation purposes." Perhaps actual tax evasion was not the aim, but it is also known that the structural contortions by which Mr Cameron senior obscured Blairmore's profits were expensive to arrange and therefore must have been of some very heavy benefit to the investors.

THE MAN WHO WOULD BE CZAR

The ICIJ's most sensational revelations surround the friends of Russian ruler and would-be Czar Vladimir Putin. The consortium says that, according to its analysis, as much as $2 billion has been routed secretly through banks and shadow companies linked to Putin's associates. The records do not mention Putin directly.

The consortium also says that Bank Rossiya, identified by the Americans (for whatever that might be worth) as Putin's personal cashbox, has helped to build a skein of offshore companies and – in a possible allusion to a classic money-laundering trick, the obvious trick of transferring wealth through loans that are never redeemed – it says that dozens of loans, some worth hundreds of millions of dollars, were sold between offshore companies for as little as $1 or less in connection with the Russians.

BANK ROSSIYA

One series of related transactions is of particular concern. The papers show that Bank Rossiya and its head, Yuri Kovalchuk, who is thought to be a personal banker for other top Russian politicians as well as Putin, transferred $1 billion to Sandalwood Continental, a company registered in the British Virgin Islands. The amount came by means of unsecured loans from Russian banks such as the Russian Commercial Bank or RCB, a Cypriot subsidiary of VTB Bank, of which the Russian Government owns 60.9% of the voting shares.

> *The records do not mention Putin directly*

Meanwhile, one of Bank Rossiya's major shareholders in its early days was crime lord Gennady Petrov, the leader of the so-called Tambov Gang, who was arrested in Spain in 2008 with other gang members. According to *El Mundo*, a 488-page complaint, the product of a decade of wiretaps, transaction reports and investigations that prosecutors presented to Spain's Central Court in 2015, says that Petrov, through a contact in Putin's political party, managed to have his agents appointed to vitally important positions in Russia. In return, he allegedly offered Russian politicians assets in Spain.

A NETWORK THAT COULD NOT EXIST WITHOUT PUTIN'S ENCOURAGEMENT

Putin's network is held together by ties of personal loyalty. Banker Yury Kovalchuk and businessman Arkady Rotenberg, both old friends, the latter of whom has benefited from fortuitous government contracts, are part of the network. When reviewing the Mossack Fonseca data, the ICIJ discloses that "audio recordings and witness accounts show that even when Putin's closest confidants privately discuss his financial dealings, they use pseudonyms for him or simply gesture to the heavens rather than utter his name." It adds that such a network could never exist without Putin's knowledge and encouragement.

> *The loans RCB made to Sandalwood were highly unusual for a bank*

The ICIJ says that the files contain an application in 2014 by Gazprombank Switzerland to open a bank account for a company in Roldugin's name. The form explicitly asks whether the owner of the company has any relation to 'PEPs or VIPs.' Rather disingenuously, Roldugin's representatives apparently said no. Indeed, in 2014 the *New York Times* asked Roldugin whether he had millions invested in Bank Rossiya. "I don't have millions," said the alleged billionaire.

THE SMELL OF SANDALWOOD

The ICIJ, analysing its data, says of Sandalwood Continental Ltd, the company it reckons to be the lynchpin of the entire Putin-linked network: "The loans RCB made to Sandalwood were highly unusual for a bank. They went to a borrower who had no discernible business model that would allow it to pay back the money. The loans carried no security. Most did not require instalment payments but instead relied on a promise that the entire amount would be returned after a certain time span.

"Sandalwood also functioned as a link in a chain of loan-swapping shadow companies. It assigned the rights to interest payments in the millions of dollars to companies – including one of Roldugin's, which paid $1 to receive $8 million a year in interest [which] didn't seem to make economic sense."

THE UKRAINE

On the subject of the Ukraine's president since 2014, the ICIJ writes: "In August 2014...Poroshenko became the sole shareholder of Prime Asset Partners Limited, which Mossack Fonseca set up in the British Virgin Islands. A Cyprus law firm representing the newly acquired company described it as a "holding company of Cyprus and Ukrainian companies of the Roshen Group, one of the largest European manufacturers of confectionery products." The firm wrote that, though Prime Assets Partners was for "a person involved in politics," it had "nothing to do with his political activities." During his 2015 presidential campaign, Poroshenko had pledged to sell most of his assets, all of which were transferred to Prime Assets Capital, according to a news account.

Cameron earned the soubriquet 'Dodgy Dave'

"A spokesman for Poroshenko said that...although Poroshenko didn't include Prime Asset Partners in his financial disclosures, his financial advisors noted that neither Prime Asset Partners nor two related companies in Cyprus and the Netherlands hold assets. Although Poroshenko is the shareholder, his shares are managed by a licensed asset management company, and his assets have been held by an independently managed fund, Prime Asset Capital, since 2005, the advisers said. Those assets will be transferred to a "blind trust" once legal formalities are completed, according to the advisers."

SYRIA

The Panama Papers also brought news of a collaboration between global banking giant HSBC (and especially its Swiss office) and Rami Makhlouf, the Syrian business tycoon and the maternal cousin of Syrian President Bashar al-Assad.

A 'Wikileaked' American State Department cable from 2008 says: "Makhlouf has used government instruments to squeeze out legitimate businessmen, receive lucrative public contracts, establish cash cows and then milk them with impunity from oversight or competition." He became the subject of American sanctions that year. Nonetheless, Mossack Fonseca remained the registered agent of various companies in the British Virgin Islands linked to Makhlouf during the 'Arab Spring' of 2011, even though its own compliance officer warned: "I believe if an individual is found on a sanction list then this is a serious red flag and we should make every effort to disassociate ourselves from them."

Meanwhile, the leaked documents show that HSBC provided Drex Technologies, one of Makhlouf's companies, with financial services. As late as 2010 the banking giant was assuring Mossack Fonseca that the company was "of good standing."

The International Consortium of Investigative Journalists wrote: "Makhlouf's individual HSBC file linked him to at least 18 bank accounts connected to 14 client accounts. Six of them were numbered accounts. At their combined maximum in 2006/2007, these 14 accounts held over $27.5 million. He was beneficial owner of three of them: Polter Investments Inc; Lorie Limited, set up in 1999 and closed in 2004; and Drex Technologies SA, which was registered in Luxembourg and was sanctioned in 2012 by several countries including the United States and Canada and by the European Union."

HSBC also lobbied successfully to keep Makhlouf's aforementioned Swiss bank accounts open right up until the turmoil surrounding the Arab Spring forced Western governments to take a harder line than before. An email from Mossack Fonseca's office in Geneva in February 2011 states that HSBC's compliance departments in Geneva and in London were 'comfortable' with the relationship. This changed, however, in May 2011 when he ended up on an EU blacklist. Swiss regulators froze his family's accounts on 19th May.

ARGENTINA

The issue of hidden company ownership among politicians has not gone away since the summer of 2016. One continuing PEP investigation concerns President Mauricio Macri of Argentina, who was the secret director of Fleg Trading, a company registered in the Bahamas, during his eight-year tenure as mayor of Buenos Aires. He has fallen foul of judicial authorities because he failed to declare his interest, in much the same way as the former Icelandic premier. The crime of maliciously failing to complete one's tax declaration carries a maximum sentence of two years' imprisonment, although for an influential politician the minimum term of 15 days might apply.

PAKISTAN

Meanwhile, Nawaz Sharif, the premier of Pakistan, has had to plead his innocence before the Supreme Court. His lawyer claimed recently that he is not the beneficial owner of any shell companies or offshore-held property, although the PEP declined to mention any offshore holdings that his offspring might have. The court recently gave those individuals a 'last chance' to testify about the subject.

President Mauricio Macri of Argentina failed to declare his interest

Sharif seems to have used his political power to stall any Parliamentary investigation into the Panama Papers, but the Supreme Court (cheered on by Imran Khan, the cricketer-turned-politician) has set up a one-judge investigative commission for the purpose. It is not known when the judge, who also sits on the Supreme Court, is likely to report, but the court has lent him its full powers to investigate. Violence on the streets has accompanied every step of the process.

ARMENIA

Some politicians have had to leave office, while waiting for the outcomes of investigations. Among the fallen are Mihran Poghosyan, 40, an Armenian businessman and civil servant who served as Major-General of Justice and Chief Compulsory Enforcement Officer (in charge of ensuring that all court rulings were enforced) between June 2008 and April this year. The authorities are still investigating him. The Armenian press says that he and his family (including his uncles, Grigor and Mikhail Haroutyunyan) own several 'offshores,' configured in such a way as to make their ownership hard to uncover. He was connected to Bangio Invest SA and wholly owned Sigtem Real Estates Inc and Hopkinten Trading Inc, all three registered by Mossack Fonseca in Panama.

The latter two corporations own an Armenian real estate company, completing the familiar cycle of capital flight and return under a different name. They have (or had) accounts at LGB Bank (Suisse) SA, with Poghosyan being authorised to manage them. The PEP has owned shares in them since 2011, three years into his governmental job, despite his claim to the press that "I, as a government official, do not have any business." Bangio was the sole owner of a now-defunct supermarket chain in Armenia.

Eventually, in late January of this year, Armenia's Special Investigative Service stopped investigating Poghosyan's offshore because the Swiss and Panamanian authorities had refused to help it in its probe.

However, the Swiss Federal Department of Justice told the Organised Crime and Corruption Reporting Project in an email that it did so "because the requirements of the request were not fulfilled," whatever that might mean, adding that "the Armenian authorities can any time specify the request."

MORE REVELATIONS TO EMERGE

Law enforcers will be sinking their teeth into the data from the ICIJ for years to come but, as we have seen, PEP-watchers learnt a few things at the outset: the now-deposed premier of Iceland helped financial interests in bankrupt Icelandic banks even when he was involved in political negotiations over what should be done with those banks; the father of the prime minister of the UK founded a dubious company that went to enormous (and expensive) lengths to disguise beneficial ownership and his son, for a time, refused to say whether he had benefited or would benefit in future, earning him the soubriquet 'Dodgy Dave' in the House of Commons; a network of financial skulduggery surrounds President Putin of Russia in the same way that a network of genocidal plotting once surrounded Hitler without involving him in any actual records, affording Putin the same opportunity to deny being involved in money laundering as Hitler might have had to deny his own involvement in genocide; and Poroshenko was disingenuous in claiming to oppose oligarchs and prevent private interests from encroaching on the state.

THE EXAMPLES OFFERED BY HONG KONG

The Panama Papers show how rich, famous and powerful personalities – many of whom are PEPs – hide their money offshore. By one account, they relate to 60 associates or family members linked to 12 'world leaders' past and present. Hong Kong – where the Panamanian law firm of Mossack Fonseca has its busiest office – offers probably the best range of examples of such people using the offshore world and probably also the best range of reasons they might have for doing so.

> *Offshore accounts are legitimate for estate planning*

The ICIJ does admit that there are many good reasons for wealthy persons to have offshore accounts, especially for estate planning, inheritance and the legitimate circumvention of hard currency restrictions. Many commentators (although not the ICIJ) are also perfectly comfortable with the idea of billionaires trying to hide their assets from their spouses by transferring money to offshore entities in anticipation of divorce. The senior figures in China's Communist Party, however, rarely divorce their wives, even after leaving office, so tax evasion and capital flight appear to be more crucial motivations for them.

GLITZ AND GLAMOUR

The Panama Papers reveal several showbusiness celebrities with offshore holdings. These include Pedro Almodóvar, the Spanish film director who set up Glen Valley Corporation in 1991 in the BVI but scrapped it in 1994 just as his films were becoming more and more lucrative. His stated reason for doing so was that it did not suit the way he did business. Bollywood star Amitabh Bachchan, who has appeared in 180 Indian films in a career spanning four decades, is or was the managing director of four shipping firms that were set up in the BVI and the Bahamas in 1993. Each one's authorised capital was lower than $51,000 but the worth of the ships they dealt in ran into millions. The Reserve Bank of India reportedly banned Indians from floating overseas companies until 2003.

> *Jackie Chan's network includes seven mainland magnates*

Probably the most famous showbusiness figure in the papers, however, is Hong Kong's Jackie Chan, the martial-arts film star who was born there and who seems to have thrown in his lot with the rich and powerful unreservedly. Many Hong Kongers have criticised him for flattering the mainland Chinese Communist Party shamelessly, a controversial stance as the party seems to be trying to subvert the "one country, two systems" agreement by which the British handed Hong Kong over to China in 1997. Some are suggesting, rightly or wrongly, that the business network to which the Panama Papers reveal Chan to belong represents some sort of 'payback' for his support for the party. It includes seven mainland magnates who operate businesses in which Chan is involved.

For example, Chan owns the majority of shares in Dragon Stream Ltd, a BVI company set up in 2008 whose supporting shareholders are such captains of mainland industry as Shen Guojun, the chairman of the Intime Department Store Group; Chen Yihong, the chairman of China Dongxiang Group; Yu Mingfang, who set up and runs Belle International Holdings; and Qi Jianhong, the chairman of Sparkle Roll Holdings, along with a former director from that same group. There are only four other shareholders. Chan owns five other offshore companies, according to the leaks.

AUSTIN CHEUNG, INTERNATIONAL MAN OF MYSTERY

Another illustrious Hong Konger has risen to greater prominence than ever since the shadowy 'John Doe' donated the leaked documents to the press: Austin Cheung, sometimes known as Zhang Xiaodong, the man who runs the Hong Kong office of Mossack Fonseca. He began working for the firm in Panama but moved to Hong Kong in 1997 and became the head of the company's 'Asia HQ' there. He founded the China Academy of Wealth Planning and Management (whose website is no longer anywhere to be seen on the Internet) in 2006 and stages exhibitions of photography, having set up the China Photographic Publishing House.

> *Mossack Fonseca offered free consultancy services to law and accountancy firms*

In 2007 he famously told the *China Economic Weekly* that when Mossack Fonseca first started doing business on the mainland, it offered free consultancy services to law and accountancy firms, government departments and others to educate them about the advantages of doing business offshore. One of those advantages was to circumvent foreign governments' rules against investments from China.

LOCAL POLITICIANS

The Chief Executive of Hong Kong, Leung Chunying, does not feature on the list personally. Members of his cabinet, however, are a different matter. Paul Chan Mo-po, the secretary for development, owns two offshore firms that the press already knew about. Bernard Chan, a member of the Executive Council, is a shareholder and director of two offshore companies and has told the press that that if the public thinks that people in his position should not own shares of offshore companies, he may have to resign from the council. He also says, however, that he has made the necessary disclosures of interest. Additionally, he has told reporters that he is a director of more than 40 overseas companies.

Michael Tien Puk-sun, the deputy chairman of the New People's Party and a member of the Tsuen Wan District Council, has had to eat humble pie for failing to declare his ownership of a BVI-incorporated company called the Glorious Pacific Company which he and his wife set up in 1997. Since this came to light, he has claimed in the press that it is merely a shell company that he formed, implausibly enough, to help himself join a golf club in Shenzhen. It is unlikely that the offshore lawyers who might read this journal joined their golf or tennis clubs in the same way.

Kenneth Lau, the chairman of Heung Yee Kuk, a statutory advisory body representing establishment interests in the New Territories, has been shown in the leaked documents to be a British citizen as he and his father, former chairman Lau Wong-fat, are listed as such in documents that pertain to their directorships of three companies. In a former British colony such as Hong Kong one might expect this to be unlikely to be a controversial revelation but the press has been treating it as such for some reason and Lau has been denying it. *Hong Kong Free Press* reports that the jurisdiction's Basic Law stipulates that the chief executive, members of the executive council, principal officials and lawmakers (and it classifies Lau as a lawmaker) should be Chinese citizens who are Hong Kong permanent residents with no right of abode in any foreign country.

Henry Tang Ying-yen, who served as the Chief Secretary of Hong Kong between 2007 and 2011, held shares in Fair Alliance Investment, which was established in the British Virgin Islands in June 1997 just a few days before he became a member of the territory's first executive council. Press reports claim that he failed to report this when he should have done, although he denies it. Christopher Cheng Wai-chee, the chairman of Wing Tai Properties, was another shareholder.

Other members of the legislature who have been shown to own more than 1% of offshore companies have disclosed their interests in keeping with the rules. These are Andrew Leung Kwanyuen, Ann Chiang Lai-wan, Paul Tse Wai-chun and Yiu Si-wing.

LOCAL BUSINESSMEN

Thomas Kwok, a property developer billionaire who in 2014 was found guilty of conspiracy linked to the bribery of a Hong Kong official and sent to prison for five years, is also revealed in the Panama Papers to have a relationship with a major Australian Government contractor, Wilson Security. He and his brother Raymond (who was also charged but not convicted) were once directors of that company's parent holding company which is registered in the BVI. They were replaced in 2012 as directors

by two shadowy entities called Harmony Core and Winsome Sky which, according to the Australian Broadcasting Corporation, are Kwok companies. The object of the exercise therefore seems to have been the camouflage of ownership. Of the 800 Australians mentioned in the Panama Papers, incidentally, 120 used the same anonymous offshore services provider with Mossack Fonseca's help.

Meanwhile, the papers show that Mossack Fonseca spent 2012 grappling with the question of how much of its business with Thomas Kwok's partner in crime it should divulge to the BVI's Financial Services Commission and/or other authorities. In that year Hong Kong's business community was shaken by the arrest of Thomas Chan, the executive director of Sun Hung Kai Properties, which is 45% Kwok-owned, and his eventual sentencing to six years in prison for his part in the bribery scandal. At the time the law firm vacillated over the question of whether to report possible irregularities involving a shell company that Chan owned. Its Hong Kong office badly needed documents from SHKP to clarify the legal situation but were worried that the property firm would change law firms if it insisted on having them. The documents were eventually forthcoming and the crisis was resolved.

Hong Kong tycoon Li Ka-shing has also been mentioned in the papers. The jurisdiction's richest man, whose Cheung Kong Property posted a US$2.01 billion full-year profit last year, set up six Panamanian subsidiary firms through the organisational efforts of Mossack Fonseca's Hong Kong office and owned others through other law firms.

MAINLAND BUSINESSMEN

Meanwhile, Ng Lap-seng, a businessman from mainland China who, legend has it, in his youth bribed a Chinese policeman to let him into Macao and became a famous tycoon there, is also mentioned. Ng is best remembered for channelling US$1 million through a 'strawman' (who, unlike him, subsequently went to prison) into the Clinton-Gore US presidential campaign in 1996, earning himself ten visits to the White House. On ten occasions in 2013-15 he visited America with suitcases containing hundreds of thousands of dollars and was eventually caught and charged with conspiracy to obstruct the function of (and to make false statements to) United States Customs and Border Protection. He was also charged with conspiracy to bribe a UN official, one John Ashe, an ex-president of the General Assembly who was at that time a permanent representative from Antigua and Barbuda.

> *Is legitimate financial privacy being put at risk because of a political agenda?*

The Federal Bureau of Investigation called it "a multi-year scheme to pay more than $1.3 million in bribes to Ashe in exchange for official actions in his capacity as UNGA President and Antiguan government official in support of Chinese business interests." The Panama Papers show that Ng owned a BVI firm that ran South-South News, which was allowed to set up shop in the UN building even though it lacked the requisite track-record as a journalistic enterprise.

Huang Guangyu and his wife Du Juan, according to the ICIJ, once headed up Mainland China's richest family, earning billions with their company, Gome Group, the largest consumer electronic retailer in China. In November 2008 Huang was charged with stock market manipulation and was sentenced to 14 years in prison. Mossack Fonseca's notes show that Gome Holdings Ltd (estd 2003) is incorporated in the BVI, as are Grand Hope Investment Ltd (estd 2004) and Fame Base Investment Ltd (estd 2006).

> *Ng Lap-seng was charged with conspiring to bribe a UN official*

MAINLAND PEPS

The leak exposes the fact – well-known already – that the people at the top of the Chinese mainland regime and their families are fabulously wealthy in a way that cannot be explained by their salaries in office or indeed by honest toil.

The hoard of e-mails and company records, which goes from the 1970s up until 2010, indicates that some top Chinese families of 'politically exposed persons' (but not, as far as Mossack Fonseca is concerned, the office-holders themselves) have or had shares in almost 35,000 offshore companies, most of them incorporated in the British Virgin Islands but registered primarily in Hong Kong. A smattering of others, especially recently, were registered on the mainland or Macau and occasionally in Taipei.

Among these people, which the ICIJ dubs 'the Red Nobility,' are Deng Jiagui, the brother-in-law of President Xi Jinping; Wen Yunsong, the son of former president Wen Jaibao, Liu Chunhang, the son-in-law of the same; Hu Yishi, first cousin once removed of former president Hu Jintao; Li Xiaolin, the glamorous daughter of former prime minister Li Peng; Wu Jianchang, the son-in-law of the great Deng Xiaoping, the man who modernised China more than any other; Che Feng, whose father-in-law used to be the governor of the central bank; Wang Zhi, whose father used to be vice president; Wang Jun, whose father used to be vice president; Fu Liang, a son of a party hierarch; Yeh Shuen-ji, the nephew of another; Wang Jingjing, whose grandfather used to be vice president; and Su Zhijun, whose grandfather used to be a famous military man.

GETTING THE MESSAGE ACROSS

This has come at an embarrassing time for President Xi, who has spent the last three or so years spearheading a massive crusade against corruption. Wen Jaibao, his predecessor as president, was thought to have been weak in the face of vested interests in the Communist Party; now Xi's campaign to end the bad old days of corruption appears rather hypocritical.

The result has been a fresh campaign, this time to stop as many people in China as possible from knowing about the Panama Papers. This is strictly illegal in Hong Kong under the agreement of 1997, but the rule of law there is in decline. Booksellers have begun to disappear from Hong Kong, only to reappear months later in custody on the mainland. As many an IFC's reputation rests on its respect for the Rule of Law, the jurisdiction's 'glory days' as an offshore centre could be coming to an end.

The phenomenon of iron-fisted rulers trying to stop their citizens from reading about their offshore exploits seems to be spreading. Malaysia has been doing its best to stop offshore lawyers in Labuan and other parts of its territory from reading about the 1MDB scandal, albeit in a slightly less aggressive way than the Chinese Government's heavy-handed attempts to block access to websites that discuss the Panama Papers. The Government in Kuala Lumpur is making sure that nobody in Malaysia can see the *Sarawak Report*, founded by Sarawak-born investigative journalist Clare Rewcastle-Brown in 2010, which describes itself as a "champion against censorship." Just after it reported on 1Malaysia Development Berhad, the scandal-struck fund, in May 2015, the Malaysian Government asked Interpol to place Ms Rewcastle-Brown on its 'red list,' which is full of the names of people suspected of terrorism.

THE CONSORTIUM MOVES ON

The ICIJ has gone from strength to strength since it released the Panama Papers, issuing its 'Bahamas data leak' in September. In that month it announced that a cache of leaked documents contained the names of politicians and others linked to more than 175,000 Bahamian companies registered between 1990 and 2016.

One of the people whose names appeared in the data haul is Amber Rudd, the UK's home secretary; media reports say that she was under pressure to explain her position, but she does not seem to have done so. Another prominent name was that of Neelie Kroes, the European Union's commissioner for competition between 2004 and 2010; ironically, her job involved warning corporations about tax payment conduct.

The report does not accuse Kroes, or indeed other individuals in the Bahamas story, of criminality, and in its other 'leaks' (the method of obtaining the data is not made clear), has not accused anyone who holds offshore accounts of breaking the law. The behaviour of the ICIJ has caused controversy in the past, raising concerns about whether legitimate financial privacy is being put at risk because of a politically driven agenda.

The cache of 1.3 million files from the island nation's corporate registry provides names of directors and some owners of more than 175,000 Bahamian companies, trusts and foundations registered between 1990 and early 2016. The ICIJ, the *Süddeutsche Zeitung* and other 'media partners' made this information available to the public.

Miles Dean, the managing director of Milestone International Tax, discounted calls by Richard Murphy, a campaigner against offshore tax jurisdictions, for Rudd to resign.

"These claims are highly hypocritical and show that Murphy simply doesn't understand the concept of the rule of law. After all, one of Murphy's few commercial exploits was to 'advise' how the board game Trivial Pursuit should be structured into the European market. Low and behold, that very structure used a Bahamas and an Irish Company (the former being Sans Serif Ltd). You couldn't make it up. This was several years prior to Amber Rudd becoming an MP and has no impact on her ability to act as home secretary, her career prior to politics was in finance (JP Morgan) and venture capital.

Offshore entities are used very frequently in finance, as tax-neutral pooling vehicles for onshore and offshore investors, collective investment schemes and so on. There is nothing untoward about such arrangements and to suggest there is, is dirty, lazy jealous politicking," Dean said.

> *The banks of the Bahamas hold 26 times the nation's GDP*

Isobel Clift, a manager at Blick Rothenberg who specialises in tax investigations, said: "With around £172 billion (£222.9 billion) held in Bahamian banks (26 times the nation's GDP) it is expected that HMRC [the UK's tax authority] will apply resources to examine this information as soon as possible to continue with its ongoing efforts to tackle tax evasion."

According to the ICIJ, the new data does not make it clear whether directors named in connection with a particular Bahamian firm are in fact in control of the company or simply acting as nominees who front the company but are not involved with the day-to-day operations, Blick Rothenberg said.

INVESTIGATIONS

In the wake of – and, up to a point, because of – the Panama Papers scandal, HM Government in the UK has announced plans to hold corporations criminally liable for failing to prevent the facilitation of tax evasion, either in the UK or overseas. It has decided to model the new offence on *s7 Bribery Act 2010*, which was once thought to be ground-breaking but has had little effect in the last six years.

HMRC is likely to require some considerable extra manpower to deal with the flurry of cases that are likely to spring from information flowing from the OECD's Common Reporting System in 2018, but help is at hand. The consultation paper (about the new corporate offence) goes on: "The UK has established a new multi-agency taskforce to tackle offshore evasion that will have access to the most sophisticated technology, experts and resources in tackling money laundering and tax evasion specifically relating to the Panama Papers."

By November last year, 22 people were facing tax evasion investigations in the UK in connection with the Panama Papers and the Chancellor had told MPs that the authorities were looking into another 43 HNWs. HM Revenue & Customs was also claiming that its Panama Papers Task Force, set up earlier in the year, was "leading the world on the acquisition and analysis of data."

Australia's authorities have been conducting investigations on the back of the Panama Papers also. After months of preparation, the Australian authorities decided in September last year to contact more than 100 HNW taxpayers over the Panama Papers. Kelly O'Dwyer, the Minister for Revenue and Financial Services, also announced that the Serious Financial Crime Taskforce had executed three search warrants.

O'Dwyer made her announcement at a press conference that she staged alongside justice minister Michael Keenan. She added that, in its 'week of action,' the SFCT made 15 unannounced visits in Victoria and Queensland. It intended to inform 100 taxpayers that they were the subject of 'compliance action' and was not ruling out further criminal investigations.

Keenan made reference to the Australian Transaction Reports and Analysis Centre, which is one of the most efficient financial intelligence units in the world: "As part of the SFCT response to the Panama Papers, AUSTRAC has been engaging with domestic and international banks to build a picture of offshore service providers as they relate to Australian individuals and entities. AUSTRAC has also been working to educate the banking sector. AUSTRAC has been working to build resilience against typologies used for tax evasion, money laundering and other illegal activities exposed through the Panama Papers.

"Its work has been critical in identifying professional facilitators, including accountants and lawyers, who have facilitated the creation of offshore structures and vehicles to conceal and move illicit wealth. From the more than 1,000 Australians identified in the Panama papers, AUSTRAC has determined that the amount of funds flow linked to these entities is over $2.5 billion."

THE TRANSPARENCY INTERNATIONAL DÉBÂCLE

In November, when the Government of the British Virgin Islands fined Mossack Fonseca, Transparency International, the charitable organisation that sponsors anti-corruption initiatives, chided it for not imposing a greater penalty than it did. Its website stated: "It is at least welcome that the BVI has finally recognised inadequacies in the anti-money laundering controls at Mossack Fonseca, but given that it took a leak for its regulator to work out what was happening in its own backyard, the BVI's own abilities as a regulator are inevitably called into question.

"Had the BVI established a public register of beneficial ownership as the international community has requested, it is possible that the problem could have been detected far sooner. Any financial penalty against Mossack Fonseca should be proportionate to the harm caused by the illicit financial flows revealed by the Panama Papers. When you remember that illicit financial flows comprise at least 2% of global GDP...the scale of these fines imposed on Mossack Fonseca is embarrassingly inadequate. It is a token gesture from a discredited and secretive regulatory regime that is neither a proportionate punishment for the damage caused nor a deterrent for future non-compliance."

TI itself, however, was not untouched by the scandal. When the cache of leaked information was first published in April last year it forced the resignation of the president of TI's Chilean chapter because it showed that he was linked to at least five offshore firms. He does not stand accused of illegal activity. At the time TI attempted to draw a line under the mini-scandal by saying: "With Delaveau's resignation our board decided to halt its efforts to sanction the chapter. The actions of one person should not be held against the whole chapter. While Delaveau is not reportedly accused of illegal activity, and he may be able to explain his activities, for us that is not the point. Not all secret companies are illegal, but many are used to hide money flows and to support acts of corruption. Transparency International wants public registers of all companies' beneficial owners to make it harder for the corrupt to hide their illicit wealth in secret companies and trusts that use nominees to register ownership. We are now looking into measures to ensure this does not happen again. While Transparency International chapters are independent locally governed entities, we are currently reviewing our accreditation process for an even greater level of due diligence to ensure that the chairs and board members of our chapters abide by the values essential to the pursuit of our mission."

Delaveau, a lawyer, reportedly acts as a representative for Turnbrook Corporation, DK Corporation, Heatlhey International Inc, Turnbrook Mining Ltd and Vizcachitas Ltd, all of which are domiciled in the Bahamas, according to Reuters. He also serves as a director for Turnbrook Mining, which owns 51.6% of Los Andes Copper, a Canadian exploration and development company that is concentrating at present on a mine project north of Chile's capital, Santiago. Deleveau has reportedly said that he was only a director at Turnbrook Mining and that his relations with the other companies were consistent with his role as a lawyer and legal clerk, according to Reuters and other agencies.

Chile's tax authority announced the beginning of an "intense follow-up" of the Chileans mentioned in the Panama Papers, who range from ex-football stars to newspaper magnates.

MOSSACK AND FONSECA

In early February the founders of Mossack Fonseca themselves were caught up in scandal personally, after months of denying any criminality on the part of their firm. At the same time, the Panamanian Superintendency of Banks took over the day-to-day administration of FPB bank because of its alleged involvement in Latin America's largest ever corruption investigation, Lava Jato or 'Operation Car Wash' with the help of the law firm.

A TALE OF TWO WEBSITES

The relevant press release, written by Panamanian attorney-general Mrs Kenia Porcell, states in rough translation: "Two years ago I took on a commitment to lead a public ministry, where we began our historic fight against corruption. We have initiated more than 40 investigations, many of which are awaiting decisions from the judiciary.

"The deputy organised crime prosecutor is conducting a money-laundering investigation, initiated ex officio. The alleged relationship of a Panamanian law firm with the commission of crimes in Brazil in the Lava Jato case is highlighted.

The firm, allegedly, is dedicated to hiding suspicious assets and money

"The information that we have collected identifies the Panamanian firm, allegedly, as a criminal organisation that is dedicated to hiding suspicious assets (money) and creating corporate and financial structures directly associated with the law firm.

"The...Panamanian law firm [was] reportedly directed to instruct the person in charge in Brazil to conceal documents [and] remove evidence regarding people who had been involved in...illegal activity related to the Lava Jato case. In simple words, the money from the bribery circulates through different structures and returns to Panama."

Mrs Porcell acknowledged the help that she had received from the attorney-general of Brazil, Rodrigo Janot; their counterpart in Peru, Pablo Sánchez; Galo Chiriboga of Ecuador; Néstor Martínez of Colombia; and the prosecutors-general of Switzerland and the United States.

The seized bank's website proclaims: "The diversity of products and services that we offer to each customer is the result of our experience, knowledge and tradition in the financial market. Our commitment is to continue to grow with our customers and to enter new markets with proven and competitive financial solutions for a distinguished clientèle."

The regulator's website, for its part, mentions the matter very obliquely and briefly. It merely states, in translation: "Take administrative Control and operation 1. FPB Bank, INC view full resolution." A click on the tab reveals another terse message: "Seizure of Administrative and Operating Control Total: 0."

OPERATION CAR WASH

Lava Jato is a Brazilian bribery probe involving prosecutors in many countries outside Brazil, including the United States. It involves Petrobras or Petróleo Brasileiro SA, Brazil's state-run oil company, and Odebrecht, a Brazilian-listed engineering company (the largest one in Latin America) which is accused of bribing public officials to secure contracts.

The *International Business Times* has reported that 57 politicians and companies embroiled in the Petrobras scandal have also been named in the Panama Papers leak. Indeed, the whole saga is so politically charged that Teori Zavascki, the investigative judge without whom there would have been no Operation Car Wash, has recently died in a mysterious aeroplane crash in the usual manner.

Michel Temer, Brazil's president who is facing allegations that he solicited $2.9 million in illegal campaign donations in 2014 and who has been implicated in the Lava Jato case by the plea-bargaining testimony of oilman Sergio Machado, is in charge of choosing the judge's replacement.

Lava Jato is so called because it began as a money-laundering investigation. It ballooned into an international corruption case when various Brazilian suspects struck plea bargains with Mrs Porcell's office – a commonplace occurrence in the United States but still a relative rarity in Brazil.

ENTER ODEBRECHT

The investigation is now targeting another giant company, Odebrecht, whose jailed founder, Marcelo Odebrecht, signed a plea deal in December. This month Brazil's Supreme Court validated 77 plea deals concerning Odebrecht employees.

In December Odebrecht and Braskem, a Brazilian petrochemical company, pled guilty in the US to offences under the *Foreign Corrupt Practices Act 1977* and agreed to pay at least $3½ billion in global penalties to resolve charges with authorities in the United States, Brazil and Switzerland arising out of their schemes to pay hundreds of millions of dollars in bribes to government officials around the world. Odebrecht and Braskem used a hidden but fully functioning Odebrecht business unit — a 'department of bribery' — that systematically paid hundreds of millions of dollars to corrupt government officials in countries on three continents.

Odebrecht and Braskem each pled guilty to a one-count criminal information filed by the Securities and Exchange Commission's Criminal Division's Fraud Section and the US Attorney's Office in the US District Court for the Eastern District of New York, admitting to conspiracy to break the FCPA. The case was heard in the US because they used the US banking system and because Braskem, Odebrecht's affiliate, is listed on the New York Stock Exchange.

According to its admissions, Odebrecht engaged in a massive and unparalleled bribery and bid-rigging scheme for more than a decade, beginning as early as 2001. During that time, it paid approximately $788 million in bribes to government officials, their representatives and political parties in a number of countries in order to secure contracts in those countries. The criminal conduct was directed by the highest levels of the company, with the bribes paid through a complex network of shell companies, off-book transactions and offshore bank accounts.

REACTIONS FROM THE LAWYERS IN CUSTODY

Jurgen Mossack and Ramon Fonseca, in the meantime, were refused bail. Their offices in Panama were raided. Fonseca had already denied that his firm was involved with Odebrecht in any way and had also told reporters, rather sensationally, that his former friend President Varela told him that he had received bribe money from that firm, adding dramatically: "may lightning strike me if I lie!" He also denied any involvement in the Lava Jato case in general, adding: "they're using me to divert attention."

By March of this year, Maria Mercedes Riano, a female lawyer who used to work at the law firm, was accusing her old work colleagues of shielding bribes paid to Brazilian politicians in exchange for contracts from Petrobras through the good offices of Evolusof, a 'section' of the law firm that followed directions from the two founders who were in "total control, negotiating prices with customers." Riano is one of four Mossack Fonseca people under arrest and has "turned whistleblower."

She has also given details about the law firm's alleged attempts to move funds through shell companies in jurisdictions such as Holland, New Zealand and Chile – countries that the founders picked because they were not on any OECD blacklist. The fourth detainee is Edison Teano, a lawyer in the Panama office.

CONSEQUENCES FOR THE LAW FIRM

Mossack Fonseca has been closing offices down all over the world in the wake of the scandal. It has also been fined by regulators. As previously mentioned, in November the Financial Services Commission of the British Virgin Islands levied an administrative penalty of $440,000 on it for its deficiencies in anti-money laundering control, specifically for its contravention of *sections 11, 12, 19(2), 19(4), 19(5), 20, 21(1), 21(2), 31,* and *43(2)* of the Anti-Money Laundering and Terrorist Financing Code of Practice of 2008 and *sections 43(2)(c), 43(3)(a), 43(3) (c)* and *45(1)(a)* of the Regulatory Code of 2009.

Its action under *section 11* of the code of 2008 was for failure to establish and maintain a written and effective system of internal controls for forestalling and preventing money laundering and terrorist financing. Its action under *section 12* was for failing to carry out risk assessments in relation to each customer and/or one-off transactions. Its action under *section 19(2), 19(4)* and *19(5)* is for failing to undertake 'know your customer' or 'customer due diligence' exercises. Its action under *section 20* was for failing to engage in enhanced customer due diligence or EDD.

Meanwhile, the regulator's action under *section 21(1)* and *21(2)* of the code was for the firm's failure to review and update CDD in the manner required. Its action under *section 31* was for failing to ensure that identification and verification is carried out with respect to written introductions by third parties. Its action under *section 43(2)* was for failing to maintain due diligence and identity records. The regulator's actions under *sections 43(2)(c), 43(3)(a), 43(3)(c)* and *45(1)(a)* of code of 2009 were "for failing to carry out obligations, duties and responsibilities of the compliance officer."

THE EFFECT ON INVESTORS

The ripples caused by the Panama Papers have continued to mount throughout the year since the first revelations in April. A recent report has found that the leakage of the offshore files has wiped out $230 billion in market capitalisation around the world, spread among the shareholders of 1,100 companies – a larger figure than all fines and losses in the major data leaks and scandals involving Home Depot, Target, Vokswagen and Enron combined.

James O'Donovan of INSEAD (an international business school with campuses in Singapore and Abu Dhabi), Hannes Wagner of Bocconi University and Stefan Zeume of the University of Michigan used the data leak of the Panama Papers which occurred on 3 April to study whether and how the use of offshore vehicles was affecting the value of firms around the world.

The data-dump, as we have seen, concerned the operations of more than 214,000 shell companies incorporated in tax havens by Mossack Fonseca. Using event study techniques, the academics found that the data leak erased US$135 billion in market capitalisation among 397 public firms with direct exposure to the revelations of the Panama Papers, accounting for 0.7% of their market value. 'Tax-aggressive' firms and firms with exposure to perceptively corrupt (i.e. criticised by Transparency International and the like) countries, they concluded, suffered the worst.

This, they also argued, was consistent with the idea of the leak reducing firms' ability to avoid taxes and finance corruption, or increasing regulatory fines for past tax evasion and violations of anti-corruption regulations.

The academics found that the financing of corruption as well as tax evasion appeared to be a popular use of secret offshore vehicles, according to the Mossack Fonseca files. Two examples illustrate this: that of Siemens, a German conglomerate which used offshore vehicles (some of them operated by Mossack Fonesca) to run slush accounts that it used to bribe government officials in South and Latin America; and of Saipem, an Italian energy firm, which used shell companies incorporated by Mossack Fonseca to tunnel $275 million in bribes to various people in order to snare more than $10 billions' worth of contracts to build oil and gas pipelines in North Africa.

Even though the leaked internal information from Mossack Fonseca is (one would think) perfectly suited for the identification of the true owners and uses of secret offshore vehicles, it does not always help in the identification of ultimate beneficial owners. For example, offshore vehicles can use nominee directors, i.e. individuals who stand in for the true owners but exercise no real power over the firm because they have separately agreed beforehand to obey the instructions of another party, and nominee shareholders, i.e. individuals or companies that stand in for the true shareholders but have no real power because they have separately agreed beforehand to transfer ownership to another party. A package of nominee directors and nominee shareholders, combined with a third party such as a private bank, handling all interactions with Mossack Fonseca, may hide the identity of the beneficial owner even from Mossack Fonseca itself, and therefore never appear in its internal data.

THE ANALYTICAL PROCESS

The three authors based their analysis on a unique database of publicly traded firms that are connected to the Panama Papers. Starting with 23,540 publicly traded firms from 73 countries, with a total of 530,393 subsidiaries throughout 211 sovereign and non-sovereign territories, they matched subsidiaries, directors and the directors of subsidiaries of public firms to the leaked data. The subsidiary and director data of all publicly listed firms comes from Bureau van Dijk's Orbis database as of 2015. Accounting and market data comes from Datastream/Worldscope and Orbis.

> *The leak hurt tax-aggressive firms to a significant degree*

Their matching process managed to trace 397 public firms to offshore vehicles incorporated by Mossack Fonseca. Firms that use these vehicles tend to be large firms headquartered across the globe and operating in many industries. These firms tend to be more tax aggressive and more exposed to perceptively corrupt countries, particularly to countries where high-ranked government officials were implicated by name in the leaked data. They analysed the market returns of these firms and discovered that firms connected to the Panama Papers experienced negative returns around event dates associated with the data leak. They claim that their results are 'robust to' alternative event windows, alternative risk adjustments, and to matched sample analysis.

Most but not all offshore activities that came to light through the revelations of the Panama Papers were unobservable before they were leaked. The researchers found that firms were more adversely affected when their offshore activities that the leak had revealed were likely to have been entirely secret prior to the leak; firms whose offshore activities were likely to be observable did not suffer. The effects that the researchers revealed, moreover, were not the same as a general negative market reaction to the data leak among firms that had subsidiaries in tax havens. Taken together, their results indicated that the negative market response for firms with exposure to the Panama Papers stemmed, at least in part, from firms' use of secret offshore vehicles.

THE CAUSES OF THE NEGATIVE MARKET RESPONSE

To gauge this, the researchers considered tax. For their tests they focused on 'tax-aggressive' firms, knowing that the point of 'tax aggressiveness' is to save money and therefore bolster the value of the firm in question. They measured tax aggressiveness by the difference between statutory and effective tax rates and found that the leak did indeed affect tax-aggressive firms more negatively, and to a significant degree. These results complement a large and growing literature in accounting and finance that has focused on the use of tax havens to avoid taxes.

Due to the sweeping nature of the sample, the academics had to measure tax aggressiveness in a general way that was likely to capture both tax avoidance and tax evasion. Tax authorities in many jurisdictions certainly think that tax evasion is involved, however, as they have tried to obtain the raw leaked data and have opened tax evasion investigations.

On the subject of facilitating corruption, the average firm with exposure to the leaked data and with a subsidiary in one of ten countries whose leaders were implicated by name was 0.9% more negatively affected than other firms with exposure to the leaked data. This effect is similar in magnitude among firms exposed to the most perceptively corrupt countries.

Taken together, this evidence is consistent with the data leak reducing firms' ability to win contracts in perceptively corrupt countries or firms becoming subject to regulatory fines for past breaches of anti-bribery regulations. The results show that secret offshore vehicles are one previously undocumented channel through which companies pay bribes, although this finding is hardly surprising.

> *The average firm lost $340 million in value*

Thirdly, the researchers considered whether the data leak wounded firms' reputations. The answer appeared to be no, judging from the chaotic English of their report: "Measuring firm reputation using a range of corporate social responsibility ratings, we find that reputation does by-and-large not explain the magnitude of the market reaction. Thus, while firm reputation is plausibly negatively affected by revealing the use of secret offshore vehicles, the evidence is not consistent with this being a first order consideration by investors."

DAMAGE TO 'SHAREHOLDER VALUE'

The reviewers started from the premise that the damage that the Panama Papers inflicted on 'shareholder value' could be two-fold: they might have driven expected future cash flows from tax evasion and the financing of corruption down, or they might have led investors to expect regulatory fines. Although they were unable to distinguish these two things from each other empirically, they observed that the average firm lost $340 million in value ($135 billion spread among 397 firms) which, because of its magnitude, seems unlikely to be explainable purely by fines.

THREE INTERPRETATIONS OF THE DATA

They also considered three different ways of looking at the negative market response that affected firms with exposure to the Panama Papers after the ICIJ leaked the data. Firstly, they wondered whether offshore structures might have been used not in the interest of shareholders, but to tunnel resources out of the firms. A small number of cases where Mossack Fonesca vehicles were used for tunnelling have appeared in news stories, but these must be cases in which the leak exposed wrongdoing and brought it to an end – surely a good outcome for shareholders rather than a bad one.

The results, in any case, suggest that the economic importance of tunnelling has not been great.

Second, the firms they thought were connected to offshore vehicles run by Mossack Fonseca might have been fundamentally different from other firms and might have suffered negative returns around relevant 'event dates' for reasons unrelated to the data leak.

Consistent with this argument, firms exposed to the Panama Papers are indeed larger and more likely to have subsidiaries in more corrupt countries (as gauged in the TI country index and elsewhere). The academics also said, however, that all of their results were "robust when matching firms on observable firm characteristics."

A final interpretation is that, after the ICIJ leaked the data, exposure to tax havens as a risk factor became more salient for outside investors. Thus, the leak might have harmed firms with an exposure to tax havens because the investors began to shy away from 'offshore risk' to a greater degree than before. The researchers did not find this convincing (the extraordinary way in which they put this was "this interpretation does not seem to drive our results") because firms that were not implicated by the Panama Papers but that had subsidiaries in Mossack Fonseca's main tax havens did not suffer as much as firms implicated by the leak.

A CONSERVATIVE ESTIMATE

The academics' evaluation of the economic magnitude of the effect of secret offshore activities on firm value is probably a conservative one. The market reaction had a net effect on firms and therefore includes those instances in which the leak inspired firms to govern themselves in a better way and keep their shareholders better informed about developments. Good corporate governance almost always increases 'shareholder value,' although the report does not make this explicit point.

In many cases, it is tempting to say, firms might have recovered from the effects of the leak merely by switching to other offshore service providers or constructing ever-more elaborate legal structures.

The study rests on a fast-growing body of literature

The study keeps mentioning 'firm value,' otherwise known as 'enterprise value,' which is not exactly the same thing as market capitalisation. It is, rather, a sum of claims that all claimants can make on a firm. These include both secured and unsecured creditors and shareholders (preferred and common). This is one of the fundamental measurements used in business valuation, financial modelling, accountancy, portfolio analysis and, as in this case, risk analysis.

Methodologically, the study rests on a fast-growing body of literature that looks at the periodic shocks that affect the privacy to be had from legal structures in tax havens, the better to understand the use of tax haven subsidiaries and the effect of this on 'firm value.'

EXPLORING THE FILES IN DETAIL: THE NAMES

Of the 214,000 companies that appear in Mossack Fonseca's files, 90% were incorporated in just four tax havens – the British Virgin Islands (114,000 firms), Panama (48,000), the Bahamas (16,000), and the Seychelles (15,000). The remaining firms were incorporated in Niue (9,600), Samoa (5,300), British Anguilla (3,200), Nevada (1,300), Hong Kong (450), the UK (150), and a few other countries.

The researchers used fuzzy string matching algorithms to match names

Donovan, Wagner and Zeume made use of several files made publicly available by the ICIJ on 9th May, especially an "entities" file that contains information on companies, trusts or funds created in low-tax offshore jurisdictions by Mossack Fonseca, an 'officers' file that contains information on individuals who do jobs in the aforementioned entities, and an 'intermediaries' file that contains information on middlemen (usually law or accounting firms) who arrange the creation of offshore entities for their clients. They focused on these three dimensions of the data leak – entity existence, operation, and management – and connected them to publicly listed firms in three ways: to a firm through its subsidiaries, to a firm through its directors, and to a firm through directors of its subsidiaries.

They then used fuzzy string matching algorithms to match the names of directors and subsidiaries in Orbis to the names in the three Mossack Fonseca files. They insisted that names in Orbis and in the leaked data had to be associated with the same headquarter-/home country, while allowing for minor variations in the spelling of names between data sources. Examples of fuzzy string matches with variations in spelling include China-based firms 'Sun Hung Kai Properties limited' (Orbis) compared with 'Sun Hungkai Properties limited' (Mossack Fonseca), and Cyprus-based officer 'Christina Drousiotou' (Orbis) compared with 'Christina Droussiotou' (Mossack Fonseca).

They proceeded in two steps, dealing with Orbis subsidiary names and Orbis officer names separately. First, they matched the Orbis subsidiaries of publicly listed firms to the Mossack Fonseca files using the subsidiary name and headquarter-country code from the subsidiaries file. Second, they matched directors of publicly listed firms from Orbis to the Mossack Fonseca files using the director's name and country as identifying information. They repeated the matching of directors' names for directors of subsidiaries of publicly listed firms.

Next, they aggregated the matches between Orbis and the leaked data at the firm level in order to obtain their key variable of interest. The dummy variable Has Panama Papers Exposure is equal to 1 if any entity, intermediary, or person listed in the leaked Mossack Fonseca documents is connected to a subsidiary of a firm, a director of a firm, or a director of a firm's subsidiary, and 0 otherwise. In additional tests, they disaggregated this variable into Exposure of Observable Activities and Exposure of Secret Activities, for which they distinguished between being connected to an entity listed in the leaked Mossack Fonseca documents and being connected to an intermediary or person in the leaked data.

In order to avoid drawing false connections between firms and the leaked documents, they verified matches manually. Their matching was conservative, and it is likely that they did not capture some firms because of different spelling and naming conventions.

MEASURES OF FIRM VALUE

Donovan, Wagner and Zeume measured the effect of the data leak on firm value using daily returns for event windows (perhaps a day or two either way) around three event days (3rd April, when the Panama Papers story 'broke' in the press; 26th April, when the ICIJ announced that a searchable database of leaked data available would be made available to the public; and 9 May when this actually happened). As 3rd April was a Sunday, i.e. a non-trading day, they moved the event date to the next day. They obtained daily stock prices from Datastream and applied standard data filters such as dropping penny stocks (prices below US$0.10), stocks not actively traded (stocks with no price changes between March 31, 2016 and April 6, 2016), and firms with assets below US$5 million.

OTHER CHARACTERISTICS OF FIRMS

The researchers constructed several variables to capture firms' tax aggressiveness and their exposure to corruption. All variables were measured in 2015 in order to ensure that they were not affected by the Panama Papers data leak.

Almost one in four firms exposed to the data leak were in Hong Kong

Tax aggressiveness is the statutory tax rate at the country level less a firm's effective tax rate where the effective tax rate is defined as tax expense over earnings before interest and taxes (EBIT). A variation of this measure sets tax aggressiveness to zero when the value would otherwise be negative, perhaps because a firm received a tax credit or paid more taxes than justified by the statutory tax rate. A dummy variable (also known as a Boolean indicator) is a variable (i.e., not necessarily fixed) quantity that takes the value 0 or 1 to indicate the absence or presence of some categorical effect that may be expected to shift the outcome. The variable called Has Political First Layer Exposure is a dummy variable equal to one if a firm has at least one subsidiary in any of the countries where country leaders were implicated by name in the Panama Papers. The researchers used subsidiary data from Orbis (2015) and news stories from early April 2016 to identify these countries, with Qatar and the United Arab Emirates holding the only offshore centres. Initial news stories focused primarily on the use of offshore vehicles by government leaders in these and eight other countries. By the end of April, the list of potentially implicated individuals had grown to include politicians and other individuals from at least 40 countries which included Cyprus, Hong Kong, Israel, Malta, New Zealand, Singapore, Switzerland, the UK and the US.

In order to capture the idea that politicians from many more countries may have been implicated and that politicians from countries perceived to be more corrupt are more likely to be implicated, the research team constructed Corruption Exposure, a dummy variable that is equal to one if a firm is exposed to the most corrupt third of countries according to Transparency International's Corruption Perception Index.

When attempting a breakdown by country of firms exposed to the Panama Papers data leak, with countries sorted in declining order by fraction of firms connected to the data leak, the researchers found that Hong Kong (almost one in four firms) and the UK (one in nine firms) were in the lead, with the US ranking around the middle, with roughly 2% of firms using offshore vehicles through Mossack Fonseca.

The experts examined the characteristics of firms with and without a link to the Panama Papers data leak. Firms connected to the data leak had more subsidiaries, and more of these were foreign subsidiaries, both in absolute and relative terms. Consistently with this, firms connected to the leak were also substantially larger; total assets averaged $91.6 billion, compared with $5.4 billion for firms without a connection. They accounted for size throughout their analytical exercise and also used matched samples as a robustness test. Firms connected to the leak, they found, were also more likely to have tax haven subsidiaries, were exposed to more corrupt countries on average and were more likely to have subsidiaries in countries whose politicians were implicated by the data leak.

The data dump casts an undeserved shadow on honest offshore operators

THE CREATION AND DESTRUCTION OF VALUE

Taken together, the research shows that secret offshore activities do 'create value' for firms by facilitating tax evasion and bribery but they also show that the revelations contained in the Panama Papers destroyed some of that 'value' because they rendered firms less able to avoid taxes and finance corruption, or because they increased regulatory fines for past tax evasion and breaches of anti-corruption regulations.

Quite apart from the novel large-scale evidence that research provides on the use of secret offshore vehicles, it also shows how important offshore intermediaries such as Mossack Fonseca can be in the facilitation of illegal activities, ultimately casting an undeserved shadow on the vast majority of honest offshore operators.

CHANGES IN THE EB-5 WORLD: WHAT YOU NEED TO KNOW AND WHAT YOU NEED TO DO

** by H Ronald Klasko, the managing partner of Klasko Immigration Law Partners LLP*

Offshore lawyers all over the world (and indeed the internal pseudo-offshore centres of the United States such as Delaware) are preparing to help their clients avail themselves of the US EB-5 regime. In this article a US lawyer explains the tribulations they are likely to face in the next year.

> *The Trump Administration will try to pass legislation to deal with legal immigration*

The EB-5 visa for immigrant investors is a United States visa created by the *Immigration Act 1990*. It provides a method by which a foreigner who invests money in the United States can obtain a green card, i.e. a United States Permanent Resident Card. All EB-5 'regional centres' (which make EB-5 investments in geographical areas) are approved and 'designated' by the United States Citizenship and Immigration Services (USCIS).

I expect that we will look back on 2017 as a – and perhaps 'the' – crucial transition year in the EB-5 programme. Actions taken in 2017 will probably affect the programme in significant ways for many years to come. Whether those changes will be positive or negative will have a lot to do with us and whether we take proactive steps to effectuate positive changes in the programme in the next few months.

The main developments to watch for (and on which to take action) in rough order of importance to the future of EB-5 are as follows.

1. *Legislation.* I expect that 2017 will finally be the year when we obtain a long-term (5 or 6 year) extension of the regional centre EB-5 programme. There is a good chance – but far from a certainty – that EB-5 reform legislation will be passed on or before 28 April. The key is whether serious discussions regarding a draft bill will commence well in advance of the April expiration. If US congressional leaders follow the recent pattern of not making a Bill available to fellow senators and congressmen, and the EB-5 industry, until a short time before the expiration date, the chance of passage of a new Bill will diminish significantly. We have a good idea of the parameters of new EB-5 legislation from all of the previous drafts floated in 2015 and in 2016. Therefore, you can act now to make your views known to your congressman and senators, or to work with your lawyer or one of the EB-5 advocacy organisations. If you sit back, you will have no one to blame but yourself for legislation that will govern the EB-5 programme for the next 5 or 6 years and probably beyond.

2. *The EB-5 quota.* It is a long shot to expect the problem of the EB-5 quota backlog for China to be addressed in the EB-5 legislation. The unacceptable waiting list in China could be the largest stumbling block to the future of the programme. We are working on some solutions to the programme's problems (not just an increase in numbers, which is probably a political non-starter), including the recapture of unused employment-based immigrant numbers; the taking of numbers from the immigrant visa lottery programme; the creation of a separate "national interest" visa category outside EB-5 for investors in "national interest" projects, including infrastructure projects; and a policy of paroling investors with approved I-526 petitions into the US to enable them to live, work and go to school in the US once their I-526 petitions have been approved and their money is already being used to create jobs.

> *Key presidential advisors are advocating a reduction in legal immigration*

The last option can be accomplished by legislation, but it can also be accomplished without legislation.

3. *The New Administration.* In my "Open Letter to Donald Trump", I explained why the EB-5 programme is uniquely consistent with the goals of the Trump Administration. Interested parties should make every effort extol the beneficial effects of the EB-5 programme to people who have the President's ear, arguing that it can be good for job creation and inbound investment.

Although the key provisions of the EB-5 Bill will be determined by leaders in Congress (most especially Senators Grassley, Schumer, Cornyn and Flake), there are actions that the President can take unilaterally if he is convinced of the importance of the EB-5 programme to the furtherance of his goals. One example is the President's authority under existing law to parole into the US any individual or group of foreigners that he deems to be of national interest or public benefit.

If legislation does not address the quota backlog problem, and if the President is convinced that the quota backlog could very significantly diminish the job-creating benefits of the EB-5 programme, he could take action to parole investors with approved EB-5 petitions whose money is already being used to create jobs in the US. This would allow them to remain in the US (or travel in and out of the US) during the quota waiting period.

> *Now is the time for a campaign to make these facts known*

We do expect that in its first two years, the Trump Administration will try to pass legislation to deal with legal immigration, including EB-5 and all other employment-based immigrant categories. This legislation will probably, if passed, affect the number of immigrants who can enter the US in the various family and employment categories. Frankly, this is an area of concern for most legal immigration advocates because key advisors to President Trump – led by Attorney General Sessions – are advocating not an increase but a reduction in legal immigration.

Although I am strongly opposed to such efforts, and although I strongly believe that it is in the national interest of the United States to increase levels of legal immigration, for the purposes of EB-5 advocacy there may be an opportunity here. The Government will probably try to reduce family-based legal immigration, lower-skilled immigration and the 'diversity' lottery but, as it realigns its priorities, immigrants and investors with the best skills might benefit.

In addition to President Trump, the aforementioned Attorney General Sessions and the new Chair of the Senate Judiciary Committee, Senator Diane Feinstein are going to have the most influence on policy. In February the Department of Commerce released the results of its long study of the investment dollars and job creation numbers produced by the EB-5 programme. The years it studied were

2012 to 2013. It is highly significant that the dollar ($5.8 billion) and job creation (174,000) benefits of the EB-5 programme in the two-year period were even larger than expected and the numbers have certainly grown since 2013.

However, for the purposes of our discussion of the new leaders in the EB-5 debate, it is significant that Alabama (Senator Sessions' state) had the fifth highest number of EB-5 projects in the country. California (Senator Feinstein's state) was the state with the most projects and investors in the country. Now is the time for a campaign, especially by regional centres and developers with projects in Alabama or California, to make these facts known.

4. *Advance Notice of Proposed Rulemaking*. On 11 January this year, USCIS published an ANPRM that covered various important topics. This notice represents an opportunity for a government agency to seek opinions formally from the regulated community on issues of concern before it proceeds with the regulatory process. We urge everyone interested in the EB-5 programme to submit a comment by the deadline date of 11 April 2017. Although President Trump has put a freeze on new regulations and proposed regulations, the ANPRM provides us with a valuable insight into the thinking of USCIS and the comments may well help influence policy and future regulations.

President Trump has put a freeze on new regulations and proposed regulations

The topics on which USCIS is seeking comment include a very problematic requirement of an exemplar petition approval prior to any investor submitting an I-526 petition; the separation of the regional centre designation process from the project approval process; limiting the period of validity of an exemplar petition; determining what changes in a project require amendment or refiling; monitoring, oversight and compliance requirements for regional centres; disclosure by USCIS of information about regional centres and projects to the public; the requirements that a regional centre must satisfy to keep its license; changes to a regional centre that require affirmative amendment; and the 'termination' of regional centres.

5. *Chinese Currency Export Restrictions*. As of 1 January, the Chinese Government has been subjecting investors who wish to transfer currency out of China to more exacting reporting and disclosure rules. This is likely to affect the speed at which investors can move their renminbi out of China and in some cases it may discourage or prevent them from doing so at all.

More significantly, the Chinese government is expected to implement daily currency export restrictions as of 1 July. This means that the annual $50,000 per year currency export limit might be limited further by a daily limit, requiring the currency export to be effectuated on several different days, further complicating and delaying the currency transfer process. It is even more worrying to note that many believe that the $50,000 per person annual currency export limit may be reduced significantly in 2018.

The Chinese government is expected to restrict daily currency exports

These changes are likely to motivate Chinese investors who are interested in the EB-5 programme to complete their investments before they encounter further restrictions.

6. *Notice of Proposed Rulemaking*. On 13 January, USCIS published a Notice of Proposed Rulemaking entitled "EB-5 Immigrant Investor Programme Modernisation." Comments to the proposed regulation must come in before 11 April (subject to action by the Trump Administration that may delay or derail the regulatory process). Although this proposed regulation has attracted more attention than any of the topics listed above, it is less likely to affect the future of EB-5 than they are. Nevertheless, we strongly urge everyone interested in EB-5 to submit some comments by the deadline.

Why is this Notice of Proposed Rulemaking less likely to affect EB-5 than other things? The answer lies in the regulatory process. The requirements are set forth in the *Administrative Procedure Act*. After the 90-day comment period, USCIS is required to review and analyse all comments received. We expect hundreds of comments to be submitted. USCIS must explain in writing why it has accepted or rejected each comment. If it has accepted the comment, it ought to "provide the language of the change in the regulation." Any changes in the regulation as a result of the comments will have to be approved not only within USCIS, but also at higher levels that include the Department of Homeland Security. Only then can USCIS publish the final regulation.

A very high percentage of proposed regulations never become final regulations. If this one does, the process just described will probably take at least 6 months to finalise. All of this assumes that the Trump Administration does not end the process.

I would be extremely surprised if there is no new EB-5 legislation before the regulatory process ends. The legislation would supersede most of the provisions of the proposed regulation, especially those relating to investment amounts and targeted employment areas (TEAs).

Nevertheless, some important provisions of the proposed regulation merit comment.

These include the following.

- A proposal to increase the minimum investment amount for projects in TEAs to $1.35 million and, for projects not in TEAs, to $1.8 million dollars. This is well above the minimum investment amounts that are likely to be in EB-5 legislation.
- A limiting of targeted employment areas to rural areas, projects in census tracts (areas of fewer than 10,000 inhabitants established by the Bureau of Census for analysing populations) with unemployment rates of 150% of the national average or projects for which the weighted average of the unemployment rate for the project's census tract and any census tract contiguous to it is at least 150% of the national average. States would, if the regulation were to come into force, no longer be involved in the process by which an area is 'designated' as a TEA. The designation would have to be made by USCIS. This is of concern both because a very high percentage of urban projects would no longer qualify as TEAs and also because there would probably be long delays in TEA designations if USCIS takes over this responsibility.
- Priority dates for approved EB-5 petitions to be retained in most situations if an investor has to change an investment to a different project, or if there is a material change in the project in which the investment is made. This means that an investor would be able to keep his place in the queue if he needed to move his investments because of failed or fraudulent projects, the termination of a regional centre or a material change in a project.
- The residence status of an investor to be terminated immediately upon the denial of an I-829 petition. Today, the investor retains conditional residence status until an immigration judge reviews the denial and until any appeals are exhausted. This is highly significant because, if the investor is outside the US, he would be unable to return to the US. If he is in the US, it may take years before he is scheduled for a hearing with an immigration judge. In the meantime, he would be in the country illegally. This is unacceptable and a complete change in the policy that has existed since the beginning of the EB-5 programme.

In summary, an unprecedented number of developments are coalescing into a 'perfect storm.' There has never been – and may not again be – so many opportunities for EB-5 advocates to be heard and to influence the future direction of the EB-5 programme. Hopefully, if we all step up to the plate, we will not only weather the storm, but possibly even find ourselves in the future basking in many days of bright sunshine.

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VIEWS FROM THE JURISDICTIONS

WHERE TRANSPARENCY AND INTEGRITY ARE PARAMOUNT

** by Kenneth Campbell, director of investment promotion, Invest Barbados*

Too often, international financial centres (IFCs) are judged unfairly, and erroneously viewed, as places that encourage shady tax practices and enable the wealthy to bury their fortunes. As a result, the 'Group of 20' industrialised countries and the Organisation for Economic Co-operation and Development have continued to toughen their regulatory stance by imposing a number of stringent initiatives on IFCs, such as the Global Standard for the Automatic Exchange of Information, which can at times appear challenging for some IFCs to implement.

It is unfortunate that the symbiotic value and benefits that accrue to both the host and onshore economies, through the use of IFCs, are often unappreciated. Benefits can include inward foreign direct investment (FDI), which increases the availability of foreign technology and capital, and outward FDI which very often contributes to employment, opens up foreign markets to global exports and augments management functions, while providing many other advantages.

Barbados is an IFC that continues to value its reputation as an ethical, transparent, and well-regulated jurisdiction. The country, which is home to more than 4,000 registered international entities, consistently fosters an environment that encourages the establishment of businesses of substance.

Donville Inniss, Barbados' minister of industry, international business, commerce and small business development, has reiterated the integrity of the jurisdiction: "Transparency and the exchange of tax information between governments have long been strengths of Barbados and are a cornerstone of our reputation as a leading, low-tax financial centre... this is important because it reinforces our commitment to transparency and to the full participation of Barbados within discussions regarding international tax matters."

To underscore its commitment to integrity and compliance further, Barbados is now a signatory to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and has promised to undertake its first exchanges by September 2017. It is also a signatory to the Multilateral Competent Authority Agreement.

Minister Inniss has also noted that, "...beyond being highly cooperative and transparent, Barbados' position as a pre-eminent low-tax jurisdiction attracts business of substance and ethical business structures that provide significant benefits to both domestic markets and the global economy."

Barbados has successfully pursued a policy of negotiating double-tax treaties as a means of facilitating business of substance, rather than simply through a 'registered' presence, with entities that conduct operations globally. These entities create employment opportunities for the citizens of Barbados who provide a range of professional services including management, legal expertise, accountancy and corporate secretarial services for their global operations. Additionally, under Barbados' regulatory system, local directors are required to play an active part in the management of businesses' affairs.

Barbados has 37 double-taxation agreements in force. According to Dr Walid Hejazi, the Professor of International Business a the Rotman School of Management in Toronto, who has produced a research document entitled Offshore Financial Centres and the Canadian Economy, "Barbados contributes meaningfully to the international economy and does so because of its network of double-taxation and bilateral investment treaties... Governments should work to deepen relationships with OFCs that have enhanced transparency and exchange of information agreements, with Barbados serving as the model jurisdiction."

As it relates to global competitiveness, Barbados scores highly in a number of international ranking indices, currently ranking 4th among the Latin American and Caribbean countries in Transparency International's Corruptions Perceptions Index 2016 and 31st worldwide. The country also has a strong banking system according to the Global Competitiveness Report 2016-2017 which rates Barbados at 4th in Latin America and the Caribbean and 24th worldwide.

> *Barbados has 37 double-taxation agreements in force*

What else does the jurisdiction have to offer? High Net Worth Individuals (HNWIs) are particularly interested in Barbados' Special Entry Permit (SEP), which is granted on an indefinite basis for eligible persons aged 60 and over, and to other eligible persons for a period until they reach the age of 60, once they satisfy its requirements. This programme, however, is distinct from the Citizenship by Investment Programmes that are associated with some other Caribbean countries. The SEP is part of Barbados' non-domicile programme for 'non-nationals' who wish to reside on the island, while having the option to come and go freely. Participants in this programme may also be eligible to manage their global wealth from Barbados and benefit from certain incentives.

When you combine all these advantages with a well-educated workforce, modern infrastructure, political and social stability, professional services, ideal location and excellent quality of life, Barbados must certainly be considered as a leading IFC of choice for investors. Why go anywhere else? Your place is here. Grow with us!

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BREXIT AND INVESTMENT MIGRATION TO THE UK

** by Fran Rance, an associate at Mishcon de Reya in London*

The UK continues to be an attractive destination for high-net-worth individuals. The state's practice of welcoming talent and investment from overseas has led to the creation of a diverse and culturally rich society that appeals to those seeking not only tax efficiency, but political stability, excellent educational opportunities and the benefits that flow from the UK's tradition of upholding the rule of law.

The UK's immigration policy is, however, in a state of flux. This emanates, most notably, from the decision the British people made in a referendum on 23 June 2016 to leave the European Union (EU). Immigration was at the centre of the debate surrounding the UK's continued membership of the EU and HM Government has, in recent times, come under increasing pressure to reduce the numbers of individuals who migrate to its shores.

THE END OF FREE MOVEMENT?

On 17 January this year, Theresa May, the UK's prime minister, announced her priorities for her government's 'Brexit' negotiations in her much-anticipated keynote speech at Lancaster House. Her priorities included the 'control' of migration between the UK and the EU. She said that it was very probable that the UK would impose restrictions on people from countries in the European Economic Area and members of their families who were trying of coming to the UK. This would, if it came to pass, represent a seismic shift in the UK's immigration policy.

> *The UK might impose restrictions on people from countries in the EEA*

At present, qualifying citizens of EEA countries and certain non-EEA family members have the right to live in the UK without visas by virtue of an EU law that guarantees free movement. People who have resided in the UK for five years or more under European law may qualify for permanent residence (and, potentially, British citizenship) as long as they satisfy the relevant rules. Citizens of EEA countries who have resided in the UK for less than five years may qualify for registration certificates. Similarly, the non-European members of their families, such as spouses/civil partners, children or other dependants may also be allowed to apply for an EEA family permit, residence card or permanent residence card to formalise their status. Although nobody knows whether people who have immigration documents issued by HM Government will remain 'protected,' it is highly likely that people who lack those documents will be vulnerable to any adverse changes in the law.

It is a common misconception that all citizens of EEA countries have the right to formal residence in the UK; only those who satisfy certain qualifying conditions are eligible to have their right of residence recognised. For example, if you are a student or a self-sufficient person and wish to obtain a right of residence in the UK you (and any members of your family whom you wish to include in your application) are required to hold "comprehensive sickness insurance." Anyone who wishes to apply for permanent residence must be able to show that he has held comprehensive sickness insurance (which covers him in the UK) for a full five-year period. It is not entirely clear what constitutes comprehensive sickness insurance. The Home Office's policy guidance tells case workers that "you can accept an EEA national or their family member as having comprehensive sickness insurance if they hold any form of insurance that will cover the costs of the majority of medical treatment they may receive in the UK..."

> *Investors should reside in the UK for at least six months of every qualifying year*

The Government has also stated that comprehensive sickness insurance means "full health insurance," although it does not define the word "full." Clearly, students and self-sufficient people who may have resided in the UK for a large part of their lives will be affected adversely and unable to obtain a permanent right of residence in the UK if they were unaware (as many are) of the comprehensive sickness insurance requirement.

Recent events in Parliament have not assuaged the uncertainty surrounding British immigration policy. Despite the concerns raised by the Peers, on 13 March this year they backed down over their amendments to the Government's 'Brexit Bill' in which they sought to guarantee the rights of citizens of EEA countries who live in the UK. Parliament thereby paved the way for the Government to activate article 50 of the Lisbon Treaty, which it now has done.

Many questions will have to be answered after Brexit. For example, will existing EEA residents who are in the UK on a certain date retain their rights? If so, how is this going to be arranged?

BREXIT'S EFFECT ON THE TIER 1 (INVESTOR) VISA

It is difficult to predict the long-term effect that the UK's exit from the EU will have on HNW migration to the UK, but in the short term it appears that the UK is continuing to attract overseas investors to its shores. Indeed, one noticeable outcome of the Brexit vote from a HNW immigration perspective has been a significant rise in Tier 1 (investor) applications.

The Tier 1 (investor) visa allows people with access to £2 million to apply to enter the UK by investing in either British Government bonds, British equities or loan capital in active British registered companies (excluding those principally engaged in property investment). Applicants can also bring their partners and minor children with them to the UK and these people can all live, work, study or establish a business in the country while their visas are valid. The Government usually grants the initial visa is for three years and might extend it for another two thereafter.

Having spent five years or fewer in the UK on this visa, and depending on the amount he has invested, the investor can become eligible to settle in the UK permanently. People who invest at least £5 million can become eligible to settle after three years and people who invest at least £10 million can become eligible after just two years. People who have spent five years in the UK (in compliance with the relevant requirement of their immigration status) can then apply for British citizenship and a British passport.

LIMITATIONS OF THE TIER 1 (INVESTOR) VISA

Though the Tier 1 (investor) visa is largely unmatched in terms of the flexibility it offers, it is not without its limitations. People who are eligible to apply for it are often 'cash-rich and time-poor.' They are commercially minded and astute individuals who operate on an international playing field. The investor visa category does not address this; it is not entirely 'fit for purpose' when it comes to the typical investor's lifestyle and, as a consequence, some people have long overlooked it in favour of other international offerings.

For example, data from the Office of National Statistics in the UK shows that the number of Tier 1 (investor) visas granted by the UK fell from nearly 3,000 in 2014 to 708 in 2015 and then to only 217 in the first half of 2016. The decline can be attributed in part to the doubling of the minimum level of investment from £1 million to £2 million in November 2014, but this is not the only thing that has presented potential applicants with difficulties.

Ever since the Government changed the investor visa rules in November 2014, the investor has been required to have opened a bank account in the UK before making his application and therefore must have passed a bank's stringent checks. This, of course, poses significant difficulties for the citizens of certain countries such as Iran, who often struggle to open bank accounts in the UK in time because banks interpret international sanctions and/or their regulatory obligations stringently.

Furthermore, people who come to the UK on an investor visa and who wish to acquire settlement rights are required to adhere to strict residence requirements; many struggle to do so. To qualify for settlement, investors should reside in the UK for at least six months of every qualifying year. To qualify for citizenship, which is often the ultimate aim, the investor should not spend more than 450 days outside the UK over a minimum five-year period. The vast majority of our clients find it impossible to meet those requirements. Although the visa is aimed at international investor, it penalises them for travel at the point of settlement (i.e. at the point when they apply for indefinite leave to remain in the UK). In an increasingly interconnected world, this is simply not workable for many investors.

People who invest £5 million can become eligible to settle after three years

Finally, although the category offers an accelerated settlement route for people who wish to invest more, this is no longer an option for the investors' dependants. Although the Government does not scrutinise the absences of dependants in the same way as those of the main applicants, the dependants of a £5 million or £10 million investor are still required to wait at least five years to acquire settlement rights. In many cases, this is a problem because the dependant partner is the real wealth generator. In this way the regime falls short of what many families want.

When faced with these restrictions, clients of ours who want to reside in the UK can look at options being offered elsewhere. For example, for a minimum investment of €2 million in the Republic of Cyprus, an applicant can acquire a Cypriot passport (and with it the full rights and entitlements of EU citizenship, which runs concurrently with the citizenships of all EU countries) within three months. Anyone who holds a Cypriot passport can, at the moment, live and work freely in the UK by exercising his rights under an EU treaty. The Maltese Individual Investor Programme is, similarly, attractive and allows applicants to acquire Maltese citizenship and, thus, to live and work in the UK under European law within a year for an investment of around £1 million. Both these programmes allow the applicant to invest in property, which is now prohibited by the UK's 'investor' rules. Commercially-minded people tend to gravitate towards the options that allow them to make the most of their investments, so many find it appealing to be allowed to purchase a home and invest in property.

With Brexit on the horizon, however, and the probable end of freedom-of-movement rights under EU law, it is possible that citizenship-by-investment programmes being offered by other EEA countries will become less attractive to people who are hoping to obtain EEA passports to reside in the UK. HNW individuals who want to reside there for a long time will therefore have to consider taking a domestic route to their goal. Indeed, we have already seen a marked increase in Tier 1 (investor) applications.

We have already seen a marked increase in Tier 1 (investor) applications

RESURGENCE OF THE TIER 1 (INVESTOR) VISA

Before its referendum, the UK was seeing a marked decline in Tier 1 (investor) visa applications, but on 1 December last year, the Office of National Statistics released figures that showed that in the third quarter of 2016 the Government granted the highest number of visas in a quarter since the threshold increase of 2014. The number rose from 40 in the previous quarter to 72: a staggering 80% increase. Compared with the same quarter in 2015, the figure represents an increase of 56%. The reasons for this are likely to be threefold.

- The drop in the pound after the EU referendum.
- It is possible that citizenship-by-investment programmes offered by EEA countries has declined (as described above) are becoming less attractive to foreigners hoping to obtain an EEA nationality to live in the UK, due to the uncertainty surrounding the continuance of freedom-of-movement rights under EU law.
- Many fear that HM Government will tighten immigration rules once it is free to do so and they are therefore pre-emptively seeking to secure their status before any adverse changes come into force.

Although this rise does not yet match the figures from before November 2014, it represents a significant increase. It indicates that, despite the pejorative press surrounding the UK's increasingly restrictive attitude towards immigration, the UK may be set to regain its position as a destination of choice for HNW investors.

COMPETITION FOR HNWS

Competition for the world's millionaires and the many economic contributions they make, both in terms of direct investment and indirect spending – is fierce. Despite its decision to leave the EU, the UK is still attracting foreigners and ought to review the things it offers to HNW migrants and evolve new rules to bring in foreign investment.

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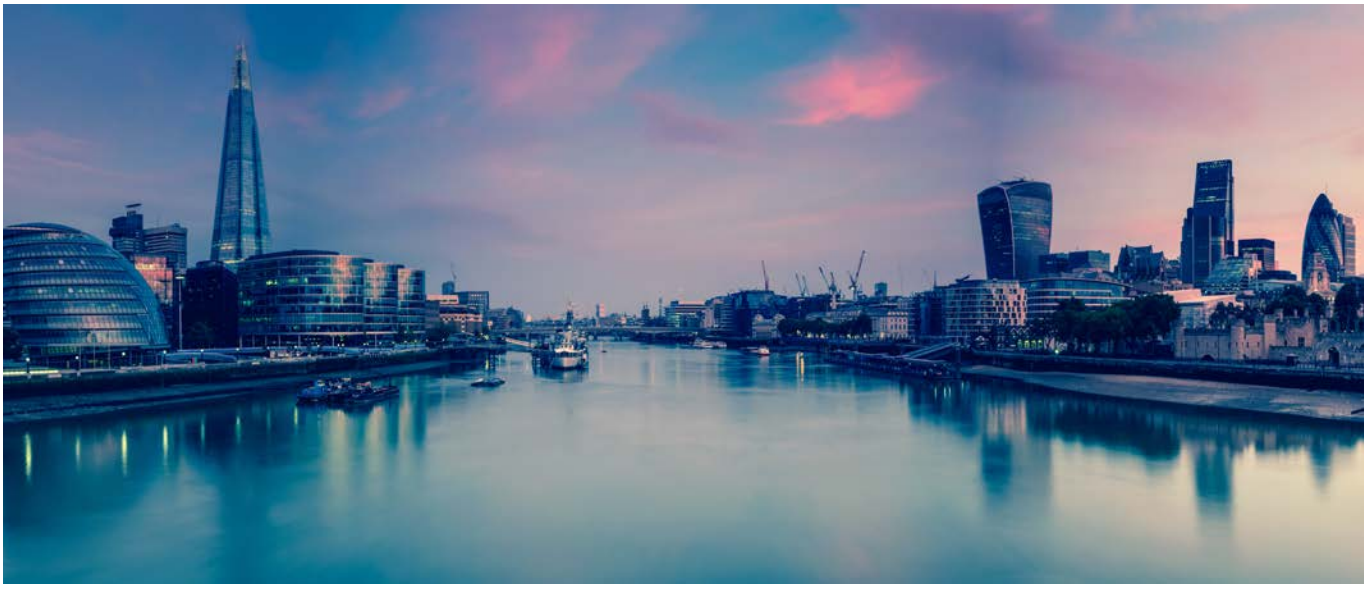

IS THE POSITION OF TOP EUROPEAN INTERNATIONAL FINANCIAL CENTRE UP FOR GRABS?

** by Ray Soudah, the founding chairman and CEO of MilleniumAssociates AG*

London is the leading IFC of the world, but can it hold on to its crown in the face of competition from others?

The City of London has always been considered the worlds' leading financial centre, topping the Global Financial Centres Index (GFCI) in 16 out of the 20 reports that Z/Yen, its publisher, has released since it first started publishing the results of its surveys in March 2007. The index looks at each IFC's regulatory regime, tax rates, levels of corruption, economic freedom, business environment and infrastructure, while also taking into consideration responses to questionnaires from people who work in financial services to weigh up the competitiveness of each major financial centre in the world.

However, since the British referendum on 23 June 2016 resulted in a vote to leave the European Union there has been much speculation about how 'Brexit,' as it is called, will affect the UK's financial services sector and in particular London's status as the leading IFC, not only in Europe but throughout the globe.

Theresa May, the UK's prime minster, recently outlined plans for a 'hard Brexit,' potentially foregoing access to the EU's "single market for financial services" (a project that might one day result in the unfettered provision of financial services by any financial firm in one EU country to anywhere else in the EU) in order to meet nationalist demands to curb the free movement of labour, a move that has caused financial services commentators to express concerns about the industry losing EU 'passporting rights' which permit financial firms to sell permitted services to all 27 member states.

SO IF NOT LONDON, WHERE?

Although it is early days for the Brexit negotiations, businesses are unable to delay having to make some of their strategic investment decisions. Many non-European banks that use London as an entry-point into the EU's single market are re-examining their options.

If London's rival financial centres want to poach business from it, they not only have to have the correct regulatory and employment infrastructure to meet the EU's strictures but, equally importantly, they must also be able to meet the exacting demands and expectations of a mobile cosmopolitan workforce in terms of social and cultural lifestyle. This workforce will be swayed by such factors as language (English still being the dominant language in the financial services industry), housing, education, transport links and cultural factors, including restaurants.

London might lose business to its rival financial centres in the EU, Frankfurt and Paris. These cities, however, are not necessarily the most finance-friendly places in the world and their governments have been reluctant to adopt the EU's financial transaction tax proposal, which seeks to produce an EU-wide law to govern the indirect taxation of financial transactions. Because of this, Ireland, Luxembourg and Holland could therefore also attract business.

DUBLIN

Perhaps because Ireland is the only other English-speaking country in the EU, there has been some speculation about financial service companies moving to Dublin. he city does have an excellent education system and a strong cultural life. It also ranks high on the World Bank's "ease of doing business" index, has a history of attracting international business and is already reaching out to London's financial sector. Dublin's main drawback is its relatively small size and limited international communication infrastructure.

VIENNA

Vienna is a bit of a dark horse. It does have some of the right criteria, having come top of the most recent Mercer "quality of life" index and having performed well in "ease of doing business" rankings. In addition, 73% of the population is fluent in English and its local and regional communication links function well. The city also performs well culturally, although people perceive it as an old-world capital that lacks the energy and vibrancy of a major financial hub.

AMSTERDAM

Although it might not spring instantly to mind as London's likely successor, Amsterdam is a hot candidate for the job. This cosmopolitan city has long been a major trading centre of global importance and continues to concentrate on international commerce. In terms of infrastructure, Amsterdam has one of Europe's best airports and good access to Europe's rail network – perhaps significantly, it is just a short train ride to Brussels. The city is not only picturesque and culturally appealing but also has some of the best schools in Europe and a population that (90% of the time) speaks English fluently. Amsterdam's main problem is that Europeans do not see the Dutch as "financial services friendly," as their government capped bankers' bonuses at just 20% of their annual salaries in 2015 — a far more severe restriction than that proposed by the EU.

LUXEMBOURG

Luxembourg is already a mature centre of financial services with particular expertise in international fund management. It is not only home to the European Investment Bank but also to the European Court of Justice. The inhabitants enjoy a relatively high quality of life (19th in Mercer's world rankings) and more than 55% of the population speaks English. However, according to the World Bank, Luxembourg is ranked 59th in the world for its business climate and its transport network is limited. The main issue, however, is one of size. The entire country has a population of circa 575,000, whereas the City of London alone employs two thirds of that number.

PARIS

Recently, Parisians have been coming to London to try to convince financial businesses to relocate to their city. As Paris is an established and major centre of financial services and culturally one of the most appealing cities in the European Union, perhaps some might be tempted. It does not, however, perform so well under the withering light of scrutiny. The French have a reputation for hostility to non-French-speakers and, indeed, only 39% of the population are fluent in English. The education system is equally unfriendly and inflexible for outsiders. More concerning for commerce is France's bureaucracy and strict employment rules, not to mention its occasionally 'interventionist' approach and hostility towards the wealthy, which led recently to a short-lived top income tax rate of 75%.

FRANKFURT

Many believe this city to be the main contender for London's crown. It is the financial capital of Germany, houses the European Central Bank and ranks high on at least one "ease of doing business" index. However, some Europeans see these advantages as a problem. Germany already holds the balance of political power in the EU and these people are therefore reluctant to see it host the EU's dominant financial centre as well. In addition, Frankfurt is not the most vibrant of cities and although it is home to one of European's main international airport and has excellent rail links with the rest of Europe, its cultural life is a trifle dull.

WHO ELSE STANDS TO BENEFIT?

While the cities of the European Union jostle with each other for London's mantle, what other financial centres stand to benefit from its departure from the EU?

NEW YORK

Since the financial crash ocurred in 2007 the financial world has largely converged around the two leading financial centres of London and New York, partly in a drive to make business more efficient and


CITY OF
LONDON

partly in search of lower fees. Britain's flight from the EU, if it loses access to the single market, will diminish the attractiveness of London and, in the medium-to-long-term, could lead to a shift of global business (such as foreign exchange trading and derivatives) to New York.

ASIA

Hong Kong and Singapore continue to mature as gateways for Western capital to Asia and both jurisdictions have the potential to gain from the UK's departure from the EU. They might not pick up new business directly, but once it is independent, the City of London will be willing and able to build stronger and deeper partnerships outside the EU. Asian jurisdictions are likely to want to collaborate with a less encumbered UK in several areas of financial services, particularly in the emerging areas of financial technology or 'fintech,' trade financing, green finance and cyber-security.

WHY LONDON WILL RETAIN ITS POSITION

The argument that London would never have become, and could never be, Europe's leading financial centre without access to the European Union's markets (although they do contribute to its prosperity) is fundamentally flawed. London is the world's leading financial centre mainly because it attracts liquidity and longer-term capital, and in part because of its heritage, infrastructure, language and common law legal system which, in its dealings with contracts, is significantly more friendly to business than the Roman or Civil Law that many continental European countries use. Although the EU (with its 'single market' for some financial services and rules that allow workers to move freely within its borders) has undeniably contributed to London's growth as a financial centre, the City has plenty of attractions that will allow it to keep its status after it has left. Indeed, some of the regulations imposed by the EU have hampered the City in its efforts to compete on the international stage and its abiding worry is the prospect of losing business not to financial centres in the EU but to globally active competitors such as New York, Singapore and Hong Kong.

This is not only a concern for the British but for the whole EU, with many pro-EU Europeans realising that any harm done to London's position as a global financial centre will make New York overly dominant and will ultimately hurt Europe. A recently leaked report from the EU's committee on economic and monetary affairs (Econ) says that the EU and the UK ought to find a "workable" deal in order to protect the City of London from relative decline, or the whole European economy will be harmed.

The report also draws attention to the fact that "UK-based banks provide more than £1.1 trillion of loans to the other EU member states" and calculates that about 40% of Europe's assets under management and 60% of its capital markets business are currently accounted for in London. It goes on to warn that "The exclusion of the main European financial centre from the internal market (the EU's name for the 'single market') could have consequences in terms of jobs and growth in the EU."

Access for financial services firms to the EU's single market is therefore likely to come through some form of 'equivalence' by which the UK's and the EU's regulations are reckoned to be of equal standing, allowing British-based financial institutions to continue to operate all over the EU with little more trouble than today. In addition, British Chancellor Philip Hammond has declared that the UK "will do everything it can to ensure that the City of London retains its position as the world's leading international financial centre." Some have interpreted this to mean that the government might consider reducing corporation tax and the burden of regulation to make itself move attractive to international businesses and investment. It is also quite possible that the UK's authorities might EU-compliant and EU-non-compliant policies and operate them in parallel. This could even make London stronger as a financial centre.

London actually has an opportunity to have the best of both worlds and attract international business that seeks easy access (logistical and regulatory) to the EU while also staying aloof from the EU and therefore being able to develop its own parameters for business.

THE EFFECTS OF BREXIT ON MERGER AND ACQUISITION TRANSACTIONS

At MilleniumAssociates, one of Europe's leading independent M&A houses, we have been evaluating the effect that Brexit will have M&A activity. We have identified at least ten significant factors that will affect not only the UK but also M&A transactions throughout the EU. These changes are clearly underway already and will be in full swing by the end of the Brexit negotiations in 2018. The EU will suffer from Brexit because international 'inward investment' that now flows through the UK to the rest of the EU will not be diverted automatically towards the remaining EU countries, mainly because of the importance of the English language to investors. Companies in European countries that have sizeable English-speaking populations (such as Switzerland and Holland) will be in more demand than others, as will former British territories such as Ireland and the Greek side of Cyprus, where English is in widespread use and the population is more entrepreneurial than other populations in the EU.

We predict that these are the 10 M&A trends to watch for over the next few months.

1. No major changes are to be expected in the UK's anti-competition rules, although the Government will impose them less stringently than in the past, encouraging inward investment through M&A.

2. More inward M&A will occur in the UK. With the UK coming out of the EU, large acquirers in some cases will not be forced into checking their exposure to EU competition law and will, in effect, be able to have a larger share in the combined markets of the EU and UK.

3. British firms or firms based in the UK, and presumably also the subsidiaries of firms that are not British, will be more aggressive in acquiring assets in the rest of the world (i.e. the world outside the EU). It is a tendency of British companies to try to strike most of their deals in the Anglo-Saxon world as British people tend to prefer English-speaking countries, so one should expect them to conduct more outward-bound M&A in the USA, Canada, Australia, New Zealand and South Africa.

4. Other Anglo-Saxon countries will increase their entry investment, and thus M&A, in the UK. This is because they will enjoy more favourable treatment than before, as well as cultural benefits.

5. Prices and valuations will eventually rise in pounds Sterling and we have already seen this since the Brexit vote.

6. The pound will eventually rise against the Euro and also, eventually, against the Swiss Franc despite the possibility that the Bank of England will raise interest rates and despite tendencies towards inflation.

7. British people will be less inclined to learn EU languages but will lean more towards Asian languages such as Mandarin, Japanese and Urdu to further their intercontinental dealings. All the while, English will continue to dominate global communications. Language and university places will be at a premium in the UK and may even be bought or sponsored through M&A.

8. EU-based M&A firms will try to become more international and send their teams to the UK and induce them to speak English even more than at present so that they can compete with the expected increase in "UK" M&A flows. UK M&A firms will expedite the trend to set up in China and elsewhere in Asia.

9. HM Government and certain regions in the UK will pass laws or offer incentives to attract further inward investment now that they will not have to obey EU regulations against unfair 'state aid.'

10. London will emerge as a global wealth management centre for non-EU clients and thus M&A in the wealth sector will heat up, especially with Swiss and Asian firms flocking to London once more. One should expect more M&A throughout the wealth sector.

The 'Brexit' phenomenon has unleashed a spirit of entrepreneurship in the UK which, although initially confused and distracted by the unravelling of technical ties between the UK and the EU (and of some EU regulations in the UK) will end up boosting economic activity including M&A within and beyond the UK.

Developments will be on a strategic rather than cyclical basis and we can therefore expect the growth of London as a financial centre. We can also expect the UK to be the hub of considerable M&A activity for years to come.

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CYPRUS – THE NEW GATEWAY TO EUROPE

** by Till Neumann, IMCM, the managing partner at Citizen Lane GmbH in Zurich*

Before the near-collapse of its economy in the aftermath of the financial crisis of 2008-9 and the harsh terms imposed on its banks by the European Union of which it is a member, Cyprus had been gradually opening its doors to global – largely Russian – business for decades. The large number of double taxation agreements and treaties it had signed with the world's most important jurisdictions was a clear indication of the country's arrival on the global stage. As of today, the island state has more than 60 double taxation agreements with countries such as China, India, Russia, Switzerland, the United Arab Emirate, the United Kingdom and the United States of America.

Resolving to emerge from the crisis and shore up its socio-economic structure, Cyprus overhauled its immigration system in 2012 and made other efforts to diversify its economy. As a result of its efforts, the country is now an attractive destination for foreign capital and for investors who want to become citizens of the European Union.

A SERVICE-BASED ECONOMY

As one of the most well-recognised international financial centres in the European Union, Cyprus has a mainly service-based economy. Tourism, of course, is an important source of income for the Mediterranean island, but its natural gas and construction sectors have grown rapidly in recent years and now contribute something to the country's GDP as well. All this has been good for economic diversification.

Despite its recent troubles, Cyprus has retained a high standard of living and has stayed in roughly the same place on the United Nations' Human Development Index, occupying 31st place in 2011 and 33rd place in 2016. The index takes account of life expectancy, education and income per capita in each country and states that every country in the top 48 is a place of 'very high' human development. Cyprus is also ranked 23rd in the world on the Economist Intelligence Unit's where-to-be-born index (previously called the quality-of-life index). According to the Heritage Foundation, Cyprus is an attractive "property and investment destination" because of the relatively high level of economic freedom it offers people.

Although the country's recent history has been plagued by financial turmoil, the island nation has managed to bounce back to become stronger than before. The economy is recovering and is on a firmer footing than previously. In April the International Monetary Fund published a noticeably optimistic statement about the health of the Cypriot economy. It said: "Since exiting the IMF programme one year ago, Cyprus's economic recovery has gathered momentum, banks' liquidity positions have improved, the restructuring of non-performing loans (NPLs) has accelerated and the fiscal primary surplus has increased."

Better fiscal management, economic momentum, political stability and an upbeat outlook have made Cyprus an attractive destination for foreign investment and any investor who wants to be the citizen of an EU country as well as his own. The island's government has reformed key parts of the tax, trust and immigration regime to support growth, stability and further diversification over the coming decades.

THE CYPRIOT TAX REGIME

Cyprus obeys EU tax regulations and also has a relatively liberal tax planning regime by global standards. Cypriot law allows the Cypriot tax authorities to credit taxes paid abroad in countries that have no double-tax treaties with Cyprus.

COMPANY TAX LAW

In general, companies are taxed at 12½% on their profits. Additionally, a Special Contribution for Defence (SCD) is levied on tax-resident companies. A non-Cyprus tax-resident company is only taxed on income accrued or derived from a business activity that is carried out through a permanent establishment in Cyprus and on certain income arising from sources in Cyprus. Non-resident companies are exempt from having to make an SCD. A company is considered 'resident' in Cyprus if it is managed and controlled there. Foreign taxes paid can be credited against the corporation tax liability. There are tax exemptions for profits from dividends, interest, profits of a foreign permanent establishment, forex profits and the sale of securities.

INDIVIDUAL TAX LAW

Meanwhile, the maximum marginal tax rate for an individual resident is 35%. To be considered a tax resident in Cyprus, an individual must spend more than 183 days in any one calendar year on the island. There is no tax on dividends, interests, wealth or gifts and there is no inheritance tax. Pensioners benefit from a favourable tax regime as they pay a 5% flat-rate tax and even 0% on a one-time pension gratuity. Furthermore, individuals who have not been resident and relocate to work in Cyprus may benefit from income tax exemptions of 50% for a period of 10 years if they earn more than €100,000 per annum (there is a similar tax plan for individuals with less income). Special Contributions for Defence are levied on dividends and interest income.

RESIDENT NON-DOMICILED PEOPLE IN CYPRUS

The Cypriot parliament passed a law in July 2015 to make the island a more attractive destination for high-net-worth individuals. Under the new law, non-domiciled Cyprus residents do not need to pay SCD. An individual is considered to be non-domiciled when he was not deemed a tax resident in Cyprus for more than 17 out of the last 20 years.

Because there is no income tax to pay on dividends and interest income, no tax to pay on gains arising from the disposal of investments, and nil/reduced withholding tax to pay on income received from abroad, many people want to reside in Cyprus.

CITIZENSHIP LAW REFORM

The sunny shores of this idyllic mediterranean country are beckoning ultra-high-net-worth individuals (UHNWIs) from across the globe more vigorously than ever before. The Cypriot Government launched a far-reaching overhaul of the immigration system back in 2012. In doing so, it presented foreigners with a new way to gain citizenship by making investments and by the additional ownership of a residential property.

> *Other countries give citizenship to people without any scrutiny if they 'marry in'*

This citizenship-by-investment programme is now widely regarded as one of the best in the world in terms of benefits for the new citizens and of value-for-money.

CITIZENSHIP BY INVESTMENT IN A SHRINKING WORLD

Public discussion about whether it was right or not to "buy a passport" was very heated at one time, but has now abated. Parallel to developments in the financial sector, regulations for applicants to citizenship schemes have become more severe over time and well-managed citizenship programmes in reputable countries are now broadly accepted as a part of global life.

Some people reprimand the passport regimes of other countries for fear that they might undermine their own countries' visa policies, but such criticisms are only partly justified because the people who apply to join citizenship programmes undergo conscientious 'due diligence' assessments which go far beyond the visa checks carried out by the countries that are criticising those programmes. Ironically, critics of these schemes neglect to mention the fact that other countries give citizenship to people without any scrutiny if they 'marry in.'

THE CYPRIOT CITIZENSHIP PROGRAMME

In order to facilitate investment, Cyprus overhauled its citizenship regulations last year. At one point the programme required an individual investor to put up €5 million, and as an alternative it allowed a group of five to invest €12½ million between them, or €2½ million each. This caused delays because investment consultants had to piece together groups of five applicants who did not know each other. The Government has now abolished the cumbersome collective option and reduced the threshold to €2 million for everyone – a deduction of 20%. It also now allows the investor's parents to apply for citizenship in Cyprus as long as they have purchased a permanent residence worth at least €500,000.

As a result of the financial crisis, Cyprus Popular Bank went bankrupt. Many wealthy Russians had lost assets there, so by way of slight compensation the Government allowed each one who had lost €3 million to apply for citizenship. This policy has now ended and the door has been closed.

Besides these modifications, the rest of the Cypriot citizenship scheme remains unchanged. Investors seeking citizenship and access to the European Union must invest at least €2 million in one of four forms of investment:

- government bonds;
- financial assets of Cypriot companies;
- land, real estate or infrastructure projects (residential or commercial); or
- partnership or full ownership of a local business.

Any combination of the above-mentioned investments will also allow a foreign investor to apply for citizenship, whereby only a maximum of €500,000 may be invested in bonds he purchases directly from the Government on the primary market.

While meeting these criteria, the investor must also prove that a local property has been purchased to serve as his permanent residence. The value of this property must be at least €500,000. Value added tax of 19% applies on real estate, but only 5% (or more, in certain cases) applies on the first property.

Of course it is inevitable that the citizenship applicant has to pass the Government's 'due diligence' assessment. The investor in question must hold his investment for a minimum of three years and the residential property indefinitely. Non-compliance with these rules will lead to annulment of citizenship and passports.

Because, in essence, Cyprus' citizenship scheme requires just an investment and no donation to a government fund, the acquisition of citizenship in Cyprus offers the investor exceptional value for money and unprecedented access to Europe (European Union and European Free Trade Area countries). EU citizens can, of course, reside and work not only in the European Union but also in Iceland, Norway and Switzerland.

REAL-ESTATE INVESTMENTS IN CYPRUS

Earlier this year, Harris Georgiades, the Cypriot minister of finance, claimed that the Government's top priority was the health of the business environment and a resurgence in the country's ability to attract investment. Investments in property are likely to help his agenda more than anything else. Real estate has always been a bright spot in the Cypriot economy, attracting foreign direct investment in large volume over the years, although an influx of overseas capital caused inflation of prime real estate prices in the first decade of this century. In recent years the property market has become more fairly valued, due to heavy price reductions of about 20-30% since the world financial crisis began in 2008/2009. Last year, property prices almost stopped falling and indeed went up by 0.1% in the third quarter.

Trends in the property market differ from place to place in Cyprus. The price index in Limassol has been stable since the beginning of 2015 and has recovered slightly since then. The region around Famagusta, meanwhile, seems to be just about to hit the bottom. The countrywide outlook is fairly optimistic, according to the Cypriot Central Bank. Recent changes to the property tax scheme have made real estate investments more attractive. Immovable Property Tax has been abolished as from 1 January and transfer fees have been reduced permanently to 50%. The luxury real estate market in Cyprus has been overpriced because of the citizenship programme, the reason being that unscrupulous developers have built properties to suit the €1½ million price bracket and have been able to sell them to foreign immigrants for €2 million because that is the necessary threshold to satisfy the citizenship programme. At Citizen Lane, we circumvent this problem by advising our clients to buy many properties (the programme permits up to ten) as a proof against falling prices in the future.

Cyprus is a small place and the surge in immigration, encouraged by the island's economic recovery and tax incentives, will probably allow property prices to recover in the coming years. Thoughtful and well-selected investments might therefore escape the threat of depreciation in price.

With these sweeping changes, the Government intends to attract more investors to invest, live, work and do business on the island. Cyprus offers one of the most affordable citizenship-by-investment schemes in Europe. Its access to the EU, its powerful passport, its re-stabilised economy and its tax regime makes it an ideal choice for the globe-trotting entrepreneur.

** As a leading boutique consultancy and law firm, Citizen Lane focuses its efforts on investor migration and offers meticulous citizenship and residence planning for ultra-high-net-worth individuals. Our broad network in Cyprus enables us to offer off-market investments in business and real estate. Citizen Lane is a member of the Investment Migration Council, the industry's leading association. We look forward to receiving your inquiry on cyprus@citizenlane.ch*

THE INTERNATIONAL HUB FOR PRIVATE CLIENTS AND FAMILY OFFICES

** by Isabella Linares, Fiduciary Group, Gibraltar*

The Gibraltar Government Finance Centre promotes Gibraltar as the European domicile of choice for financial services, affirming its three fundamental principles: regulation, reputation and speed-to-market. Certainly, Gibraltar is well-established as a key international financial centre for private client services, both in terms of tax management and estate planning, and there are a number of reasons why.

Gibraltar primarily offers businesses a well-regulated, internationally co-operative 'Sterling bracket' jurisdiction through which to expand. When a business is at the early entrepreneurial stages of development, the task of managing administration while conducting international business activities can distract a company from its core corporate mission and compromise growth. Similarly, in today's world of transparency, large multinational corporations have to deal with increasingly complex regulatory and reporting duties in the different jurisdictions they operate in.

Family Offices that are considering Gibraltar as a jurisdiction through which to structure their assets will take confidence from the jurisdiction's global standing as a key hub for cross-border financial services. Indeed, Gibraltar boasts an offering of professional banking services and internationally-recognised institutions, as well as a host of experts in the fields of investments, funds, compliance, estate planning and all manner of corporate services.

There are a number of key advantages for Gibraltar companies and trusts, not least the fact that Gibraltar's courts follow the common and statute law of England which is good for a modern, transparent and internationally-compliant regulatory environment in which to do business.

Gibraltar's favourable tax regime also provides benefits, which include: no estate duty, no stamp duty, no capital gains taxes, no gift or wealth taxes, no VAT, a tax residence programme for HNWIs, and a low corporate tax rate of 10% on income accruing in or derived from Gibraltar for all companies, as well as no income tax applicable in Gibraltar for trusts established for non-residents of Gibraltar.

When one takes all this into account, together with the small jurisdiction's robust political and economic stability, excellent infrastructure and professional workforce trained to British standards, it is evident that Gibraltar is the ideal home for the management of the private client's personal and corporate financial affairs.

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Fiduciary Group

At Fiduciary Group, our highly qualified team have been providing expert financial services and tailored strategies to an international clientele for more than 30 years. Today, we are one of the largest and most influential company and trust managers in Gibraltar, duly licensed and regulated by the Gibraltar Financial Services Commission, whose product offering also includes foundations, residency and pension strategies and marine and fund services. Our experience, coupled with our close affiliation with Gibraltar's longest-established law firm (ISOLAS, founded in 1892), ensures our clients access to professional expertise and a service based on trust. With offices in Gibraltar and London, and a wide network of international agents, Fiduciary Group is ideally positioned to provide a comprehensive range of financial services.

Whatever your financial needs, Fiduciary Group are here to help. You can contact us at info@fiduciarygroup.com or visit our website at www.fiduciarygroup.com

FUND ACTIVITY REPRESENTS GUERNSEY'S CONTINUING PROGRESS

** by Dominic Wheatley, Chief Executive of Guernsey Finance*

Guernsey's financial services sector has continued to thrive and develop over the past 12 months. This is particularly the case in the island's funds sector where Guernsey has once again been confirmed as the global finance industry's number one choice for non-UK entities listed on the London Stock Exchange (LSE).

LSE data shows that there were 124 Guernsey-incorporated entities listed on the Main Market and AIM at the end of 2016, which is more than 40 ahead of its nearest competitor, and reaffirms the high regard in which Guernsey is held by professional advisers in the City of London and beyond. In total, Guernsey added nine new entities to the LSE markets during 2016, which is the same number as its two nearest competitors combined, excluding the UK.

> *Guernsey launched its Private Investment Fund (PIF) regime in November*

NEW PRODUCTS

Guernsey's funds sector has also witnessed the introduction of not one, but two new fund regimes.

The Manager-Led Product (MLP) is a regime designed in the light of the Alternative Investment Fund Managers Directive (AIFMD), which places the regulatory burden on the manager. By virtue of the alternative investment fund manager's sponsorship, no alternative investment fund or underlying licensee will have rules imposed on it, while the regime avoids duplicating regulatory requirements over several entities and the Guernsey Financial Services Commission (GFSC) is ready to consider derogation requests.

The MLP was followed by the November launch of Guernsey's Private Investment Fund (PIF) regime, which again looks to provide fund managers with greater flexibility and simplicity. It recognises that certain investment funds are characterised by a relationship between management and investors that is closer than that of a typical agent and accordingly, the GFSC is prepared to dispense with the formal requirement for information particulars such as a prospectus.

The PIF, which can be either closed or open-ended, should contain no more than 50 legal or natural persons holding an economic interest in the fund.

One exception is where an appropriate agent, such as an investment manager or occupational pension scheme, is acting for a wider group of persons with an economic interest in the PIF.

While there is a limit on the number of investors in the PIF, no attempt has been made to limit the number of investors to whom the PIF might be marketed – a feature not available under comparable regimes in other jurisdictions.

Under the new rules, the fund will benefit from an application process that can be completed in one business day.

As part of that application process, the fund manager provides warranties on the ability of the investors to assume loss. Considering that the PIF is predicated on a close relationship between management and investors, the GFSC considers this a reasonable representation.

ENHANCED ILS

These product launches were followed at the beginning of 2017 by the enhancement of pre-existing legislation for insurance-linked securities (ILS) – an asset class which combines Guernsey's long track record and expertise in the investment funds and insurance sectors.

From 1 January 2017, under the Insurance Business (Special Purpose Insurer) Rules 2016, an applicant for the licensing of a new Special Purpose Insurer (SPI) might be granted a 'single consent' for the formation of further SPIs without call for any further application.

The streamlined application process also allows a new insurer to be established in a single business day.

At the same time, the Insurance Business (Solvency) Rules 2015 have also been amended to include the new class of insurer expressly. Under the new rules an SPI is not required to maintain the minimum or prescribed capital requirements, nor to conduct own risk or solvency assessments.

SPIs must be fully collateralised to the extent of their liabilities and, in addition to ILS, may include collateralised reinsurance, catastrophe bonds, side-cars and life based securitisations.

The changes are a codification of the way in which the GFSC already exercised its discretionary powers but they provide the insurance sector with a new layer of operational certainty and efficiency. It is the type of development that highlights Guernsey's ability to come up with sensible, proportional regulatory responses to the necessary but growing compliance burden on financial service organisations.

> *Guernsey is compliant or largely compliant with 48 out of 49 FATF recommendations*

TRANSPARENCY

Away from new product launches and evolving regimes, the past year has also seen Guernsey underline the fact that it is ahead of the game in terms of international regulatory standards.

An evaluation of Guernsey by MONEYVAL, a body of the Council of Europe tasked with assessing the measures that each jurisdiction takes to prevent money laundering and the financing of terrorism, found that Guernsey had surpassed the standards set in the equivalent International Monetary Fund report in 2010.

MONEYVAL found that Guernsey is compliant or largely compliant with 48 out of 49 of the Financial Action Task Force recommendations to do with the fight against money laundering and terrorist finance – the highest standard of any jurisdiction so far assessed.

The findings were consistent with Guernsey's leading position in the mainstream of international finance - not only in terms of the fight against financial crime, but also regulation, beneficial ownership, tax transparency and CRS.

** Dominic Wheatley is Chief Executive of Guernsey Finance, the promotional agency for the island's finance industry. He can be reached on +44 (0) 1481 720071 or at info@weareguernsey.com*

COMPLEX FAMILY REQUIREMENTS ARE WELL MET BY GUERNSEY FIDUCIARIES

** by Lisa Vizia, director at Saffery Champness Registered Fiduciaries*

For more than 50 years, Guernsey family offices – both single and multi-family – and supporting providers have been solving problems, performing co-ordinated services and coming up with strategies for a diverse range of wealthy families located across the globe.

Such clients are often international and multi-jurisdictional and their requirements and structures are also. They are comfortable in terms of being transparent and compliant but not with the invasion of their privacy.

A TOP JURISDICTION FOR AML COMPLIANCE

The authorities in Guernsey ensure that providers fully respect the need for clients to keep their affairs confidential while also following leading international standards of tax transparency and exchange of information.

> *Guernsey is the most 'FATF-compliant' jurisdiction that MONEYVAL has assessed*

Guernsey is one of very few jurisdictions in the world to regulate trust providers and is on the Organisation for Economic Co-operation and Development's "white list". In 2016 MONEYVAL, the European Financial-Action-Task-Force-style regional body, reported the island as "compliant or largely compliant" with 48 out of 49 of the FATF's recommendations. The FATF is the world's standard-setter in the international fight against money laundering and terrorist finance. This is the highest standard reached by any jurisdiction that MONEYVAL has assessed.

Many countries have changed their laws to yield to the US *Foreign Account Tax Compliance Act 2010* or FATCA, the global Common Reporting Standard (sometimes known as GATCA) and pressure from the OECD to do with beneficial ownership and reporting. Such developments require the providers of a family office or private family office to have a high level of relevant knowledge and awareness and, as fiduciaries, to give the best advice they can to the families in question, while dealing with complexities thrown up by banks, custodians and counterparties and handling the administration so that the client or family office does not have to.

THE RISE OF THE NON-STANDARD ASSET

Guernsey practitioners are having to cope with the fact that the working environment, along with the clients themselves, is becoming increasingly complex.

A further factor for consideration is the relative sophistication and financial literacy of the second and third generations who have come to the fore of wealthy families.

Today's family offices are, increasingly, including non-standard assets and investments including hedge funds, private equity, property and business in their portfolios. There is often an element of innovation and entrepreneurial investing, to do alongside the usual standard investments. This requires family offices to pay attention to the management of risks that have arisen from increases in regulation and the scrutiny of counterparties that have flowed from the credit crisis that came to the fore in 2008-9.

Guernsey providers have shown themselves to be very capable of reviewing, understanding and testing all the complex assets and counterparties involved in a family office, adding a great deal in the form of clarity, efficiency and cost-effectiveness.

There is a need for fiduciaries to understand the advice that they are giving in relation to investments which go beyond cash in the bank and a standard investment portfolio. If there is debt in a portfolio, it will be important for the fiduciary to state how it is structured and what it comprises and verify the facts.

HNWs do not necessarily make non-standard investments (such as art and antiquities - a specialist area with layers of advisers required) with their future monetary worth in mind. Furthermore, fiduciaries must be good at understanding and accommodating the trend towards 'impact' or ethical investing and philanthropy.

New technology has emerged which is able to deal with consolidated investments and cash management and reporting. Although fiduciaries have no option but to embrace this technology, it is also essential for them to deal with any associated risk in a safe, managed "risk culture environment."

THE USES OF PCCS

At Saffery Champness, we pride ourselves on our high level of service. By thinking rather than processing, we have become a trusted adviser around the family table. By way of example, we work with a substantial Middle Eastern client with a dedicated family office in London and custody and banking arrangements primarily in Guernsey and Switzerland.

All the clients' global investment assets are managed by Saffery Champness and held in trust structures, comprising commercial and residential property, hotels, hedge funds, private equity, fixed-interest investments and various businesses. We also deal with clients' luxury personal assets, including superyachts and aircraft, with the yacht crew management structured in a Guernsey protected cell company (PCC).

> *Protected cell companies were pioneered in Guernsey*

In this context the benefit of PCCs – structures (along with incorporated protected cell companies) pioneered in Guernsey, is that they allow for consolidated reporting. A family patriarch can receive one report that consolidates all assets and liabilities across the entire family cellular structure, while the assets and liabilities remain segregated.

In addition, Guernsey offers a range of structures that family offices can use to hold assets of all types across the globe. These include corporate entities, trusts, foundations, limited partnerships and limited liability partnerships.

As a jurisdiction, Guernsey has a readily accessible and highly skilled legal infrastructure. The Guernsey court system has a robust and independent judiciary whose deliberations rest on Common Law principles and its reputation of being at the forefront of the development of trust and company law sets it aside from other jurisdictions.

When it comes to meeting the complex requirements of wealthy families, Guernsey has a proven track record. The regulators, legislators and financial practitioners work together closely to maintain and grow this solid reputation. From my perspective as a practitioner, our clients (and their structures) undoubtedly benefit from the reputation and integrity of our jurisdiction.

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STRUCTURING TRENDS IN GUERNSEY FOR MIDDLE EASTERN CLIENTS

** by Angela Calnan, Collas Crill*

Last year was another busy one for Guernsey, with fiduciary work derived from the Middle East reaching an all-time peak. In this article, Angela Calnan, Group Partner at the international law firm of Collas Crill, reflects on trends in the structuring of financial deals in Guernsey and their future implications for people who work in the trust and foundations sector. Angela, who manages Collas Crill's Middle Eastern Practice, lived and worked in the region for several years before relocating to Guernsey.

DIFFERENT INSTRUCTING PARTIES

The first major change to note is in the new direction from which our instructions are coming. Approximately 80% of our Middle Eastern instructions for trusts and foundations used to come from trustees. Approximately 5% came from private bankers/accountants and 15% from the Middle Eastern families directly or from their gatekeepers/family offices.

Over the last 12-18 months, however, we have seen a very definite shift towards direct instructions from the families. Now, approximately 30% of our private client work in the Middle East and North Africa (MENA) comes directly from them and, of the remaining 70%, approximately 60% comes from trustees and 10% from financial intermediaries.

> *Elderly Middle Easterners find it shameful to appear ignorant about things*

Why is this happening? I believe that the shift is due to three main factors.

- *Word of mouth*. During the last 5-10 years, Western private client lawyers, wealth planners and intermediaries have lavished a great deal of their energy on emerging markets such as the United Arab Emirates, Russia and Africa by travelling or relocating to those markets and also by having valuable, in-depth conversations with families about estate planning. It can take 5, 10 or even 20 meetings with MENA families to earn enough trust to move ahead with the structuring. We have reached a stage now where our original clients have shared their experiences and ideas with their peers and those new families are now coming to us directly.
- *Guernsey Finance*. This staunch promoter of Guernsey's financial sector abroad has invested significantly in visits to emerging markets such as the Middle East over the last 5 years. This has been very reassuring for our clients and prospects. These days, I very rarely need to get the map out and show the families where Guernsey is and I can spend my time instead talking about structures rather than trying to persuade the clients that Guernsey is a credible, reputable international financial centre.
- *Transmission to Generation Two*. Rather than trying to persuade an octogenarian patriarch/matriarch that estate planning is a good idea, I am now often dealing with "Generation 2" directly. These are the offspring of the people who set up the original trusts/structures and they are familiar with the way they work. Instead of being strangers to estate planning, they have already taken part in it.

Historically, we have often dealt with elderly Middle Easterners who come from a culture where it is shameful to appear to be ignorant about things. Such is their aversion to this that when we talk to them about a complicated structure or financial arrangement, they pretend to understand us even if they do not. They then sometimes murmur their approval for our plans but, having failed to understand them, they escape and stay away for fear of asking for further details (or the same details all over again) and thereby losing face. If and when they do come back, it often takes us 10-15 meetings to explain our recommendations to them and lead them to the point at which they understand them. This was very common ten or 15 years ago, although it is less so now.

The next generation, "Generation 2," are very different. They are usually Western-educated people for whom there is no humiliation in asking questions over and over again if needs be. Their education has trained them to be rational and inquisitive about problems and if they fail to understand an explanation, they will ask to hear it again. Sometimes their parents are still alive, sometimes not.

THE CONTROL STRUCTURE OF CHOICE

Clients from the Middle East still often have "retaining control" as their primary aim, especially when the primary asset is a family business. In the past, our clients opted for "reserved power trusts" (whose settlors can retain powers in respect of them, or can employ others to hold them, without affecting the validity of their structures) or trusts with protectors or a protector committee/family council in order to achieve a comfortable level of control.

Over the last 5 years, however, our MENA clients have moved away from these simple structures, now preferring to exercise control at the trustee level through a Private Trust Company (PTC).

A PTC is a Guernsey company set up by the family in question with our help. It is essentially the client's own trust company. Its board is often identical to the board of the client's underlying operating business. We usually suggest that a Guernsey licensed fiduciary should occupy a "minority seat" on the PTC's board in order to ensure good information flow for compliance purposes.

Nowadays, instead of employing its favourite trustee/relationship manager (who himself is the employee of a major trustee company) as trustee, a family is more likely to set up its own mini-version of that large company with a relative on the board. The trouble with this arrangement is that the client's own trust company must legally have an external shareholder, whereas a foundation need not. A PTC, in other words, needs a "third-party" shareholder and this is a problem because in this arrangement a stranger has to sit at the top of the company rather than the client.

> *With a PTC the entrepreneur can remain at the top of the structure*

FORWARD THE FOUNDATION

With a PTC, therefore, the family in question is not in the driving seat with its own people at the top of its structure. This problem was laid to rest four years ago in Guernsey when the Foundation Law came in. By using a foundation as a PTF, a family does not need an external shareholder. The entrepreneur can therefore remain at the top of the structure, in the driving seat. There are also administrative costs to be saved when one does away with the purpose-trust level of a PTC. The PTF is now a widely accepted structure in Guernsey and is proving very popular with our Middle Eastern and North African clients. Foundations are on the rise in general.

The PTC usually acts as a trustee for several family trusts, with each one benefiting a particular branch of the family or holding a particular asset class. We usually have a separate trust for the family business in order to protect the rest of the family's wealth from business creditors.

WHOM TO TRUST?

When clients are setting up new structures or changing trustees, they often ask us to recommend new trustees. Over the last year, their conversations with us about this have taken on another dimension. Clients used to look at large trust companies and think that they were bound to be good because they had large offices. The problem with such companies is that they have a high turnover of staff, not to mention the fact that their structures are often disrupted by amalgamations and takeovers. The workforce is also more mobile than it was 15 years ago. For all these reasons, size is no longer the selling-point it once was for a large trustee company.

Whereas a client might once have thought that Mr X was a relationship manager in whom he could have faith, he is now likely to see Mr X moving to a totally different firm, or even setting up his own boutique firm. He might then employ Mr X's new company instead of the large firm. He might even go farther in his search for a reliable relationship by employing a family business whose staff are related to one another and are never going to leave.

Our Foundations Law in Guernsey was a little slow to gain traction

He might, alternatively, employ a big bank that is very conservative in terms of the assets it is prepared to handle. There are two types of company in the offshore world – a 'holdco,' used in planning structures, which is merely a basket that holds shares, such as a company set up to sit between a trust and a piece of London real estate; and, alternatively, a true business, i.e. an 'operating company' such as Volkswagen. Some big, conservative banks prefer bankable assets to these operating companies and many clients find that comforting. They also eschew 'risky' investments beloved of Middle Eastern and North African familites such as aeroplanes, boats or flashy cars (or 'toys' as they are known in the trade) and artwork. Such products are especially risky because in many cases the end family will regard those assets as theirs even though they are actually owned by the trustee. Members of the family will have the keys to them and use them freely without recourse to him. When there is an accident, it will be his name on the insurance policy and not theirs. An accident will also represent a loss to the trust fund for which the trustee is liable.

WHY THE SHIFT?

Middle Eastern and North African clients do not tend to be as bothered by fees as our other clients and are willing to pay for the traditional "trustee for life/relationship manager" model. Because of this, the boutiques are doing very well. Most of the small trust companies (which call themselves 'independent' because banks do not own them) on both Jersey and Guernsey have disappeared in the last 15 years or so, and especially in the last couple of years, by merging with each other or being acquired.

SOLID FOUNDATIONS

It is too easy and naive to say that Middle Eastern and North African clients do not understand trusts. Many of the families that we look after have had trusts for decades. That said, Middle Eastern and North African families who are new to estate planning do like the corporate feel of foundations. Our Foundations Law in Guernsey was a little slow to gain traction but we have seen a real uptick in the use of foundations in the last two years, both as private trustee vehicles and in philanthropic structures. This is because HM Revenue & Customs was rather inconsistent in the way it taxed foundations in the early days. The problem ended with the advent of the British Government's Liechtenstein Disclosure Facility, after which time we could predict the tax that any given foundation would have to pay. In the Middle East, the word 'foundation' has long been synonymous with philanthropy, charity and zakat (the compulsory giving of a set proportion of a good Muslim's wealth to charity). Middle Eastern and North African clients like to leave "public legacies" to history, sometimes giving thier names to charitable foundations for the welfare of children or some other worthy cause.

PENSIONS

Another interesting trend concerns pensions and benefits for employees based in the Middle East. In Dubai, employees of businesses are not entitled to pensions; instead, they receive generous severance pay when they leave their jobs. In 2008-9 we had a lot of property development companies in Dubai that wanted to fire staff in large numbers because they could not afford to keep them. They had a problem, however: they also could not afford the mountain of end-of-service maturity payments (regulated by government statute) that they would have to make. Many of them then began to debate openly about whether to put money aside every month to defray severance costs in the event of a future crash. This very high-profile debate raged for a while but dissipated when the world's economy improved. Many companies failed to pay enough into their severance funds during this upturn. Now, however, the property market is once again in trouble and the debate has re-ignited.

I recently drafted a scheme for a MENA airline that is administered in Guernsey. That scheme, as well as providing for end-of-service gratuity payments, also doubled as an employee savings scheme used to both manage the employer's liability and also to attract and retain talent. In the last year, we have seen Dubai-based companies (and, to a lesser extent, companies from elsewhere) start to establish new schemes again. The advantages of having these schemes in an offshore location include expert administrators, modern legislation and 'firewall provisions.' These provisions are vital because they immunise structures from the Islamic/Sharia law that dominates jurisdictions all over the Middle East. If a man in Dubai wants to use Dubai law to change a structure located in Guernsey, he cannot because there is a 'force field' around it. Guernsey's legislation says that only Guernsey law can apply to a trust.

THE INFLUENCE OF THE UK

Finally, I would like to devote a quick word to the way in which the UK has influenced our work for Middle Eastern families recently.

- The weak pound has generated significant interest in real estate in the UK – particularly from Saudi Arabia, Kuwait and Lebanon and particularly for commercial real estate.
- The way in which the relevant acquisitions are structured is changing and we are also seeing existing UK residential property holding structures being unwound due to the changes in the UK's tax landscape.
- Even though Guernsey is already outside the European Union, the 'Brexit' vote in the UK has had an effect on our work and on the structures that are being set up and unwound.
- We expect to see a rush to 'de-envelope' between now and 5 April 2017. If you have a residential property in the UK, it is often owned by a company (perhaps in Guernsey or the British Virgin Islands) that is, in turn, owned by a trust. If one thinks of the company as the 'envelope' into which the house is put, one can imagine it as something that the trustee keeps on the shelf in his office. The tax structure that surrounds such arrangements in the UK is changing - indeed, tax benefits are giving way to tax penalties - and we are therefore frantically trying to help trustees take assets such as houses out of their 'envelopes.'
- We also expect to see the establishment of protected trusts for those UK-resident Middle Eastern and North African clients who are approaching the status of 'deemed domicile' under the '15/20' rule (once they have remained in the UK for 15 out of a total of 20 years, they are 'deemed domicile'). There is always the risk that clients can contaminate those protected trusts – perhaps by inadvertently adding money to them, thereby breaking trust rules and losing tax benefits. We often deal with this problem by setting up many trusts for each client so that if he contaminates one, the consequences will not be as serious because others exist. A lot of trusts used to exist for British HNW families but the tax advantages have evaporated, so now Middle Eastern and North African families predominate in this market.

ARE TRUSTS DEAD?

I am often asked – usually around the time of the Budget – whether trusts are 'dead'. It is certainly true that a lot of the tax-driven structuring has fallen away but, for clients from no-tax or low-tax jurisdictions in the Middle East who have exposure to forced heirship rules and who have genuine estate planning needs, trusts and foundations are still hugely relevant, effective and popular.

We have also seen a 'flight to quality' in Guernsey since the publication of the Panama Papers.

A lot of people have been launching foundation structures and pension structures in the last 12–18 months with gusto, where previously they had shown some trepidation.

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A DYNAMIC (AND SAFE) PLACE TO DO BUSINESS

** by Stuart Dowding, the client services director in First Names Group's Hong Kong office*

Take a trip to Hong Kong right now and you can't help but be struck by the sense of limitless opportunity, with business conducted at a pace matched only by the speed at which people careen around in their free time. The buzz is undeniable and the boom shows no signs of abating.

EMERGING MARKETS, EMERGING WEALTH

Hong Kong's population of high-net-worth individuals (HNWIs) — those with a net worth of between US$1 million and US$30 million — has been growing steadily in recent years. According to a *Private Banker International* report in 2016, there were 200,000 HNWIs in Hong Kong collectively holding approximately US$1.1 trillion in wealth. What is more, the report projected that total HNWI wealth would grow by 23.5% to reach US$1.4 trillion.

Hong Kong is generating a huge amount of new wealth. Not only are older entrepreneurs and family businesses reaping the rewards of Asia's contribution to a boom in the world's emerging markets, but also a new, younger generation is inheriting huge amounts of wealth from its families. Having been schooled in Europe, New York, California and many other places, these people are now returning to their own continent and pouring their energy (and some of that wealth) into innovative start-ups.

> *Tech start-ups in Hong Kong grew by a hefty 24% in 2016*

Another major pool of wealth in the region is 'foreigners in Asia'. Although the term 'ex-pat' has become synonymous with people from overseas staying in the region for a mere two to three years, 'foreigners in Asia' is the term that wealth managers give to people who remain in the region for five years or more. They move about a lot in the course of their multinational jobs, in such sectors as technology or banking, and as they do so they bring all their knowledge to Asia and create new opportunities – opportunities that can bring tangible benefits to an economy that ranked as the fourth easiest place to do business in the World Bank's recent *Doing Business* 2017 report.

SUPPORTING THE WEALTH GENERATORS

The city is full of people with initiative and drive – some of them people who want to invest and/or manage their new wealth, others serial entrepreneurs attracted by Hong Kong's pro-business environment.

According to InvestHK, the government's investment promotion agency, the number of tech start-ups in Hong Kong grew by a hefty 24% in 2016, to 1,926. Business incubators (companies that help new businesses to develop by providing services such as management training or office space) are springing up all over the city and the government has been quick to jump on board and show its support – it opened the Innovation and Technology Bureau in November 2015 and is also about to unveil a HK$2-billion Innovation and Technology Venture Fund in the first half of this year, all for the benefit of the city's entrepreneurs.

The choice of professional services that these entrepreneurs have as they go about extending their businesses (and increasing their wealth) is evolving all the time too. Trust services are still relatively new in the region, but the new generation of wealthy Asians is used to working alongside advisors and service providers to establish and administer structures that ensure that the right planning is in place from the outset.

Take entrepreneurial start-ups, for instance. Many will roll along quietly before hitting the jackpot and launching an IPO. By the time they do so, they should have all their succession planning and wealth protection in place and structured correctly. Clients hoping to 'IPO' their businesses successfully recognise the benefits of working with well-regulated partners who provide professional services.

REGULATION NO LONGER MERELY 'NICE TO HAVE'

Another area in which more and more clients are seeking the services of professional service providers is in relation to regulatory compliance.

The boom in business and the continuing influx of investors, entrepreneurs and financial service firms to the region have inevitably prompted regulators to look at firms more closely. Although it may come as a surprise to many, this could not have had more a fortuitous effect.

Fifteen to 20 years ago, Asia was something of a new frontier when it came to trust, fiduciary and financial services. The industry was relatively new and regulation had yet to catch up with world-class standards. In most cases you did not have to declare who you were or why you were doing what you were doing.

The swashbuckling nature of many lightly regulated firms gave rise to the perception in some quarters that anyone who created a trust offshore must be hiding something, rather than merely setting up trusts to hand on wealth to the next generation or to plan estates. This negative viewpoint was revived recently in the wake of the Panama Papers scandal.

Regulatory laxity is no longer a feature of financial life in Hong Kong these days. The US *Foreign Account Tax Compliance Act* (*FATCA*) and the Organisation for Economic Control and Development's Common Reporting Standard (CRS) are creating 'level playing fields' when it comes to 'client tax transparency.'As a modern participant in the world of international finance, Hong Kong understands the need to comply with the highest standards if it wishes to compete on the global stage.

Indeed, Hong Kong has been a member of the Financial Action Task Force (FATF), the global anti-money-laundering watchdog, since 1991. It has commanded firms to obey *FATCA* since 2015, and the automatic exchange of financial information under CRS will begin in 2018.

> *Trust services are still relatively new in the region*

A trust or corporate service provider in Hong Kong needs no license, but the Government has recently announced its intention to introduce regulation in the trust and corporate services industry – a policy that professional service providers should regard as welcome for their own long-term prosperity.

More regulation in the industry will serve to discourage unsuitable clients (and, indeed, poorly managed service providers) from the temptation to perform bad service. Ultimately, this will improve the reputation of Hong Kong and ensure emphatically that it remains a global financial centre rather than an offshore jurisdiction. More regulation will also make it easier for compliant businesses to extend their networks of relationships with other financial firms, both in Hong Kong and internationally.

Skyrocketing regulation has also prompted a great deal of consolidation in the market and this might work out very well for clients. In order to survive as a provider, a firm now has to bring in extra infrastructure, hiring support staff such as compliance and legal experts. As the smaller firms cannot afford to sustain the extra headcount they need to keep abreast of anti-money laundering and other rules, they disappear.

REGULATION AND THE ASIAN CLIENT

When it comes to meeting current regulatory standards, professional service providers are going to have to hold their Asian clients' hands, as it were, more than ever before. In the modern world, most of their clients expect to hand over their passports and utility bills as identification when asked, but understandably they remain concerned about the security of their data, especially in Asia. However, the regulatory regime is going to be watching every firm and this ought ultimately to offer comfort to clients.

Regulatory rules and the need to hire legal, tax and investment advisers, either directly or through a professional services provider, can be worrisome for Asian clients in other ways. The desire to retain control is inherent in their culture – it is the client who makes the decisions. Many, for example, struggle with the idea of allowing a banker to make decisions about how to invest their assets. They want to know that there are numerous safeguards in place; that they have options if they lose faith in their service providers or advisors; and that they can retain some level of involvement in the continuing management of their assets. Compared with clients in Europe, clients in Asia are also very reluctant to hand over the reins of their business interests to anyone else.

Risk-averse clients can take comfort in the knowledge that regulation adds an extra layer of protection. The fact that a government body will have oversight of the industry, and, as a last resort, can step in to protect clients in cases of maladministration, adds significant confidence when handing assets over to a third party. This, in turn, should make it easier for the industry to persuade clients to create compliant structures in the first place. The result is a jurisdiction in which it is much safer for everyone to operate.

HONG KONG AFTER BREXIT

The recent upswell of regulatory compliance is obviously not the only topic of interest in the industry: the implications of Brexit are also high on the agenda. The prognosis is not always negative. Daniel Poon, the Hong Kong Trade Development Council's principal economist for global research, expects that after the UK leaves the EU there will be more British and even European companies that want to do business with Asia. According to Poon, Hong Kong is well placed to play a large part in this.

With a relationship based on historic ties, as well as shared interests and investments – economically, culturally and educationally, the UK and Hong Kong here will have many more opportunities to develop further links with each other. Although nobody knows whether Brexit will be 'hard' or 'soft,' Hong Kong, like so many other jurisdictions, must wait and see.

2017 IN THE WORLD'S 'FREEST ECONOMY'

Hong Kong's economy expanded by 1.9% in real terms in 2016, after growing by 2.4% in 2015. A number of measures to strengthen its competitiveness were introduced in the 2017–2018 budget (announced in February) and in 2017 the economy is forecast to grow by 2-3%.

What is more, the Special Administrative Region (SAR) remains Asia's largest recipient of foreign direct investment (FDI). According to the *UNCTAD World Investment Report* 2016, global FDI inflows to Hong Kong amounted to US$175 billion in 2015, behind only the US (US$380 billion).

Hong Kong's economy expanded by 1.9% in real terms in 2016

Added to this, Hong Kong is a leading telecommunications hub for the Asia-Pacific region and a premier offshore renminbi centre. It has the world's busiest airport for international cargoes and one of the world's busiest container ports. It is the second-largest private equity centre and has the fourth-largest stock market in Asia (the eighth-largest in the world) and the second-largest foreign exchange market in Asia (the fourth-largest in the world).

Put this together with a fair and transparent legal system, a simple tax system, a stable political environment and a regulatory system whose inner workings are exposed ever-more clearly to the public gaze, and it is no wonder that a vibrant, internationally active, entrepreneurial business class has emerged that is hungry to increase and nurture its wealth. The can only be good news for professional service providers in the region, as well as for Hong Kong itself.

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About Us

We are a leading independent provider of trust, corporate, fund and real estate services and solutions with a network of 14 strategically located offices around the world, including Hong Kong and Singapore. As an independent firm, we are totally free of the conflicts of interest often associated with institution-owned trust companies. This not only gives us the agility to make decisions quickly but also allows us to choose the right banks and investment houses to work with. We are director-led and are enthusiastic about professional qualifications among our 800 employees, who include many trust and estate practitioners, accountants, lawyers and chartered secretaries.

Our services

We pride ourselves on the superior service we perform for clients. Our approach is based on robust processes and the sharing of knowledge through our group. We understand that all of our clients, from single individuals to major corporations, want to rest easy in the knowledge that their structures are being administered by experienced professionals motivated to deliver the highest standards of corporate governance.

Our experienced people

Our private client experts have decades of experience with the set-up and administration of trust structures. Our range of services is wide. We act as trustees and independent directors, liaising with legal advisers to draft trust instruments, day-to-day management and administration of trusts and financial reporting and accounting services.

Our highly qualified international specialists have significant expertise in delivering services and solutions for blue chip multinational corporations and institutional investors. They sit on the board of directors of client companies across a range of industry sectors and corporate structures. Together with their teams, they provide corporate secretarial, domiciliation and financial administration services and ensure all statutory and regulatory requirements are met.

Above all, we are a 'people' business.

A GUIDE TO MALTA FROM AN IFC PERSPECTIVE

** by Joanne Luce, the managing director of Aqua Group*

Malta, a small island in the middle of the Mediterranean, is a crucial part of the changing landscape of international financial centres and an increasingly important gateway into the European Union. It is uniquely placed and through air travel can reach most European hubs and North Africa within a reasonable two-to-three-hour time-frame.

The island has excellent ICT (information and communications technology) connections and retains a close relationship with the United Kingdom, its former colonial protector; a very significant number of its lawyers have studied for their second degrees in the UK. This can lead to some interesting conversations when they return from their studies and discuss the universal topics of either football or food!

PASSPORTING RIGHTS AFTER BREXIT

Malta is one hour ahead of Greenwich Mean Time. Its financial sector and clientele have expressed a great deal of interest in 'passporting' rights for funds in accordance with the European Union's Alternative Investment Fund Managers Direct in the aftermath of 'Brexit,' the moment when the UK will leave the EU. Passporting rights that had previously been awarded to funds in the jurisdictions that surround the UK, namely the Channel Islands and the Isle of Man, are now being awarded in increasing numbers to Malta-domiciled funds.

A HEALTHY BUSINESS SECTOR

Since Malta's entry into the EU, its business sector has developed slowly and steadily in several core areas and the financial services industry is one of these. Having gained independence from the UK in 1964, the island is a democratic parliamentary republic where executive powers rest with the Prime Minister, Joseph Muscat, who at the moment is on 'double duty' as the President of the Council of the European Union.

Malta has enjoyed healthy economic growth over the last four years and real GDP grew 3.3% in 2014. The island has one of the lowest unemployment rates in Europe, which rests at 6% compared with an EU average of 10%.

MALTA'S LEGAL SYSTEM

The structure of the Maltese legal system is "mixed." It relies historically on codified Roman Law. The French invaded the island in 1798, bringing with them a "je ne sais quoi," but the British ousted them swiftly and governed Malta for more than a century and a half, leaving their own mark on the legal system. Forty years after it gained independence from the UK, Malta joined the European Union. It ratified the Treaty of Lisbon in 2008.

It is probably fair when looking at Maltese Law to say that it has its roots in Civil Law but has also absorbed many features of the English Common Law. This is the regime that governs the island's corporate and financial sectors and it remains helpful for Maltese lawyers to begin their legal training in Malta and finish off with some experience in the UK, whilst retaining a healthy interest in all things EU. This healthy mixture of legal influences allows many of Malta's financial and corporate products, including protected cell companies, trusts, private trust companies and Corporate or Collective Investment Schemes, to flourish.

The World Economic Forum has stated that Malta has the tenth most secure banking system in the world. Membership of the EU has allowed it to develop a broad range of collective investment schemes and fund structures. These include private investment funds, which live outside EU directives such as the Alternative Investment Funds Directive and the usual EU-compliant and globally recognised UCITS schemes.

STRUCTURES AND PRODUCTS

Malta was one of the first jurisdictions to adopt the protected cell corporate structure, in which insurer writes insurance risks through cells with that lie inside a core company. A large number of international insurance companies are located in Malta and the jurisdiction has developed laws to govern both insurance linked securities and catastrophe bonds, also allowing for the creation of a reinsurance and capital market. The island's Parliament has also passed trust legislation, taking the features of the usual Anglo-Saxon trust and placing it in a Civil Law context.

> *A large number of international insurance companies are located in Malta*

The taxation system has always kept itself simple and companies are taxed at a rate of 35%. However, there is an imputation system which, in essence, provides a credit once a shareholder receives a dividend from his taxed sum of income. This will result in a refund of six-sevenths of the relevant tax he has paid, if that income is derived from trading. If the income is passive income or royalties, the refund is calculated at five-sevenths. If the entity avails itself of the double taxation relief that is on offer, then the credit will be restricted to two-thirds.

The European Commission, the nearest thing that the EU has to an executive branch, believes the Maltese tax system to be compliant with EU non-discrimination principles and the OECD has approved of it as well, at least in principle.

Malta offers highly qualified professionals and financiers tax incentives to move to it. It has successfully negotiated a wide number of double-taxation agreements with EU member-states, African countries, the US and states in the Middle East and Far East. Throughout its history, Malta has always been successful at developing commerce, even though it is not a large country.

ANTI-MONEY-LAUNDERING EFFORTS

Malta's Financial Intelligence Analysis Unit has been accepted as a member of the Egmont Group and Malta is one of the fifteen countries that the FATF admitted at its eleventh plenary meeting. This demonstrates the island's commitment to the fight against money laundering.

EFFORTS AGAINST TAX EVASION

In addition, on 4th December 2015, Malta enshrined the EU's Administrative Co-operation Directive in its domestic law, thereby committing itself to the Common Reporting Standard. This is the global standard of automatic exchange or financial account information in tax matters that the Organisation for Economic Co-operation and Development evolved. Malta was also one of the first countries in the world to sign an inter-governmental agreement (IGA) with the United States to improve international tax compliance in line with the American *Foreign Accounts Tax Compliance Act 2010*. Both countries signed the *FATCA* IGA Model 1 Reciprocal Agreement on 16th December 2013.

AN ISLAND OF ACTIVITY

The close working relationship between Malta's politicians and regulators has led to exciting legislative changes that continue to encourage this island's international trade. It also adheres to the Rule of Law and internationally accepted principles of effective financial legislation and has an exceptionally hard-working and well qualified population.

Malta has sought to develop a citizenship-by-investment programme that conducts rigorous checks on incomers, with the aim of weeding out the bad while accepting the good.

Malta's financial industry, then, is nimble and reactive to the implications of Brexit and the ever-shifting politics of the EU, in which it plays a vociferous and constructive part. It is in a prime position to go on developing long-term strategies that will generate growth and effective and strong corporate governance and structuring for future generations.

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Aqua Group: a family office with a difference

Established in 2012, Aqua Group is a multi-family office which operates in many jurisdictions, supporting and working closely with UHNW families, managing their assets and providing their businesses with corporate structures that are in line with the spirit as well as the letter of company law.

When Aqua takes on a project, it wants to go further than simply setting up a company and keeping it functioning as a box-ticking exercise. The Aqua team is well aware of the downside risk that every family faces and its experts are on a mission to mitigate that risk. Whenever the team structures an asset it takes a long-term view, anticipating future market trends, any laws that might be in the pipeline and any family needs that are likely to change, as the needs of all HNW families do. It also maximises the confidentiality that surrounds every family's dealings, especially when members of that family are in the public eye.

Aqua is very forward-thinking in its approach, staying up-to-date with new information technology and setting great store by the promotion of learning. It has set up a training academy to help its team members develop their talents and reach their potential. The ultimate aim is, as always, to ensure that its strategies hit all the relevant regulatory targets and remain commercially viable over time.

Family offices are arguably the fastest-growing investment vehicles in the world today, as families with substantial wealth are seeing more and more advantages in the creation of customised platforms with their interests in mind.

Aqua has a proven track record of flexibility. If a client needs something done in his own unique way, or requests on-site support, he can have it. At the same time, Aqua takes few risks, does not fluctuate in its performance, is prudent to the point of conservatism with its finances, always honours its promises and is never seduced by the fads and crazes that sometimes bedevil the wealth management market. If the client wishes to take a risk, it informs him about the implications of that risk and tailors its strategy to his risk appetite.

The areas of expertise on which family businesses need to draw are also ours, among them real estate, insurance, corporate structuring, tax structuring, project management, asset development and the pursuit of return on investment (ROI), trusts and foundations. Unlike many firms in the field, we do not have inflated charge rates for our services and our billing process contains no surprises for the unwary.

Aqua provides specialised 'niche' services but is equally at home operating globally. For instance, the firm contains accredited agents who are allowed to help HNWs enter the famous Malta Individual Investor Programme, helping them set up business structures that allow them to make the requisite investments in Malta's economy. It does this by taking advantage of Malta's 71 extant double-tax treaties and neutralising most of the corporation tax that an HNW's business might have to pay.

It is also, however, accustomed to such tasks as managing an asset in an onshore jurisdiction such as the UK (perhaps buying and developing it for ROI, or buying it to resell it later, or obtaining the most revenue out of property that a client already owns) from Malta on behalf of an ultimate beneficial owner in Europe or the Middle East. Its liaison with leading accountancy and law firms is also first class.

Most of our clients come to us through referrals and recommendations from the families that we service – a proof of how valuable a good reputation is.

Our firm has three principles, visible on the very front page of our website, by which we operate: transparency (we do not put the profits of Aqua or our needs ahead of the families we serve, and are entirely open with them about our services and charges); clarity (never failing to say what we can and cannot do); and distinction (we are unique in our approach).

This, we think, makes Aqua a multi-family office with a difference.

THE FINANCIAL HUB OF THE MEDITERRANEAN

** by Ivan Grech, the head of business development at FinanceMalta*

Malta's financial sector has grown rapidly in recent years and accounts today for about 13% of gross domestic product, according to latest available data. More than 10,000 people toil in financial services, spanning sectors such as insurance, wealth management, banking and funds. As IFCs go, Malta is a well-diversified place and not reliant on one narrow business segment. It performs a healthy variety of services, allowing it to cope with the vagaries of the economic cycle.

Some hard numbers tell the story. Financial services account for the lion's share of foreign direct investment into Malta, proving the importance of this sector to the country's economy. According to the National Statistics Office, Malta's official body for tracking such data, foreign direct investment into financial services stood at €1.771 billion in the first half of 2016, compared with a total FDI figure of €1.852 billion for the entire economy. The financial services number is up from €1.314 billion a year before. For the whole of 2015, FDI into financial services was €3.746 billion, down from the two previous years, but unsurprisingly so given the unlikelihood of sustaining such a hot rate of growth. By June 2016, the stock of FDI was €153.7 billion, having climbed from €143.9 billion in 2015.

AN ISLAND OF MANY QUALITIES

How has this small island – the southernmost member of the European Union – been able to clock up such figures? The answers come from a number of quarters. Malta has not experienced the kind of bank failures and fears of bank runs that damaged certain other European jurisdictions. Its banking system is robust. The country's financial sector is well regulated by the Malta Financial Services Authority and banks' capital 'buffers' are among the highest in Europe. Solvency ratios are well over European averages.

The country is bi-lingual – English is the second language next to Maltese – and the country has, for historical reasons, adopted both English Common Law and continental European legal codes. This legal variety makes Malta hospitable to varied structures for the holding and transference of wealth, such as trusts and foundations. A stable legal and political system – the country has been independent since the 1960s – are qualities all the more appealing in uncertain geopolitical times. (Malta also held the rotating European Union Presidency in the first six months of 2017.)

The country boasts excellent weather for most of the year, is within a few hours' flying time to financial hubs such as London, and has a hard-working, well-educated workforce whose mind-set is international rather than parochial. Malta is in many ways an outward-looking country; many of its financial industry professionals train and work abroad for periods of time, allowing the country to examine best practices from around the world and soak up valuable ideas.

The world's financial institutions clearly like what they see when they behold Malta. In 2015 there were 67 financial institutions in the island – an enormous increase on 38 in 2007, the year before the global financial crisis. That number includes 28 credit institutions and 39 financial bodies. Firms like Malta's geographic and cultural position: the country has strong links with North Africa, the Middle East and southern Europe. It also has strong links with the United Kingdom, both for historical reasons as a former colony and now for commercial reasons as a trading partner. Whatever happens because of the 'Brexit' process that the UK is now undergoing, the fact that Malta remains an EU member state and has strong links with the City of London guarantees its future as a prime channel for British capital on its way into Europe.

KEEPING IT IN THE FAMILY

IFCs must continue to innovate to satisfy the needs of their clients. To this end, Malta made a splash at the start of 2017 with the enactment of the *Family Business Act*. This law governs the regulation of family businesses, their governance and the transfer of family business from one generation to the next. It seeks to encourage and help family businesses to improve their internal organisation and structures, work more effectively and strive towards a successful 'succession' in every case. Central features include a formal definition of the term 'family business' and details of the kind of people who should be considered in terms of family membership and governance. Some family-owned businesses are already trying to take advantage of this flexible piece of legislation and it is hoped that it will become another valuable part of Malta's financial jigsaw in the years to come. Initial reactions from family business owners have been very positive.

INNOVATIVE STRUCTURES

Meanwhile, the country has done much to encourage the use of entities such as protected cell companies; these appeal to medium-sized groups that want to create singular insurance vehicles. In 2014 Malta introduced the Private Trust Company for the use of high-net-worth individuals and families. It also has specific legislation for foundations. As previously mentioned, Malta's variegated legal system positively encourages the use of new legal structures. Most Maltese funds are professional investor funds or PIFs, which are usually open-ended or private limited liability companies. The country has also continued to encourage the use of alternative investment funds in areas such as private equity and real estate. As a member of the EU, Malta is a hub for AIFs, which take their name from the Alternative Investment Fund Managers Directive (AIFMD).

TAXATION

The country has already been known for some time for its benign tax regime. It is the only EU country to operate an imputation tax system. All companies pay tax at 35% but there is a refundable tax credit available as dividends to shareholders. Malta offers residency of a very advantageous kind to highly qualified foreign professionals, who pay a 15% flat tax. Malta is a signatory to a raft of international tax treaties which include the Common Reporting Standard regime.

CONSTANT CHALLENGES, CONSTANT OPPORTUNITIES

Finally, Malta is one of a number of jurisdictions encouraging high net worth investors to acquire citizenship in return for making significant investments. The programme comes with a strict 'due diligence' process.

Like all IFCs, Malta faces a constant challenge to stay ahead; policymakers realise that a strong reputation for trust, ease of business and reliability are priceless assets that can allow Malta to ride through whatever economic weather comes its way. No IFC can or should rest on its laurels. Malta is a resilient, happy island with a long and proud history. In a world where capital needs to be wisely invested to foster growth and jobs, Malta's financial services industry can aid that process.

About FinanceMalta

FinanceMalta is a non-profit public-private initiative set up in 2007 to promote Malta's international business and financial centre within Malta as well as outside it. It uses resources of the financial industry and the Government to ensure Malta maintains modern and effective legal, regulatory and fiscal regimes in which its financial services sector can continue to flourish.

The founding associations of this organisation include the Malta Funds Industry Association, the College of Stockbroking Firms, the Malta Bankers Association, the Malta Insurance Association, the Association of Insurance Brokers, the Malta Insurance Managers Association and the Institute of Financial Services Practitioners. The organisation offers corporate and affiliate membership through which members gain direct experience and knowledge of each other and benefit from regular industry updates, training and seminars on specialist subjects, industry lobbying and, international marketing and public relations initiatives under the FinanceMalta umbrella. Corporate membership is open to such entities in the financial sector as fund, insurance and pension management companies. Affiliate Membership is designed for organisations and companies that wish to take advantage of the growth of Malta's finance industry and the FinanceMalta network. These include media organisations and firms that perform real-estate services, recruitment services, business and professional services. The FinanceMalta team reports to a board of governors which is chaired by Kenneth Farrugia, a banker by profession.


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ISLAND OF OPPORTUNITY

** by Didier Lenette, partner, Rogers Capital*

Mauritius intends to obey the 'minimum standards' set by the Organisation for Economic Co-operation and Development's 'Base Erosion and Profit-Shifting' (BEPS) regime, as well as, other BEPS-related recommendations.

In May last year, in its relentless endeavour to combat fiscal evasion and its position as a 'substance-driven' jurisdiction, Mauritius signed a new protocol to amend its double taxation avoidance agreement (DTAA) with India, giving away its rights to tax capital gains.

Under the revised DTAA, capital gains made by a Mauritius company on the disposal of shares in India will be taxed in India as from 1 April 2017. However, a grandfathering clause applies to investments made before that date, the capital gains from which can continue to be taxed in the taxpayer's country of residence.

Mauritius has a comparative advantage for debt investment in India

A limitation of benefits (LoB) clause has also been introduced and will operate during a transitional period of two years. It sets out conditions for a company not to be considered as a shell/conduit company. Thus, if the Mauritian entity fulfills the LoB requirements, it will be liable to 50% of the domestic capital gains tax rate prevailing in India on the disposal of shares purchased and sold during that transitional period.

Under the revised DTAA, Mauritius has a comparative advantage for debt investment in India.

OPPORTUNITIES FOR HNWIS

As a country, Mauritius caters for a diverse set of both professional and personal needs. It is an ideal location in which to register a ship such as a yacht for commercial or leisure purposes because it has ratified the salient international conventions on maritime safety, the prevention of pollution and training and certification for seafarers. Additionally, bareboat registry in and out is permitted.

The phenomenon of parallel or bareboat registration is an interesting one. A ship that is 'bareboat registered' in a foreign registry and chartered by Mauritian companies may be registered in the Mauritius Open Ship Registry for the period of the charter but not for more than three years. The registration of the ship in the foreign register is suspended in the meantime. Application must be supported by a certified copy of the bareboat charter, a certificate of ownership and mortgage of that foreign register, consent in writing from the registered owner of the foreign ship, and from the mortgagees, together with all the documents required for permanent registration. If the application is approved, the Director of Shipping will issue a certificate of Mauritius Parallel Registry that sets out its date of validity.

A major virtue of a Mauritian trust is the strict confidentiality on offer

Investors have access to the best of two worlds; a stimulating work environment and the opportunity to obtain residency. The country tops the Mo Ibrahim Index of Overall Governance; a holistic evaluation of many countries' safety, rule of law, respect for human rights, sustainable economic development, and the development of human capital. Investors and their investments are always placed at the forefront of Mauritian policy and guaranteed proper protection.

This tropical paradise offers various residency schemes such as an investment option for everyone who wants to base his operations in the Indian Ocean. High-net-worth individuals find in Mauritius a perfect place to increase the wealth of their families by using various available structures. They can obtain residency if they meet the requirements of one of the following categories.

- 'Investor' who holds a valid occupation permit and the aggregate turnover of his company has exceeded 45 million rupees (US$693,000) for any consecutive period of three years (or) an investor who invests at least US$500,000 in a qualifying business activity.
- 'Self-employed' who holds an occupation permit and whose the annual income has exceeded 3 million Mauritian rupees (US$85,400) for three years.
- 'Professional' having a valid occupation or work permit and whose monthly basic salary exceeded 150,000 Mauritian rupees (US$4,270) for three consecutive years immediately preceding the application.
- 'Retired non-citizen' who has held a residence permit for three years and has transferred US$40,000 annually to his account in a local bank during each of these three years.
- Purchase of IRS or RES property. This grants a person a residence permit and also covers family members (subject to certain conditions). IRS – purchase of investment worth a minimum of US$500,000. RES – can purchase property at values lower than US$500,000. However, only property purchased for US$500,000 enables the 'user' to gain a residence permit. Please note that the IRS and RES will be soon replaced by the Property Development Scheme.

TRUST DISTINCTION

Governed by the *Trust Act 2001*, a Mauritian trust is perfectly designed to function as part of a long-term wealth management strategy. Its many advantages help preserve wealth through the generations, side-stepping common problems created by taxation, probate requirements, succession laws, expropriation and foreign exchange controls. A major virtue of such a trust is the strict confidentiality on offer – no register of trusts exists. A trust can be established without the disclosure of the identity of the beneficiaries or the settlor to the authorities. The deliberations of trustees also remain confidential. The income of a non-resident trust is exempt from taxation, as long as the settlor and the beneficiaries do not both reside in Mauritius. Additionally, resident trusts have access to DTAAs. A Mauritian trust can have a 'custodian trustee' who may be based overseas, whose purpose it is to hold trust property and invest or dispose of trust funds under the direction of a managing trustee.

CAPTIVE ADVANTAGE

One of the biggest challenges faced by large projects in the African continent is to find affordable insurance and capacity due to the regulations in those countries. Mauritius offers sophisticated solutions to the problems of African businesses with captives and can combine legal structures with fully compliant insurance. Indeed, many African businesses have their headquarters in Mauritius, making the island a natural home for their captives.

A Mauritian trust can have a 'custodian trustee' who may be based overseas

Mauritius is the captive jurisdiction of choice in the region, with the advantage of location and a good reputation as an established financial centre. The insurance regulator recently introduced its Insurance (Risk Management) Rules, which are in line with all the 'core principles' of the International Association of Insurance Supervisors (IAIS).

TAX INITIATIVES

In December 2013, the Mauritian and US Governments signed a Tax Information Exchange Agreement pertaining to the exchange of tax information between the two countries. This was followed by the signing of the Inter-Governmental

Agreement (Model 1 IGA) to improve international tax compliance and to force Mauritian companies to obey the US F*oreign Account Tax Compliance Act 2010*. Both agreements were signed by August 2014. Under them, Mauritius will exchange information (upon request, spontaneously and automatically) with the USA in respect to accounts that Americans hold in Mauritius.

Mauritius is a member of the Global Forum on Transparency and Exchange of Information for tax purposes and is largely compliant with the standard of exchange of information as per the OECD's 2016 rating.

In November 2016, Mauritius joined the 'Inclusive Framework,' a group of more than 100 countries resolved to implement the OECD's Base Erosion and Profit Shifting recommendations. Also, Mauritius has joined the G5's new initiative for the exchange of beneficial ownership information, having already participated actively in the ad-hoc group set up by the OECD to work on the drafting of the 'multilateral instrument' that pertains to 'action 15' of the BEPS project.

OTHER FEATURES OF THE MAURITIAN ECONOMY

A company holding a Category 2 Global Business License is often used for trading and investment. GBC II companies are not resident for tax purposes and do not have access to Mauritius' tax treaty network. Beneficial ownership is not disclosed to the authorities. A GBC2 is an ideal option for the holding and management of private assets. GBC2s are often used for investment holdings and can be used to hold assets or act as investment companies for HNW individuals.

Protected Cell Companies (PCCs) are available also. Mauritius is one of the few jurisdictions with a legal structure that can simultaneously hold cellular and non-cellular assets. In this respect a GBC1 (company holding a Category 1 Global Business License) can create cells in its capital for the purposes of segregating the assets within each cell from claims related to other assets. Each cell together with the assets and liabilities for which it is responsible are separate from the other cells within the same company.

Domestic companies with freeport licences can obtain significant fiscal and commercial advantages by combining the benefits of COMESA (the Common Market for Eastern & Southern Africa) and SADC (the Southern African Development Community) membership, the double-tax agreements that Mauritius has struck with other nations and preferential commercial agreements in Mauritius.

COMESA states consist of Burundi, the Comoros, the Democratic Republic of the Congo, Djibouti, Eritrea, Ethiopia, Kenya, Libya, Malawi, Mauritius, Rwanda, the Seychelles, the Sudan, Swaziland, Uganda, Zambia and Zimbabwe. SADC members are Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe.

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THE PROGRAMME PIONEER: ST KITTS & NEVIS

** by Till Neumann, IMCM, the managing partner at Citizen Lane GmbH in Zurich*

St Kitts and Nevis was the first country in the world to establish a citizenship-by-investment programme. The passport that is issued to a citizen by investment is the same as that held by every other citizen. Visa-free travel is one of the many benefits of citizenship by investment of St Kitts and Nevis, opening the door to over 130 countries including the United Kingdom and the other countries of the European Union, Switzerland, Singapore and Hong Kong.

ECONOMIC DIVERSIFICATION

An applicant can either invest in a government-approved real estate project with a minimum investment of US$400,000, plus about US$80,000 of fees, or contribute a minimum of US$250,000 to the Sugar Industry Diversification Foundation (SIDF), plus fees of about US$30,000, such contribution being irrevocable.

The only portion of an applicant's investment that may not be refunded is the deposit he pays when he is purchasing an approved property. This is usually 10% of the purchase price of the property and it is usually (but not always) retained by the property vendor in exchange for holding the property for the applicant while his application is being processed. In cases where the balance of the purchase price is held in escrow, this is always refundable if the application is unsuccessful. The applicant never pays the SIDF investment until his application for citizenship is approved.

Other than the deposit on the purchase price, the only amounts that are non-refundable are the cost of the application forms (US$250 per applicant) and the cost of 'due diligence' (US$7,500 for the main applicant and US$4,000 for each dependent who is 16 years old or more, plus the authorised person's fee).

The amount of the investment depends on whether any (and, if so, how many) dependants of the main applicant are included in an application for citizenship. The SIDF donation starts at US$250,000 for a single applicant or US$300,000 for a family of four – with an incremental US$25,000 for each additional person (if more than four) included in the application. The minimum investment for the 'real property' option, as we have said, is US$400,000. Should the investor not wish to donate to the SIDF (which means that he is making an investment in real estate instead), additional government fees are due.

In the programme's early years some people formed a bad opinion of it because they were uncertain about the things it entailed, but the programme has now been in existence for 33 years and most people have come to realise that the investments that it has brought to the country have benefited it greatly. The SIDF, in particular, funds various programmes that improve the quality of life for everyone on the two islands. Since it was established, the SIDF has invested approximately US$190,000,000 in national development. For a small country, this is a considerable sum. All citizens and residents have benefited from the programme in one way or another. For example, it has led to significant investments in the infrastructure and equipment of schools and the repair and construction of roads. It has given young citizens unprecedented access to tertiary education in St Kitts and abroad. Almost all locals approve of it.

LAWS AND REQUIREMENTS

The islands' citizenship-by-investment programme is governed directly by the *St Christopher and Nevis Citizenship by Investment Regulations 2011*, which sets out the qualifications and requirements for citizenship by investment. The Citizenship-by-Investment Unit or CIU, which oversees the programme and the processing of applications, was established under this law.

Other indirectly related laws are important to the programme. These include many regulatory laws as well as the St Christopher and Nevis Constitution Order 1983, the principle law of the federation, which regulates the various branches of government and guarantees the islanders their fundamental human rights. It is important for our purposes because it also governs the eligibility of the descendants of citizens and others (including investors) to be citizens of St Kitts and Nevis.

There are no new financial laws in the pipeline at the time of writing, but the Government has recently widened the categories of persons who are eligible to apply for citizenship-by-investment and reduced the amount of the investment needed in some cases. These changes have made the programme even more attractive to HNWs.

The CIU ensures that applications are submitted in accordance with the relevant regulatory laws. The citizenship-by-investment programme falls into the category of financial services, so the Financial Services Regulatory Commission sets the rules by which people become eligible to act as 'authorised agents' (professionals who are authorised to handle applications for citizenship). It also sets requirements for background checks and other know-your-client procedures.

The CIU has recently introduced a requirement for authorised persons to carry out 'due diligence' on the main applicant in any application before he submits his application. This has been always a feature of our internal compliance policy at Citizen Lane. Once the application has been submitted to the CIU, the applicant then undergoes a thorough 'duly diligent' investigation by an internationally recognised intelligence information service provider – as has always been the case.

Authorised persons (and members of their staff who handle applications) must be trained to comply with anti-money-laundering and know-your-client processes and are subject to audits by the Financial Services Regulatory Commission.

COMPETITION AMONG PROGRAMMES

What competitive points does the St Kitts and Nevis regime have in relation to other jurisdictions that offer citizenship by investment? Other programmes around the world have a less stringent application process, less rigorous compliance and less efficient systems for fighting corruption than St Kitts/Nevis.

HNWIs who use those jurisdictions might suffer because lapses in compliance often lead to bad publicity, forcing major countries to cancel their visa waver agreements with them.

The competitive differences between the St Kitts and Nevis regime and other non-EU citizenship programmes are as follows.

- The cost of St Kitts and Nevis citizenship is lower than that of Antigua and Barbuda (or, for that matter, the EU programmes);
- There is also no requirement for the applicant to visit the islands. Antigua and Barbuda, by contrast, requires a visit within the first five years if the passport is to be renewed.
- The St Kitts and Nevis programme is well established, unlike the other programmes in the Caribbean which have started in the past two or three years.
- St Kitts and Nevis have a much wider range of approved property developments for an applicant to choose from than any other programme.
- The programme now allows for dependent children of the main applicant or spouse who are up to the age of 30 years old to apply if they are dependent on the parent(s); and for dependent parents of the main applicant or spouse who are 55 years old or over to be included. This includes a much wider age group of children and/or parents.

Other countries are thinking of introducing such citizenship programmes of their own and in general this is a good thing because new competition tends to improve the quality of the programmes. Nevertheless, the market is limited and it seems unlikely that all new programmes will achieve sufficient success.

In St Kitts and Nevis there are no wealth, gift or personal income taxes (local or worldwide). There is no Capital Gains Tax, except in cases where the asset in question is resold within one year of it being acquired. There is also no tax on inheritance by immediate family members.

JURISDICTIONS IN PROFILE

JURISDICTION PROFILE DIRECTORY

The world of international financial centres is in constant flux. In this index we look at the place of each one in the world market. These profiles also look briefly at jurisdictions' recent history, the tribulations that some of them are undergoing and changes to their reputations as they all go about the business of developing and surviving. Readers may find it interesting to detect common themes, a task made simpler in a collection of reasonably short profiles that go to the heart of the matter in each case.

ABU DHABI

Abu Dhabi moved into offshore financial services in earnest in October 2015. The jurisdiction has in the past focused its efforts on oil and gas exclusively but it hopes to remedy this with the Abu Dhabi Global Market, its 'financial free-zone' which, according to reports, was 'created' in 2013 with the lofty ambition of competing with the Dubai International Financial Centre. It is the world's youngest IFC.

The ADGM eschewed the Code Napoleon in favour of English common law as its legal base. This is largely an acceptance of the fact that most offshore centres, or at least the most successful, are rooted in common law or some approximation to it.

In one of its consultative documents, it says: "English common law, as it stands from time to time, will govern matters such as contracts, tort, trusts, equitable remedies, unjust enrichment, damages, conflicts of laws, security, and personal property."

Abu Dhabi's and the United Arab Emirates' civil and commercial law does not apply in the ADGM, but the federal criminal law of the UAE does.

The jurisdiction's all-in-one Financial Services Regulatory Authority appears to be modelled on the old Financial Services Authority of the United Kingdom. Sir Hector Sants, a British former regulator, is the chief advisor to the chairman, Ahmed Al Sayegh. Five very senior Anglo-Saxon judges from the 'White Commonwealth,' most of them with titles, preside over the ADGM's courts.

The ADGM is proud of its unique selling-points, one of which is the so-called 'restricted-scope company' which is designed for use by family offices. The centre is touting this innovation as the ideal holding company for institutions and professional investors.

The new financial regulations and rules are comprehensive in scope, spanning a variety of regulated financial services, including asset management, banking and insurance businesses. They also include imperatives to safeguard the interests of the marketplace, a market infrastructure system, market conduct rules and the ADGM's enforcement powers and disciplinary procedures.

Last year, the new IFC organised roadshows in India and the United States with the aim of drumming up business. Afkar Capital, an incubator for asset management fund start-ups, obtained the first financial licence in January, while Aberdeen Asset Management (from the UK) and Macquarie Capital (Australia) opened offices there in March. Eight financial companies were licensed in the ADGM's first year.

More than 50 special purpose vehicles (SPVs) have been registered in the Abu Dhabi Global Market. An SPV (sometimes called a special purpose enterprise or SPE) is a subsidiary company with an asset/liability structure and legal status that makes its obligations secure even if the parent company goes bankrupt.

In December last year the chairman unveiled new rules to enable companies to set up and register special purpose vehicles for financing civil aircraft. In November the ADGM opened a 'fintech laboratory' in the hope of becoming the Gulf's financial technology capital. In March this year it signed a fintech MOU with Singapore.

ANDORRA

This tiny principality, wedged between Spain and France, has the president of France and the Bishop of Urgell as its joint heads of state. Its banking assets are about 6½ times its annual economic output, while its financiers have assets under management on the order of 17 times GDP. It is not a particularly popular venue for incorporations, although Andorran companies pay low taxes.

The main financial endeavour in Andorra is offshore banking, especially for high-net-worth individuals. Banking accounts for one-fifth of GDP. There are five banks which are as follows:

- Andorra Banc Agrícol Reig (Andbank), which concentrates on products and services in asset management, private banking and investment funds for worldwide customers.
- Mora Banca, which concentrates on asset management services and 'personalises' them for customers with significant assets.
- Banca Privada d'Andorra, which does private banking, asset management and investments.
- Banc de Sabadell d'Andorra, which does private and commercial banking, plus online banking and other services.
- Credit Andorra, which performs personal and commercial private banking services and which has a branch in Panama.

All banks have non-residents on their books, but Banca Privada d'Andorra and Credit Andorra are the main ones.

Many commentators have noted that the jurisdiction is peculiarly vulnerable to the harm that bank failure might wreak on its economy, as it did on the economies of Iceland and Cyprus a few years ago. Unlike Cyprus, whose banks benefited from onshore bailouts, Andorra's banks have no central bank to act as lender of last resort. This is likely to make HNW investors wary, as they face the prospect of becoming unsecured creditors in the wake of a bank failure.

This is a very relevant point as the banking system was rocked to its depths in March 2015 in the Banca Privada d'Andorra (BPA) money-laundering scandal. The US Financial Crimes Enforcement Network's wounding inquiry into the bank led to the bankruptcy of one of its subsidiaries, Banco Madrid. Joan Pau Miquel Prats, the main bank's CEO, was arrested. The report that FinCEN eventually released on BPA painted a picture of a veritable money-laundering shop. In FinCEN's words: "It is difficult to assess on the information available the extent to which BPA is used for legitimate business purposes."

The bank has five foreign branches that operate in Spain, Switzerland, Luxembourg, Panama, and Uruguay. One of its managers allegedly colluded with Andrey Petrov, a money manager who worked for Russian criminal organizations and who used the proceeds of transnational organized crime to bribe officials in Spain. Petrov is thought to be connected to Semion Mogilevich, one of the US Federal Bureau of Investigation's "ten most wanted" fugitives. In another scheme, a Venezuelan laundryman and his network relied on BPA to deposit the proceeds of public corruption. FinCEN says that BPA gained some fame among criminal networks for its weak AML controls and its provision of high-risk services to shell companies.

Since the scandal broke, the bank has been on financial 'life support.' Its non-toxic assets have been put into Vall Banc, which was created especially for the purpose and is being sold off.

BELIZE

A former British possession, Belize is an English-speaking country in central America that gained independence in 1981. Since the late 1980s it has branched out into areas such as a shipping registry (more than 3,000 vessels fly the Belizian flag), and has become an international financial centre.

In 1990, Belize enacted the *International Business Companies Act*. More than 15,000 IBCs have been registered since then. In 1992, a *Trusts Act* was enacted, providing for onshore and offshore trusts. In 1996, the jurisdiction enacted the *Offshore Banking Act*, providing for two categories of offshore banking licenses – the Unrestricted "A" Class and the Restricted "B" Class license. The holder of a "B" Class license maintains lesser capital and is restricted to conducting certain limited business activities only.

In the late 1990s, the country enacted the *International Financial Services Commission Act* which seeks to promote, protect and enhance Belize as an international financial services centre and to regulate the provision of international financial services; it also enacted the *Protected Cell Companies Act and the Mutual Funds Act*.

There are also Acts that provide for the creation of limited liability partnerships and international business companies. The country has an international foundation registry and a trusts registry. All international (i.e. offshore) trusts must be registered.

International banks include Atlantic International Bank; Belize Bank International; Caye International Bank; Heritage International; Market Street Bank, and Choice Bank.

The country passed anti-money laundering legislation in 1996.

The banking sector (including offshore banking) is regulated by the Central Bank of Belize, while the non-banking sector falls within the jurisdiction of the International Financial Services Commission. The organisations give lists of banks/other financial institutions registered in the country.

There is a 15% withholding tax paid to non-residents and the same tax rate applies to interest paid to non-residents. A withholding rate of 25% applies to management fees, rentals and charges for services to non-residents.

There is no capital gains tax. VAT rises to 12.5%.

Employed persons resident in Belize pay a 25% tax on chargeable income.

Belize has double taxation agreements in force with the UK, Austria and the countries of the Caribbean Community (source: PKF, 2013.) In 2014, Belize signed the OECD's Convention On Mutual Administrative Assistance In Tax Matters (Source: OECD website).

The country is due to adopt the Common Reporting Standard in 2018.

BERMUDA

"When the world needs someone to solve its insurance problems, it turns to Bermuda." So said the CEO of Business Bermuda, the jurisdiction's promotional agency, a few years ago. The Bermuda insurance market as a whole is more than half the size of the dominant market in London. Bermuda is a prime example of how a jurisdiction can dominate an offshore business line – in this case the offshore insurance sector – if only it can gain 'first-mover advantage.' The foundation of the Bermuda Marine Assurance Co (which insured cargo en route from Bermuda to Philadelphia aboard the 'Liberty' ship) provided such an advantage and the jurisdiction has never looked back. In 1948 the International Reinsurance Co became the first reinsurance company to operate there, propelling the archipelago into that business too. In 1962, once again acting as a first mover, Bermuda helped US entrepreneur Fred Reiss to set up the first true modern-day captive insurer, although the heritage of captives began in the coffee-houses of London in the 17th Century. In the 1960s Bermuda invented captive insurance companies, established by parent firms (usually large ones from the USA) for the purpose of covering the risks that those parent firms faced, and remains the world's top domicile for them. It was also the 'first-mover' venue in the 1970s for rent-a-captives (in which clients rent the cells of captive insurance companies), which work along the same lines as today's protected cell companies but without any statutory (only contractual) protection for the cells from each other's liabilities and other problems, but then Guernsey stepped into the breach in 1997 with the P*rotected Cell Companies Ordinance* which provided that protection, with Bermuda and the rest of the world following suit. No regulatory or filing processes are required to create a cell in a PCC.

This British overseas territory has a huge expatriate population for its size – about one-third of the entire workforce – much of which consists of the professionals and skilled functionaries who are a necessary support for its lofty position in insurance and reinsurance. This is what happens when a jurisdiction moves into a niche and goes out of its way to attract the best minds in the business before any rival can do so; the weight of its skill-base propels it to 'critical mass.' When large numbers of such people operate close together, they invent new products and create new investment opportunities without having to look outside the jurisdiction for support, as Bermuda-based 'expats' and home-grown experts do in reinsurance. During the past few years, 'hedge-fund reinsurers' have emerged there.

Bermuda benefits from lying closer to London and the prosperous east coast of the United States – in other words, to its consumers and counterparties – than do its Caribbean fellow-jurisdictions. Climate and geographical position are important factors in the fortunes of offshore centres because of their appeal to expatriates and their general likelihood to be picked as locations for offices. So, too, are their immigration policies – Bermuda's is more liberal than some, although the introduction of a controversial term limit policy a few years ago (now rescinded) caused problems.

Bermuda is a low-tax jurisdiction. There are no Bermuda income or profits taxes, withholding tax, capital gains tax, capital transfer tax, estate duty or inheritance tax payable by a Bermuda company or its shareholders, other than shareholders who normally reside in the archipelago.

Bermuda is famous for registering aircraft. There is an online gambling sector (although not much else is available to gamblers) and duty is charged at the rate of 20% on all bets made. The archipelago has a solid British common law system. The Bermuda Monetary Authority has signed co-operation agreements with the majority of European Union member-states in relation to the Alternative Investment Funds Managers Directive or AIFMD.

BRITISH VIRGIN ISLANDS

This British overseas territory in the Caribbean excels in offshore company formations and offshore trust formation. It was a fluke that Michael Riegels, a barrister who later became the first head of the Financial Services Commission, received a telephone call in the 1970s from an American lawyer with a proposal to incorporate a company that took advantage of an Anglo-American double-tax treaty. American lawyers were already using the Dutch West Indies for their offshore activity but the callers were interested in doing business with an English-speaking jurisdiction – an important example of the inherent appeal of the English language in the offshore world. Other incorporations followed in great numbers and the BVI's offshore sector was born.

After the US Government abrogated the treaty in 1982, devastating the BVI's nascent offshore sector, Riegels and his 'gang of five' lawyers drew up the legendary *International Business Companies Act 1984*. It authorised the creation of a new form of International Business Company or IBC. Take-up was slow but then gathered pace.

Harneys, the law firm to which three of the lawyers belonged including Riegels himself, writes: "The *IBC Act* was radical at the time – it streamlined the incorporation procedure, removed the requirement of corporate capacity, abolished the need for corporate benefit, recognised that companies could exist without members and permitted companies to provide financial assistance for the acquisition of their own shares. It provided for true statutory mergers and created new statutory tools for restructuring and re-organisation. It was based on Delaware corporation law but incorporated additions from elsewhere." As a result, the BVI has for the past thirty years been the preferred jurisdiction for registrations for offshore vehicles and the world's leading centre for company incorporation, with more than a million shell companies (i.e. companies with no physical presence) incorporated since 1984, of which 479,000 were still active in early 2015.

IBCs were also only required to keep records "as the directors consider necessary"; in other words, they were very opaque in the way they worked and in their ownership. Nominee directors could be used and money-laundering was rife. The *IBC Acts* of Anguilla, the Bahamas and Belize copied the original Act parrot-fashion but the BVI, as so often in the offshore world, retained 'first-mover advantage.'

Eventually, pressure from the Organisation of Economic Co-operation and Development over 'harmful tax competition' convinced the BVI to change the Act and it passed a reformed version, the *BVI Business Companies Act 2004*, with constant amendments since then but nominees still possible. Michael Riegels was by then the islands' chief financial regulator, looking for fresh markets to conquer.


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Also because of international pressure, companies do not issue many bearer shares any more as new laws have undermined their once-notorious anonymous transferability. The licence fees for them are punitive and any bearer share that is not held by a licensed custodian loses its legal value and cannot be used to vote or to receive dividends.

More than 2,100 regulated funds are domiciled in the BVI, making it the second largest funds jurisdiction – and the second jurisdiction for hedge fund formation – in the world. Its financiers had the sense to begin to develop the sector in the 1990s, perhaps realising that the glory days of IBCs were numbered.

The jurisdiction's considerable pool of fund practitioners offers advice to asset managers, promoters, public, private and professional funds and other industry participants on the structuring and restructuring of BVI funds and on regulatory issues that affect funds. The BVI does not have a tax regime in relation to dividends, interest, rents, royalties, compensations and other amounts paid by an investment fund to anyone who is not resident there and funds pay no stamp duty. Investments can be worldwide.

Far Eastern business has played a large part in the rise of the BVI, with many BVI companies being incorporated in Hong Kong and most BVI law firms having offices there. The BVI became Hong Kong's jurisdiction of choice after Li Kai-Shing and his Hutchison Whampoa business empire decided to use a new BVI IBC as his holding company in the 1980s and caused a massive migration of copycat Asiatic business to the BVI. In 2013 the Government of the BVI set up BVI House Asia in Hong Kong to help BVI corporations to be near their Asian clients.

The *Virgin Islands Special Trusts Act 2003* created the VISTA trust, the best-known of all types of BVI trust, of which there may be more than 10,000 in existence. The BVI is now regarded as one of the world's premier jurisdictions for this sector.

BVI trusts are, in general, exempt from registration and filing requirements and there are broad exemptions from taxation in the *Trustee Ordinance*. The BVI also hosts a shipping register of global importance. Owners find this attractive because there is no corporation tax to pay on ships and the local trust law is so advanced that they can set up special purpose trusts to provide finance and protect all parties from environmental hazards.

Offshore banking is a minor part of the BVI's business. The jurisdiction has, however, seen an influx of banking business because its insolvency regime is very congenial for secured creditors. It is also a hospitable *forum conveniens* for international cases, which ties in with the use of BVI companies to funnel investments into countries with less developed judiciaries or rules of law – a crucial selling-point for so many offshore jurisdictions.

The jurisdiction has recently modernised its arbitration and dispute resolution regime, making some small provision for mediations. The Government opened a new International Arbitration Centre in November with plans to appoint 170 mediators. D Orlando Smith, the BVI's premier, has long had the development of this sector as one of his top priorities. Because of the very nature of arbitration, the development of this sector is bound to take time. Law firms such as Harneys have been putting arbitration clauses (with the BVI as the venue) into financing documents for a few years, but parties to such deals do not usually end up in arbitration immediately after signing up to them and the spate of cases has not yet begun.

CAYMAN ISLANDS

The Cayman Islands dominate the hedge fund industry and host the fifth largest banking centre in the world. They are an overseas territory of the United Kingdom and are largely self-governing, especially after the latest injection of devolution into their constitution in 2009. The Governor can exercise complete executive authority if he wishes, but chooses not to.

There are twice as many companies registered in the Caymans as there are people. More than 9,000 mutual funds, some 260 banks and 80,000 companies operate through the islands. Generally speaking, it is cheaper to set up shop in Cayman than in Bermuda, the island with which the jurisdiction has a slightly symbiotic (and competitive) relationship. There is a huge expatriate community for the jurisdiction's size, accounting for 31% of total employment in financial services, while the remainder is Caymanian.

The Government often forces 'expats' to reapply for work permits every year, but certain occupations (senior managers and underwriters) in the fund administration and reinsurance industries are eligible for ten-year work permits and ten-year term limits without having to become 'key employees.' Previously seen as a money-launderer's paradise and the venue for many scandals too numerous to mention here, the Cayman Islands have spent recent years moving up-market and now have a very impressive battery of regulations and AML laws. The Cayman Islands Monetary Authority, their financial regulator, is one of the most respected in the world.

The jurisdiction was the first to explicitly legislate in favour of hedge funds with its *Mutual Funds Law 1993*. As befits the world's most famous tax shelter, the Cayman Islands harbour a large pool of highly skilled auditors, banking and trust personnel, company directors, fund administrators and lawyers of the highest standard.

Evidence is mounting that the European Union's Alternative Investment Fund Managers Directive, which regulates managers stringently for the first time, is helping onshore European funds to compete more effectively with the Caymans. The EU has yet to grant Cayman funds a 'passport' to allow them to trade more easily in Europe under the AIFMD. Competition is also rearing its head from other quarters: UBS recently used a new Irish structure, the ICAV, to move a fund-of-hedge-funds with assets of $565m to the Emerald Isle.

Cayman enjoys success in attracting business from western Canada and the gulf part of the US up the Mississippi River to Chicago. Miami is just one hour's flight away. The Cayman Islands' clientele – much of it from these regions – is predominantly institutional. There are no direct taxes – no income tax, company, corporation tax, inheritance tax, capital gains or gift tax. There is no form of taxation in the Cayman Islands relating to individuals, corporations or trusts.

The Government has signed 36 'international exchange of information' or AEOI agreements with other countries, 29 of which are in force. In 2013 it signed a 'model 1' international governmental agreement with the US Government to fall into line with the US *Foreign Account Tax Compliance Act 2010*. To accommodate the indirect nature of the tax system in the Cayman Islands, the IGA is a model 1B (non-reciprocal) IGA.

The islands, unlike quieter offshore centres such as the Isle of Man, are grappling with a spike in gang violence, robberies and shootings and unprecedented levels of unemployment. The jurisdiction has a solid British common law system.

DELAWARE

As one set of business incorporators among many relates in its advertising material, one can form a Delaware USA limited liability company (LLC) or corporation without ever coming to the United States, that is even if one is not a resident or citizen. If one is neither of these things and has no 'US source' income, one owes no income tax to the US or Delaware. This is a significant concession because part of a dividend paid by a foreign corporation is considered 'US source' if one-quarter of its gross income is effectively connected with a US trade or business for the three tax years before the year in which the dividends are declared.

The Delaware Division of Corporations does not maintain the names of Delaware LLC members/managers on public record.

Not only is Delaware a tax haven in the heart of the very country that spends the most time persecuting other tax havens; it is far more opaque than jurisdictions such as Switzerland. It does not make details of trusts, company accounts and beneficial ownership a matter of public record. This is a major reason why it hosts one-half of America's quoted firms and 60% of Fortune 500 companies are incorporated there.

On 1st May 2008, along with senators Coleman and Obama, Senator Carl Levin of Michigan introduced a bill called the Incorporation Transparency and Law Enforcement Assistance Act (US legislators, rather optimistically, usually refer to their bills as 'acts' in anticipation of a happy outcome) into the federal Senate, proclaiming: "This bill tackles a longstanding homeland security problem involving inadequate state incorporation practices that leave this country unnecessarily vulnerable to terrorists, criminals, and other wrongdoers, hinder law enforcement, and damage the international stature of the United States. Each year, the

States allow persons to form nearly two million corporations and limited liability companies in this country without knowing – or even asking – who the beneficial owners are behind those corporations.

"Right now, a person forming a US corporation or limited liability company (LLC) provides less information to the State than is required to open a bank account or obtain a driver's license. [A] report revealed that one person was able to set up more than 2,000 Delaware shell corporations [i.e. corporations with no physical presence] and, without disclosing the identity of the beneficial owners, open US bank accounts for those corporations, which then collectively moved about $1.4 billion through the accounts. It is one of the earliest government reports to give some sense of the law enforcement problems caused by US corporations with unknown owners. It sounded the alarm 8 years ago, but to little effect."

The Bill has been introduced into the US legislature four times, but it has never been passed and it never will be. President Trump will never back such a bill and indeed uses Delaware extensively for his own business. Nor have US bank regulators ordered US banks – or any other banks – to stop dealing with Delaware corporations. As long as this jurisdiction's habits persist, American diatribes against the rest of the offshore world will ring hollow.

DUBAI

Dubai, the foremost of financial centres in the United Arab Emirates, is an oasis of calm in the turbulent Middle East, with a common law court system for its offshore business and a regulatory regime copied almost entirely from the UK's, complete with top regulators recruited from all over the Anglo-Saxon world.

It was Sheikh Mohammed's decision to establish the Dubai International Financial Centre (and its regulator, the Dubai Financial Services Authority) in 2002 that made Dubai the biggest financial hub between Western Europe and Singapore. The jurisdiction's offshore business takes place in other venues as well, notably the Dubai Investment Park, Dubai Internet City and the The Jebel Ali Free Zone. The jurisdiction offers the incorporation of Dubai Offshore Companies and offshore banking services, among other things. The currency of the United Arab Emirates, a confederation of principalities of which Dubai is the second largest, is the dirham. One US dollar = 3.67 dirham.

There are no taxes on the income and profits of companies in the DIFC. In that free trade zone, and in others in the United Arab Emirates, foreigners can own shares in companies and pay no tax when they dispose of them. Those companies are classified as tax-resident in the DIFC if they are substantially managed and controlled from Dubai. DIFC companies' income in the form of dividends from investments anywhere in the world (and income from interest or royalties) is not taxed, nor are profits. No remittance tax applies to profits that a DIFC branch has transferred to its head office onshore. There is no stamp duty. There is no withholding tax on interest payments to local or foreign recipients. However, the Gulf Co-operation Council, to which the UAE belongs, is thinking about introducing VAT on various things. Dubai has signed tax information exchange agreements (TIEAs) with Denmark, Norway and Sweden. Their status is 'pending.' The process of opening a bank account in Dubai is not super-fast, taking between one and four weeks. Know-your-customer guidelines are in force, at least on paper. No minimum deposit is normally required for a business account, but a private client who does not have a registered address in Dubai might open a private bank account. To open a current account, according to the Government website, one has to be a resident but some banks allow non-UAE residents to open savings accounts. Some banks set a minimum account/balance limit, sometimes US$ 500,000 or more. Many international banks have representative offices in Dubai, but few have chosen to acquire banking licences. No exchange controls are in place, making it easy for people and offshore corporations to move funds in and out.

The DIFC had just over 1,000 companies with a combined workforce of more than 15,000 by the third quarter of 2013. By then, it had attracted 21 of the world's top 25 banks, 11 of the top 20 money managers, 6 of the world's 10 largest insurers, and 6 out of 10 top law firms. *Arabian Business* states that during 2014 it had experienced double-digit growth and its workforce had risen by 14% to 18,000. Dubai Islamic Bank, established in 1979, was the world's first modern commercial Islamic bank and Dubai has been a major locus for Islamic banking ever since.

The jurisdiction does have its detractors, however. Misha Glenny in his book *McMafia* in 2008 says: "Dubai thrives on conflict, provided none of the drama takes place on its territory. Desert Storm, the Palestinian Intifada, 9/11, the American attack on Afghanistan and the second Iraq war all led to people funnelling large sums into Dubai. 9/11 provoked a spectacular flight of money from the United States into Dubai." He adds that there are no bombs or assassinations in this almost tax-free jurisdiction because nobody, including Al Qaeda, wants to disrupt it. The US State Department in its International Narcotics Control Strategy Report for 2015 says that there is pervasive corruption within the ruling and religious elite, government ministries and government-controlled business enterprises. It has, nonetheless, risen above its neighbours to become the principal IFC in its time-zone and region.

GUERNSEY

A British Crown Dependency with a population of almost 66,000, the island is one of the better known IFCs. In recent years, through its promotional agency, Guernsey Finance, it has sought to raise its profile in regions such as Asia. It has, for example, recently opened an office in Hong Kong. Other recent moves include the signing of an agreement with the Shanghai Family Office Union to work on business links.

There are 30 licensed banks in the island; services range from retail banking and deposit-taking to private wealth management. As of the end of September 2015 deposits in Guernsey banks stood at £81.6 billion. Total funds under management of Guernsey-registered funds stands at £225 billion and there are 816 captive insurance funds and cells (source: Guernsey Finance.)

Cell companies were, GF says, pioneered in Guernsey; they are also called segregated cell companies and segregated portfolio companies. The concept has grown more sophisticated over the years with the introduction of the Protected Cell Company and Incorporated Cell Company.

The country also hosts many private trust companies; it has a register of image rights and is doing well in the market for this form of intellectual property; it has a law for foundations – a relatively new area; its services also encompass custody, managed trusts and Shariah-compliant trusts. The island is also home to family office service-providers.

Another source of income for the jurisdiction is its Channel Islands Aircraft Registry. Details of this can be found on the Guernsey Finance website.

The Association of Guernsey Banks has an extensive list of members that includes the likes of Julius Baer, the Bank of Cyprus, Barclays, Butterfield, Credit Suisse, Deutsche Bank, EFG, Kleinwort Benson, HSBC, Rothschild Bank and Skipton International.

Guernsey has a depositors' compensation scheme.

The island remains home to more non-UK entities listed on the London Stock Exchange (LSE) than any other jurisdiction globally, according to figures published in early 2016.

The Guernsey Financial Services Commission oversees financial services. Its website lists regulated and registered entities, as well as warnings, public statements, legislation and key documents.

Guernsey is in the first "early adopter" wave of countries signing up to the global Common Reporting Standard, gathering data from 2016, exchanging information from 2017. The island has signed a number of tax agreements with other jurisdictions: 60 Tax Information Exchange Agreements (TIEAs) so far; 14 full double-tax treaties (and 13 partial ones, including two with Poland on different subjects) and the EU Tax Savings Directive.

The European Securities and Markets Authority recommended in late July 2015 that Guernsey should be granted a 'passport' for the purpose of the European Union's Alternative Investment Fund Managers Directive, or AIFMD. There have been concerns that the directive will freeze out managers based outside the EU, a bloc of which Guernsey is not a member.

HONG KONG

Hong Kong, a former British colony now owned by China, competes with (and operates on the same level as) London and New York as an international financial centre. Its has a small share of the global bond markets but its equity markets a had 23% share in 2009 [source: Chatham House] and have been growing quickly, partly because of the expertise that this hub can bring to bear when organising international placements of the largest sort, including initial public offerings. It has the second biggest stock market in Asia after Tokyo. Its relationship with mainland China slightly resembles the UK's relationship with its overseas territories in the Caribbean.

It is the main fund management centre in Asia. The Securities and Futures Commission (the SFC, a much more active regulator than the Hong Kong Monetary Authority) states that there are 1,935 authorised funds there with a net asset value of just under US$1.3 trillion. Hong Kong's combined fund management business, rising rapidly, stood at 2.27 trillion at the end of 2014 (up 10½% since 2013). The number of SFC-authorised funds domiciled in Hong Kong increased by 26% year-on-year to 594 in March 2015.

Hong Kong is the international hub for mainland China, which is now the world's manufacturing powerhouse and the home of many captains of industry and 'princelings' of the Communist party who are keen to re-route their money to the United States and/or offshore. This makes it the world's largest offshore hub for renminbi business, which China has been supporting more and more in recent years, and the world's largest offshore pool of renminbi liquidity.

Switzerland has always been the leading wealth management centre, but Hong Kong has grown the fastest since 2008 and by 2014 was the fifth largest. Assets under management in the private banking sector, according to the SFC, came to a total of US$397 billion in 2014.

Shanghai-Hong Kong Stock Connect, a cross-boundary investment channel, was set up in November 2014 to provide mutual trading access between the Shanghai and Hong Kong stock markets.

In effect, it opened one of mainland China's two stock markets – and the fifth largest in the world by market capitalisation – up to capital from all over the world. Investors, including fund management firms based in Hong Kong, can trade eligible shares listed on the other market subject to daily and aggregate quotas. The northbound daily quota is set at 13 billion renminbi, the southbound at 10½ billion.

As of June 2015 there were 2,626 SFC-authorised collective investment schemes, including 2,063 unit trusts and mutual funds, 294 investment-linked assurance schemes, 243 pension/MPF-related funds and 26 other investment schemes. The ETF market in Hong Kong has demonstrated remarkable growth in recent years. At the end of November 2015, there were 135 ETFs listed in Hong Kong, as against 122 ETFs listed at the end of 2014.

In December 2015, mainland and Hong Kong regulators approved seven cross-border funds (three from Hong Kong and four from China proper) as part of a long-awaited 'mutual recognition of funds' scheme, which gives the world's asset managers access to Chinese investors. About 100 Hong Kong-domiciled funds used by overseas investors are eligible to use the scheme.

There is no withholding tax on interest and dividends, no wealth tax, no capital gains tax and no accumulated earnings tax on companies that keep earnings instead of distributing them. One day, according to the ruling elite, there will be no stamp duty on the sale and issuance of securities. Hong Kong adheres to a "territorial source principle of taxation," not taxing any income from outside, its tax laws are very simple and easy for outsiders to use and the mainland Chinese government levies no taxes there. Tax on salaries is only 16%, making it a good destination for offshore operators who want to relocate there.

ISLE OF MAN

In the mid-1980s the tourist trade declined permanently, leaving this rainy Crown Dependency in the Irish Sea in a quandary which it solved triumphantly by becoming an offshore centre of finance. The isle, which already had 'British infrastructure' including National Insurance and income tax and could therefore appeal to British businesses and high-net-worth individuals, began by taking over banks' and funds' outsourced back-office functions, with various banks shunting their back offices off there in the 1990s. Subsidiaries came to the island as well: Barclays Private Clients International operates from there.

The island has the biggest offshore life insurance business, which employs 2,000 people. It has relatively low taxes and its offshore financial sector accounts for most of its GDP. It has a comprehensive talent-pool of offshore lawyers, accountants and other professionals and is very well-regulated. One of the isle's selling-points is that it immediately agrees to practically every international or British initiative without demur, giving it the advantage of letting global investors know where it stands at all times. The latest example is the Organisation for Economic Co-operation and Development's 'automatic exchange of information' initiative – commonly referred to as "GATCA" or "Global *FATCA*" - regarding financial accounts at banks, which contains the reporting and 'due diligence' rules of the so-called Common Reporting Standard or CRS. The Isle of Man agreed to it quickly while Jersey and Guernsey dragged their heels for some time.

Company formation times are speedy – two or three days being normal – but formation costs are relatively high. Manx companies can register for value-added tax or VAT.

One popular vehicle is the '2006 company.' When the British Virgin Islands experienced mounting criticism from the OECD that its International *Business Companies Act* was creating opaque IBCs and giving them "harmful tax competition" advantages, it enacted the placatory BVI *Business Companies Act 2004*. The Isle of Man was watching. It duplicated that Act in 2006 for its own purposes and thereby gained an important stream of business. '2006 companies' can be limited by share and/or guarantee or can be unlimited companies with or without shares. They pay no capital gains tax, income tax or inheritance tax. The identity of the beneficial owner can be hidden from the eyes of the public (though not the authorities) through the use of a corporate shareholder.

In 2014 many virtual (e.g. Bitcoin) currency exchanges fled the stifling regulatory environment of New York for the 'light touch' regulation-to-be of the Isle of Man, responding to the pragmatic welcome that the authorities gave them. It was one of the first countries in the world to amend legislation to apply to digital currency; the London *Daily Telegraph* christened it 'Bitcoin island' and 'Crypto valley.' Crypto businesses have to register with the government and undertake some background-checking bureaucracy to avoid money laundering and other financial irregularities, but once that is out of the way the doors to innovation are wide open.

Aside from this, the jurisdiction has spent recent years reacting to a tidal wave of financial legislation – such as the Alternative Investment Fund Managers' Directive – from the European Union, to which it does not belong, and tax initiatives from the OECD. Only recently has it come out with a new batch of policies to help it diversify, and these are not specifically financial ones.

Finance, indeed, is not the island's only type of offshore business. It has always been interested in technical innovation – such as online gambling with the enactment of the *Electronic Transactions Act 2000* and the *Online Gambling Regulation Act 2001*. These Acts allow it to grant operators full licences, sub-licences and Isle of Man network licenses, which allow businesses registered to non-Isle of Man operations to play on Isle of Man servers without re-registering. The isle has also been very successful in aircraft registry business, becoming the market leader for business jets.

JERSEY

Jersey has 42 banks and 1,334 funds, with a compensation scheme in place for depositors. For the last 50 years at least, it has been a venue for private wealth management, trusts and estate and succession planning, and more recently foundations. The financial sector takes up one-quarter of the workforce. Jersey's trust law, established in 1984, is a model for others and for the Hague International Convention on Trusts. One hundred Jersey companies are listed on stock exchanges all over the world and Jersey has the highest number of FTSE 100 companies registered outside the United Kingdom, its 'big brother next door' with which it has a love-hate relationship. It is a Crown Dependency outside the European Union but is not entirely independent of the UK.

Offshore banking is an important consideration in assisting with wealth creation and preservation. The range of banking services provided from Jersey is extensive, including multi-currency banking, offshore mortgages and investment structuring.

The pool of professional talent to be found on the island is equal to none.

The island levies no capital transfer tax, capital gains tax, value-added tax or VAT, withholding taxes or wealth taxes. Its offshore financial sector is extremely well-regulated. According to an expert at MONEYVAL, Jersey and Guernsey undertake the best anti-money-laundering compliance in Europe. There are no secrecy laws. 'Tax-resident' (and therefore zero-tax) status goes automatically to every company incorporated in Jersey unless it is substantially controlled from somewhere else or it undertakes certain types of financial service business, in which case there is an income tax of 10%. Jersey has been very late in boarding the global 'tax-transparency' express train which is now coming down the tunnel at top speed. This, however, seems not to have caused it much trouble.

Jersey is a massive fund management hub. The way in which funds are regulated there depends on the types of investor they attract and whether or not they are closed-ended or open-ended. Sophisticated or institutional investors are regulated less onerously than others, as long as the offer documents make the risks obvious.

The jurisdiction's funds sector has gone into Islamic asset management recently and is now a domicile for developed asset classes such as real estate, private equity, commodity and equity for Islamic fund mandates. Jersey's financiers have a good reputation for corporate structuring, especially involving special purpose vehicles or SPVs for a variety of purposes, and customers from the Gulf of Persia have long been taking advantage of this. However, Shariah scholars have deemed this unacceptable because they believe that SPVs should be independent. This has allowed Jersey products to be used successfully with Sukuk structures, i.e. Islamic asset-based bonds. Jersey-based SPVs have been used in connection with a wide variety of Shariah-compliant Islamic capital markets transactions, some for the purpose of taking investments off the balance sheet and securitising assets. A variety of legal vehicles are available including Jersey-incorporated companies that issue Sukuk, limited partnerships that issue partnership interests and trusts that issue units or trust interests or certificates.

Jersey companies are governed by the provisions of the *Companies (Jersey) Law 1991*, as amended, and the formation of offshore companies is quick and cheap. An urgent incorporation service allows a company to be incorporated in less than twenty-four hours, if all the required information is supplied. Jersey companies are limited by share and shelf companies are not available. New regulations in 2011 simplified mergers between Jersey companies and foreign ones and the Hong Kong Stock Exchange allowed Jersey companies to be listed there in 2009.

LABUAN

Labuan is a federal territory of Malaysia and lies off the coast of Borneo. Its authorities call it a "mid-shore" jurisdiction. The languages are Malaysian and English. Besides its international financial services, it has oil and gas reserves.

The jurisdiction has taken steps to be a hub not only for conventional finance but also as a centre for Shariah-compliant finance in the region. By some measures, it is home to more than 6,500 offshore companies.

The Labuan Financial Services Authority (formerly called LOFSA or the Labuan Offshore Financial Services Authority) was set up in 1996; it is responsible for overseeing and developing the Labuan International Business and Financial Centre, the jurisdiction's promotional agency. Important bodies include the Chartered Tax Institute of Malaysia and the Malaysian Financial Planning Council; educational institutions such as the International Centre for Education in Islamic Finance; legal service providers such as ZICOlaw; insurance entities including The Archipelago Group; and trust companies.

The Association of Labuan Banks and the Association of Labuan Trust Companies are important trade bodies in Labuan. Banks operating there include HSBC, Maybank, and Standard Chartered.

The IBFC in Labuan is used for trading; investment holding; fund management; money broking, issuance of financial instruments, both Islamic and conventional; tax planning; banking, insurance, mutual funds, trusts; company management, family trusts and estate planning.

Labuan has no capital gains taxes, or withholding taxes on dividends, fees and interest; there is no stamp duty. Non-Malaysians working in a Labuan company enjoy a 50% tax exemption from personal income taxes.

There are two types of offshore companies in Labuan: trading companies and non-trading, or holding, companies. Then there is the Labuan Charged Company; this can choose to be taxed under federal Malaysian law, benefiting from Malaysia's double-taxation agreements. Labuan trading companies are taxed at 3%. Such companies cannot trade in the Malaysian currency.

A Labuan trust must have a resident settlor. The beneficiary must be a 'Labuan person,' but this can be a foreign-owned legal body. Both residents and non-residents are entitled to set up trusts. In the case of a non-resident, Malaysian property can be injected into a Labuan trust while a Malaysian resident can place international assets into a Labuan trust but Malaysian property requires the approval of the regulator, the Labuan FSA.

In February 2010, Labuan enacted a law which made Limited Liability Partnerships (LLP) possible. At least two partners are required.

Personal income tax is the same as in Malaysia, ranging from 0% to 26%.

More than 70 double tax agreements are in force. When investing overseas, a Labuan company that wants to benefit from a DTA may need to ask for a certificate of residency from the Malaysian tax authorities. This tax-resident certificate is issued by the Inland Revenue Board (IRB) or Malaysia and subsequently shown to the foreign tax authorities overseas.

LIECHTENSTEIN

The tiny European principality's financial sector contributes about 30% to its gross domestic product. Financial services are private asset management; international asset structuring, funds and insurance. It has a total population of around 37,000.

The jurisdiction signed a customs agreement with Switzerland in 1923 and adopted the Swiss franc as the legal currency in 1924. It joined the European Economic Area in 1995; since that year it has also been a member of the World Trade Organisation.

There is a Finance Liechtenstein organisation, with a website available in English and German, giving useful facts and figures about trade bodies, key legislation and business groups. The Liechtenstein banks are represented by the Liechtenstein Bankers' Association. Prominent banks and financial institutions include LGT, Kaiser Partner, Liechtensteinische Landesbank, VP Bank, Banque Havilland, Raiffeisen Privatbank Liechtenstein, EFG Bank von Ernst, Bank Frick & Co.

The Financial Market Authority Liechtenstein (FMA) regulates financial services. The country also adheres to the global standards for transparency and exchange of tax information developed by the OECD. It has a AAA credit rating from Standard & Poor's.

In November 2013, the 'Liechtenstein declaration' was issued, reconfirming the country's commitment to the existing OECD standards for tax co-operation. Liechtenstein is among the "early adopter" jurisdictions for the Common Reporting Standard and will start following it in 2017.

In accordance with the European Union's directives, *Article 7 Liechtenstein Banking Act* (the *BankG*) contains provisions for the guarantee of bank deposits and the protection of investors.

The law requires banks and other financial service providers to protect deposits and investments adequately with supervised financial service providers by establishing separate organisations or by participating in foreign protection schemes.

Liechtenstein has signed comprehensive double-tax treaties with Austria, Germany, the Hong Kong Special Administrative Region (SAR), Luxembourg, Malta, San Marino, Singapore, the United Kingdom and Uruguay. It has initialled double-tax treaties with Bahrain, the Czech Republic, Georgia, Guernsey, Hungary and the United Arab Emirates. The treaties follow the draft model of the Organisation for Economic Co-operation and Development.

Liechtenstein has signed comprehensive double-tax treaties with Austria, the Czech Republic, Germany, the Hong Kong Special Administrative Region (SAR), Hungary, Luxembourg, Malta, San Marino, Singapore, Switzerland, the United Kingdom and Uruguay. It has initialled double-tax treaties with Andorra and the United Arab Emirates. The treaties follow the draft model of the Organisation for Economic Co-operation and Development.

In 2009 Liechtenstein and the UK signed a ground-breaking disclosure agreement about secret accounts – the famous Liechtenstein Disclosure Facility. Under its terms, Britons who held accounts in the country could 'regularise' them on condition that they paid certain amounts. It was seen as a relatively lenient way for accounts to be disclosed.

As a result of the tax reform that entered into force on 1 January 2011, the 'net worth' tax is no longer calculated separately but is integrated into the income tax.

All resident or domiciled individuals are subject to income tax on worldwide income, with the exception of income from real estate located abroad and income from either a fixed place of business or a permanent establishment located abroad. Non-residents are subject to tax if they are employed in Liechtenstein, if they own real property in Liechtenstein or if they have business premises in Liechtenstein. Non-residents are subject to tax on income derived from Liechtenstein sources including Liechtenstein real estate, owned or leased, and business premises. In addition, non-residents are taxed on income from self-employment and business activities carried out in Liechtenstein (source: EY). The income tax rates (for 2015) range from 3% to 24% (for a commune applying a communal multiplier of 200). Income from foreign assets, including real property and business premises, and other foreign income is considered in calculating the progressive tax rate.

Capital gains derived from transfers of participations (business assets) and personal movable assets are generally exempt from income tax. Capital gains derived from transfers of personal and business immovable assets are subject to a separate capital gains tax on real estate.

MALTA

The Mediterranean island-state, a former British colony, is in the European Union; its legal code is a mixture of English Common Law and continental European civil law. Languages are Maltese and English. The Malta Financial Services Authority regulates financial services.

There are 26 banks (source: Finance Malta), 615 investment funds with a total net asset value of €8.95 billion (June 2013); Malta-based banks currently hold over €30 billion in deposits. The Tier 1 regulatory capital of the domestic banking sector sits at 11.8% (June 2014). Major banks in the country include HSBC, Banif Bank, FIMBank and Bank of Valletta. Among the private banks serving HNW individuals specifically are Mediterranean Bank.

Banking institutions in Malta are regulated by the *Banking Act*, which is founded on EU legislation. The non-bank financial institutions are regulated by the *Financial Institutions Act*.

There are 27 recognised fund administrators and more than 70 fund managers; there are 137 trust and fiduciary companies, 58 insurance vehicles and 12 retirement scheme administrators.

There is an established offshore Malta company regime, introduced in the 1980s and adapted to EU rules when Malta joined EU in 2004. As an EU member, Malta has to (or will soon have to) obey such laws as the Alternative Investment Fund Managers' Directive, the second Markets in Financial Instruments Directive and 'Solvency 2. '

The Malta *Family Business Act* was enacted last year to help family businesses transfer themselves from one generation to the next, with incentives and formal regulation.

The country has promised to comply with the Common Reporting Standard and engage in the automatic exchange of information for tax matters from 2017 onwards; it has enacted primary legislation.

Affluent people who are not citizens of the EU can use the Global Residency Programme, with a 15% flat tax rate on income remitted to Malta; it is linked to the purchase of property. In 2014, Malta introduced its Individual Investor Programme, offering Maltese citizenship by paying at least €650,000, and by meeting other conditions.

Income taxes are progressive, rising to a limit of 35% on income of €60,001 or above. There is a corporate tax rate of 35%; through the country's full imputation system shareholders can claim tax credits for tax paid by their companies. Capital gains tax is generally levied at a flat rate of 12% on the transfer value or the selling price.

MAURITIUS

A former British and French colony (English and French are both spoken there), the island is located in the Indian Ocean and is a popular tourist destination as well as a financial hub. Its financial sector makes up around 10% of GDP. The island has been renegotiating a Double Taxation Avoidance Agreement with India. Mauritius is an important conduit of foreign direct investment flows to India.

International banking groups such as HSBC, Standard Chartered and Deutsche Bank operate in the island. A full list of banks can be obtained from the Mauritius Bankers' Association.

The Financial Services Commission regulates the non-bank financial services sector and global business; it was established in 2001. The Bank of Mauritius, the country's central bank, oversees and licences banks as part of its remit.

The Mauritius Revenue Authority is the tax-collecting agency. The MRA says that so far, the country has concluded 43 tax treaties and is party to other treaties under negotiation. It has concluded DTAAs with countries such as Luxembourg, Singapore and Malta.

There is a flat rate of 15% on chargeable income. Under its international corporate structure system, a company holding a Category 1 Global Business Licence is liable to tax at the rate of 15%; a company holding a Category 2 Global Business Licence is exempt from tax. It is considered as non-resident for treaty purposes and is thus not covered by any double taxation agreement concluded by Mauritius, except for exchange of information purposes, if the agreement so provides.

Residents of Mauritius are eligible to tax credits in respect of foreign tax paid on their foreign source income. A foreign tax credit includes a tax-sparing credit and in the case of dividends credit is also granted for underlying tax charged on profits out of which the dividends are paid.

The jurisdiction has ratified the Convention on Mutual Administrative Assistance in Tax Matters. It is among 56 "early adopter" nations that are implementing the Common Reporting Standard, gathering relevant data since the start of 2016.

To obtain a tax residency certificate, applicants for a Global Business Company must have two local directors, a local auditor, a principal bank account in Mauritius and board meetings held and chaired in Mauritius.

Because of its period as a British colony, the country adopted the trust structures under English Common Law. Besides rulings in England, Mauritius legislation such as the *Trusts Act 2001* is significant. Trusts are normally liable to income tax on their chargeable income.

MONACO

This tiny, independent state near the Franco-Italian border is renowned as an offshore centre, a home for the super-rich and the venue for the annual Formula One motor race. There is a resident population of 35,000 people and a working population of 50,000.

Some 35 banks are licensed; Monaco has 58 asset management houses and €103 billion of assets under management are held at the Monegasque Banking and Finance Centre (source: Monaco For Finance).

The jurisdiction is promoted by the Commission for the Promotion of the Monaco Financial Centre and has a website under the title of *Monaco For Finance*. The MFF website has a list of banks and other institutions. Banking groups operating in the principality include Bank J Safra Sarasin; Credit Suisse; Compagnie Monégasque de Banque; HSBC Private Bank; UBS; Société Générale and Union Bancaire Privée. Asset management firms include Atlana Wealth Monaco; Bedrock Monaco; BSI Asset Managers, CMB Asset Management; Global Securities; Goldman Sachs; Julius Baer Wealth Management (Monaco); Knight Vinke; Wealth MC International. There are mutual funds run by such firms as BNP Paribass, HSBC and Edmond de Rothschild.

Some 70% of the industry's assets belong to non-resident clients from all over Europe and sub-Saharan Africa, the Middle East, Latin America and Asia-Pacific.

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Monaco-based banks are supervised by the Prudential Supervisory Authority (the Autorité de Contrôle Prudentiel or ACP). This authority was created in 2010.

Another regulator is Financial Activities Supervisory Commission; this was founded in September 2007. It oversees the financial marketplace, such as deciding on licence applications from mutual fund firms.

Service d'Information et de Contrôle sur les Circuits Financiers, or SICCFIN, is the body responsible for frustrating and catching money launderers.

Every foreigner over the age of 16 who wishes to reside in Monaco for more than three months of the year must apply for a resident card issued by the Monegasque authorities. Anybody who wants to become resident must prove that he has financial resources by producing a work contract, showing that he is self-employed or the manager or director of a firm, or producing evidence of liquid savings or of financial support from someone else. The organisation handling that handles such matters is the Monaco Welcome & Business Office.

All foreigners officially residing in Monaco and people with Monegasque nationality pay no income tax. There is one caveat: French citizens who are resident in Monaco must pay personal income tax in accordance with French tax law. They pay the French Government directly. Monaco does not have capital gains tax or wealth tax. Assets in Monaco are subject to inheritance tax.

Monaco will be under the Common Reporting Standard regime from 2018, collecting data to that end from 2017 onwards. In 2014 Monaco signed the Convention on Mutual Administrative Assistance in Tax Matters, managed by the OECD.

In December 2015, Monaco signed the multilateral OECD Mutual Agreement Procedures agreement on automatic exchange of information for tax purposes.

PANAMA

For years now, deficiencies in the rule of law and conformity to international standards have been gnawing away at Panama's reputation as a safe and credible international financial centre. Syrian organised crime is a major factor in its financial system.
Bearer share corporations still exist in Panama, leading to a heightened risk of money-laundering in the eyes of the US State Department which produces a report on the subject every year. There is now a law on the statute book (Law 43 of 2013) that dictates that all bearer shares must be held by custodians but this only came into effect last summer and allows for a transitional period of three years, which means that it will not be fully in effect until 2018. Panamanian shell companies also exist. Panama has a slew of bank secrecy laws.

In October Panama became the 105th jurisdiction to sign the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, an instrument for boosting transparency and combating cross-border tax evasion which the OECD and the Council of Europe developed in 1988 and which provides the international legal basis on which countries must conform to the Common Reporting Standard (CRS) and country-by-country reporting. This followed a hilarious declaration on Mossack Fonseca's website in February to the effect that Panama would not sign up to the CRS and would instead go the way of the United States, the only major power to forswear membership of it, by forcing other nations to conform to its own Panamanian version of *FATCA*. The publication of the Panama Papers in early April, a saga covered amply in the first section of this directory, put an end to this escapade.

The US Central Intelligence Agency's recent World Factbook states that Panama is a "major cocaine trans-shipment point and primary money-laundering centre for narcotics revenue; money-laundering activity is especially heavy in the Colon Free Zone; monitoring of financial transactions is improving; official corruption remains a major problem." Its corporations have often featured in the recent spate of non-prosecution agreements that Swiss banks have been signing with the US Department of Justice. Panamanian law requires all banks in the jurisdiction to undertake "know your customer" controls and to report suspicious activity to the Financial Analysis Unit for the Prevention of Capital Laundering Crimes or UAF, but its regulatory regime is lax. Its economy is pegged to the US dollar.

Offshoreprotection.com lists the major advantages of a Panamanian corporation as follows.

- The freedom to appoint directors and officers of any nationality and country of residence.
- The freedom to appoint nominee directors and officers.
- The legal protection afforded for the confidentiality of business and banking transactions.
- The tax exemption status provided to offshore companies.
- The complete anonymity afforded to owners of Panamanian Corporations through the use of bearer shares of stock.
- The freedom of capital movement in and out of Panama and the absence of regulatory supervision.
- The absolute confidentiality of banking transactions under numbered accounts belonging to corporations with nominee directors and bearer shares in the hands of the owner.

Non-resident corporations in Panama are free from having to pay tax on capital gains from the sale of company stock and tax on dividends, income, interest, rents and royalties. Indeed, the jurisdiction does not levy taxes on foreign source income and until recently has shied away from signing double-tax treaties with other countries. This changed in 2009 when it ended up on the OECD's 'grey list.' It has now signed such treaties with the Czech Republic, France, Ireland, Israel, Italy, Korea, Portugal and the United Arab Emirates. It has a comprehensive free-trade agreement with Canada. It also has a model 1 'agreement in substance' with the United States as regards compliance with the *Foreign Accounts Tax Compliance Act,* which was not in force at the end of last year.

In 2014 it also found itself on the Financial Action Task Force's 'grey list,' from which it has, surprisingly, emerged this year.

Panama in 2008 was home to 350,000 international business companies or IBCs, the third highest number anywhere except for the British Virgin Islands and Hong Kong. There are more than 400,000 corporations & foundations, making Panama one of the globe's most popular incorporation jurisdictions. It also hosts a world-class shipping registry.

PORTUGAL

The Government of Portugal established the Madeira Free Trade Zone, where most of the island's offshore financial business takes place, in the 1980s, originally as an industrial complex and place for the free movement of goods.

As Madeira is an autonomous part of Portugal and therefore in the European Union, its offshore regime counts as 'state aid' and therefore requires EU permission to carry on. With the EU's blessing, the present tax regime allows for the incorporation of new entities until the end of 2020. There is a reduced corporate tax rate of 5% until the end of 2027.

In the case of activities to do with international services, the reduced rate is applicable to profits derived from operations exclusively carried out with non-resident entities or with other companies operating within the ambit of the IBC of Madeira.

According to the Tax Incentives Statute, the following is exempt from income tax:

a) income derived from the concession or temporary licensing, by non-resident entities in the territory, of patents, utilisation licenses, models, industrial models or designs, trade marks, names and establishment insignias, manufacturing or conservation processes and similar rights, as well as the income derived from the supply of technical assistance and from the provision of information acquired through an experience in the industrial, scientific or commercial sectors, provided that these rights relate to the activity developed within the free trade zone; and

b) income derived from the rendering of services, obtained by non residents, as long as such income is not imputable to a permanent establishment located in the Portuguese territory outside the free trade zones, and as long as such income is paid by entities located within the free trade zone and relates to the activity developed there.

In Europe, Portugal (and therefore Madeira also) has double-tax treaties with Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Estonia, Finland, France, Germany, Greece, Holland, Hungary, Ireland, Iceland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Norway, Poland, Romania, Russia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, the Ukraine and the United Kingdom. In the Americas, it has DTTs with Brazil, Canada, Chile, Colombia, Cuba, Mexico, Panama, Peru, Uruguay, the United States of America, and Venezuela. In Africa it has DTTs with Argelia, Cape Verde, Morocco, Mozambique, South Africa and Tunisia. In Asia its treaties are with China, Hong Kong, India, Indonesia, Israel, Japan, Qatar, Kuwait, Macao, Pakistan, Singapore, South Korea, and the United Arab Emirates.

The Central Bank of Portugal is the banking regulator. Both onshore and offshore banks still have good correspondence networks with the rest of the world, despite the recent trend of 'de-risking.' Most of them subscribe to international banking services like SWIFT and Reuters.

In Portugal, the incorporation of a standard pre-approved company may take place in hours and a tailored one usually takes less than a week.

Decree-law nr. 352-A/88, according to the IBC, regulates the incorporation and operation of offshore trust companies or branches in the Madeira Free Trade Zone. *Article 11(1)* states that the names of the settlor and the beneficiaries are subject to secrecy and may only be disclosed by way of a court decision. The stated object of the law is to give entities "the legal instruments and means...provided in other offshore centres."

SEYCHELLES

This Indian Ocean archipelago's offshore financial services sector has grown from 650 international business companies or IBCs in 1996 to 140,000 today. There are also about 1,000 registered trusts and more than 300 foundations. The archipelago is a small offshore tax-haven. Its finances are being restructured with the help of the International Monetary Fund, which has lent it money by means of its Extended Fund Facility. It has had a turbulent political history since it gained independence from the United Kingdom as a republic in 1976.

The first Gulf War (1991), which happened a mere 2,000 miles away, wreaked havoc with the islands' tourist industry and its politicians decided to diversify their economy to escape their dependence on it. The year 1994 was the crucial one for the evolution of offshore business in the Seychelles with the passage of the *International Business Companies Act*. The National Assembly amended this in 2013 to force IBCs to keep accounting records – not full accounts, but evidence that would allow for the preparation of accounts, including receipts, invoices and bank statements. Other legislation followed this seminal Act, including the *International Corporate Service Providers Act 2003* (which provided for the formation and running of foundations as well as corporations), the *Securities Act 2007* (which led to the setting up of the first exchange, Trop-X, in 2012), the *Seychelles International Trusts Act 1994* (amended in 2011 to make the trust structures more flexible), the *Limited Partnerships Act 2003* (such partnerships being formed to conduct business outside the islands), the *Protected Cell Companies Act 2003* and the *Mutual Fund and Hedge Fund Act 2008*.

The *IBC Act* was amended in 2013 to please the Organisation for Economic Co-operation and Development. The OECD had just found the jurisdiction to be 'non-compliant.' It is now rated 'largely compliant.' Bearer shares ceased to exist in 2014.

Barclays was the first commercial bank to establish operations in Seychelles in 1959 by opening a local branch and in 1999/2000 this became a local subsidiary. Although six more banks were to appear in the local market, it remained the leading bank and went into offshore banking there in 2004. The other pre-eminent offshore bank, BMI Offshore Bank which was registered for business in 2008, lost its correspondent relationships abroad and its day-to-day running had to be taken over by the central bank in 2014. Any confidential banking and personal information may only be divulged after a court ruling. The Government might hand such information on to foreign law-enforcers after a domestic investigation, but banks may not. Offshore banks are now obliged to ascertain the beneficial ownership of accounts, although non-face-to-face business is still possible.

The Seychelles Financial Services Authority is the regulator for non-bank financial services in the Seychelles. Established under the *Financial Services Authority Act 2013*, the FSA is responsible for the licensing, supervision and development of the non-bank financial services industry of the Seychelles. It is also responsible for the registration of IBCs, foundations, limited partnerships and international trusts in the jurisdiction. In 2014 it replaced the Seychelles International Business Authority which had since 1995 done the two jobs of regulating and publicising the financial services sector.

In February 2015, the Seychelles became the 85th signatory of the OECD's Multilateral Convention on Mutual Administrative Assistance in Tax Matters. There is no capital gains tax. Income from abroad – e.g. from shares in the form of dividends – is not taxed.

SINGAPORE

Financial services are regulated and overseen by the Monetary Authority of Singapore. The city-state is home to more than 200 banks and these had almost $2 trillion in assets as of 2013 (source: MAS). There are more than 1,200 financial institutions, ranging from banks to IFAs. It is estimated that up to 70% of money in Singaporean banks is from abroad.

Of the 123 commercial banks, there are five local banks, 118 foreign banks and 36 offshore banks. A study late in 2015 by Aite Group said there could be as many as 330 wealth management institutions (private banks, family offices, other) in the jurisdiction.

Singapore is a member of the Financial Action Task Force (FATF) and a founding member of the Asia / Pacific Group on Money Laundering.

In 2013, the authorities said that they would make the handling of proceeds from foreign tax evasion a crime, making Singapore the first state in the region to do this. The jurisdiction has also inked more than 50 agreements to facilitate the exchange of tax data with other countries. Singapore has also agreed to adopt the OECD's Automatic Exchange of Information standard, which comes fully into force in 2018. However, Singapore has warned that other financial centres must agree to similar standards so that it is not put at a disadvantage.

Singapore has an English Common Law legal system and therefore has an established business in trusts that follow those of other Common Law jurisdictions, such as the UK and US. Trustees in Singapore have statutory duties under the *Trustees Act;* trust companies are licensed and regulated by MAS under the T*rust Companies Act 2005* (see below).

Singaporean law allows people to form foreign trusts, and distributions to beneficiaries are free of tax under *Section 13G Income Tax Act*. Singapore trust law also allows use of a private trust company or PTC to act as the trustee of a specific trust, or a group of related trusts.

Singapore has a progressive tax rate starting from zero, up to 20% above S$320,000 (from 2016 onwards it will end at 22% above S$320,000). There is no capital gain or inheritance tax.

Individuals are taxed only on income they have earned in Singapore. The income earned by individuals while working overseas is not subject to taxation barring few exceptions (source: Hawksford, other). Tax rules differ according to the tax residency of the individual.

A person is considered a tax resident in Singapore if he is a Singaporean or a Singapore Permanent Resident and has established a permanent home in Singapore; or a foreigner who has stayed or worked in Singapore for 183 days or more in the tax year. A person is deemed a non-resident for tax purposes if he is a foreigner who stayed or worked in Singapore for fewer than 183 days in the tax year.

The jurisdiction is, along with other regional hubs, competing to win business in areas such as offshore renminbi-denominated transactions, as well as develop as a development centre for financial technology and private banking talent management.

An extensive number of law and accountancy firms operate there and the 'Big Four' accountancy firms, as well as law firms such as Withers and Baker & McKenzie, have large practices.

SWITZERLAND

The Alpine state holds around $2 trillion of offshore assets out of a global total of $9.2 trillion (source: Deloitte, 2015). The country has 275 banks (source: Swiss Bankers Association). There are SFr6.656 trillion ($6.57 trillion) of assets under management in the country, with 51.1% of this AuM coming from abroad. Switzerland has 25% of global cross-border asset management business, making it the global leader. Some 28,000 people work in the industry, creating SFr19 billion in gross earnings. Switzerland is outside the European Union.

UBS is the country's largest bank, with Credit Suisse and Julius Baer in second and third place respectively. The country's bank secrecy law dates back in modern form to 1934 and it has not yet been repealed. The power of this law in protecting non-Swiss account holders has been eroded by automatic exchange of information agreements and is expected to weaken further in 2018. Its repeal requires national legislation.

Financial services are regulated by the Swiss Financial Market Supervisory Authority (FINMA).

There are 26 cantons, each with their own law-making bodies and taxes. The Swiss political system is federal.

In 2014, Swiss voters supported a referendum proposal to curb immigration from the EU but the Swiss Parliament has largely ignored it.

People who reside in the country must pay tax on their worldwide income and assets, except on the income and wealth from foreign business or real estate or if tax treaties prevent double taxation. Residence for tax purposes arises if a person stays in Switzerland for 30 days, or for 90 days if the person does not work. Non-residents can be taxed on income from Swiss sources such as property, permanent business operations.

Cantonal income tax rates are mostly flat but some cantons use graduated rates. The federal income tax is as high as 13% and is a progressive tax. Effective ordinary corporate tax rates on income vary significantly from one canton to another (from approximately 12% up to a limit of around 24% in 2012).

Since January 2015, eligibility for being classified as an expatriate employee – and its tax status – has been tightened. Swiss citizens, foreigners with a permanent residence permit C, or any foreigners who are married to Swiss citizens need to file tax returns each year.

Federal withholding tax is levied at 35% on certain forms of income, such as dividends, interest on debt, liquidation proceeds, lottery prizes and payments by life insurances and private pension funds.

Special purpose companies (i.e. domiciliary and holding companies) exist. Domiciliary companies only have administrative activities in Switzerland and are exclusively engaged in international business. Companies qualifying for domiciliary status are exempt from cantonal tax on dividend income and on capital gains from qualifying participation.

Other Swiss-sourced income is taxed at ordinary income tax rates but profits from trading outside are usually also subject to tax at reduced rates. Swiss federal tax does not provide for any particular relief for domiciliary companies (source: PKF).

Holding companies are exempt from cantonal and communal corporate income tax and are often also subject to capital tax at reduced rates. Holding companies may own real estate in Switzerland.

However, as an exception, any income or capital gains generated from such real estate is subject to ordinary taxation. Federal income tax is levied at ordinary corporate income tax rates.

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