

The Cayman Advantage - Financial Services

Insights - 22/07/2014

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The Cayman Islands is recognised as a top tier international financial centre with leadership and expertise in a number of areas. It offers a diverse pool of professional service providers (lawyers, administrators, auditors, managers and fiduciaries) in an environment of economic and political stability on a tax neutral platform with a developed infrastructure.

As the top international banking centre, the world's leading domicile for hedge funds, the second largest captive insurance centre and a world leader in structured finance, the jurisdiction stands as the only international financial centre (IFC) with a tax neutral environment to possess such breadth and depth in financial services. The Cayman Islands' financial services success is built upon core principles of proportional and appropriate regulation, adherence to the recognised relevant international standards, international cooperation and a robust and proactive legal system.

Financial services account for a substantial portion of Cayman's gross domestic product and the success of this sector is a contributor to Cayman's Aa3 sovereign credit rating (reaffirmed by Moody's in early 2014).

Foundation Requirements

Legal & Judicial Framework - The use of English common law and statute and English-style courts is the preferred standard in the vast majority of international transactions.

Political Stability - Countries that demonstrate a long history of commitment to the democratic institutions and little social pressure to change the political landscape are better positioned in this regard and the Cayman Islands is without a doubt ahead of its key competitors in this area.

Human Capital - While the desire of every politician is and should be to ensure citizens have access to the best jobs available, this must be balanced with the reality that the international clientele

that is serviced will necessarily look for the best service providers in the market place - wherever they may be located. The Cayman Islands has historically maintained a more flexible immigration policy than its peers, probably because population growth is less problematic for Cayman than for many other jurisdictions.

Critical Mass - Without the critical mass to support the regulatory framework needed for compliance, IFCs will find themselves unable to offer services or will have to impose taxes, fees, and duties that effectively price them out of market. Cayman has achieved critical mass.

Accessibility - Location is the first obvious measure of accessibility, which can easily explain the correlation between IFCs in the Caribbean and Americas' business. The direct, short flights from major hubs in the US to Cayman are clearly a positive factor. However, accessibility should also include language, the ability to communicate effectively with the end users, and culture.

Structuring Advantages

Government Revenue Collection System - Regularly IFCs are wrongly considered “tax free” or a “tax haven”. All Governments need revenue to pay for services. The Cayman Islands has concentrated its taxes on consumption, which is one of the less-distortive taxes and the least damaging to economic growth. This allows Cayman to act as a tax neutral platform for structuring transactions. Accordingly:

- A Cayman company is not subject to any income, withholding or capital gains taxes in the Cayman Islands. No capital gains or stamp duties are levied in the Cayman Islands on the issue, transfer or redemption of its shares; and
- shareholders will not be subject to any income, withholding or capital gains taxes in the Cayman Islands, with respect to the shares of a Cayman company owned by them and dividends received on such shares, nor will they be subject to any estate or inheritance taxes in the Cayman Islands. Shareholders will of course be subject to any tax payable under the applicable laws of their domicile when capital is returned or profits paid out to them.

Credit Quality - While IFCs usually act as a conduit of funds between the investors and the destination of the investments, the credit rating of the IFC itself can add a layer of risk, and as such, its fiscal status is critical. The Cayman Islands has maintained its credit rating at the same level as before the 2008 crisis - which is something very few countries can claim, including the US.

Focus - Financial services are a highly-competitive sector, and IFCs need to remain agile and responsive to customer needs in terms of products, legislation, and regulation. Financial services contribute over half of Cayman's GDP and government revenue, ensuring it receives the attention needed for its continued success. In practice this means that Cayman maintains investor friendly laws where the economics of a transaction are respected and parties are not given powers or rights such as minority protection rights which tend to give those minorities more influence than

their economic investment in the transaction. Additionally, if legislative change is needed and there is a compelling purpose such as the development of a new industry in Cayman, Cayman legislators have always proved nimble in terms of enacting the necessary changes very quickly. This is something that States in the US are not able to replicate.

Regulation

The Cayman Islands Monetary Authority (**CIMA**) is the financial services regulator, responsible for prudential and anti-money laundering regulation of licensees and registrants. CIMA is a full member of the International Organization of Securities Commissions (IOSCO), the Offshore Group of Banking Supervisors (OGBS), the Offshore Group of Insurance Supervisors (OGIS) and the Offshore Group of Collective Investment Scheme Supervisors, as well as a member of the Organisation for Economic Cooperation and Development's (OECD) Level Playing Field sub-committee.

CIMA adopts and applies the Basel core principles (for banking), International Association of Insurance Supervisors (**IAIS**) principles (for insurance), IOSCO principles (for securities and investment) and OECD principles for corporate governance.

It is crucial that a jurisdiction's regulator sees the industry it regulates as customers and to understand a vital part of its role is advancing the overall wealth of the IFC. Historically CIMA has successfully navigated the changing landscape while maintaining this equilibrium.

Anti-Money Laundering (AML) and Combating of Terrorist Financing (CTF)

The Cayman Islands have been a member of the 27-nation Caribbean Financial Action Task Force (**CFATF**) since its inception in 1992. Members of Cooperating and Supporting Nations of the CFATF include the United States, Canada, the United Kingdom, France, Mexico, Spain and the Netherlands.

The CFATF is an Associate Member of the inter-governmental AML/CFT body, the Financial Action Task Force (**FATF**) and conducts regular peer assessments of its members based on the FATF 40+9 Recommendations, as well as 19 CFATF Recommendations.

The Cayman Islands were reviewed by the CFATF in late 2007. The resulting report recognised that the compliance culture in Cayman was well established and highly commendable. Follow up reports were produced in 2009, early 2010 and November 2010, all of which highlighted the Cayman Islands as a compliant and cooperative jurisdiction.

The General Accountability Office (GAO) report in July 2008 on behalf of the U.S. Government determined that the Cayman is one of the U.S. Department of Justice's "best partners" as a result of its excellent record of cooperation .

AML/CFT procedures are mandatory for all licensees, registrants and entities conducting relevant financial business. Unlike other jurisdictions, this also applies to corporate service providers and

trust companies.

Transparency for Revenue Authorities

The Cayman Islands currently has 35 bilateral tax information exchange agreements in place (for example with EU member states, the UK, the USA etc.), with a further 15 currently being negotiated, and many more expected. Cayman also features on the OECD's "white list" of jurisdictions that have substantially implemented the internationally accepted exchange of tax information standards.

In addition to this, the Cayman government entered into a non-reciprocal Model 1 Intergovernmental Agreement (IGA) with the US Treasury Department on 29 November 2013 for the purpose of complying with the requirements of the US Foreign Account Tax Compliance Act, known as FATCA. On 5 November 2013, the Cayman government also entered into a similar agreement with the UK government, representing the first IGA between the UK and an Overseas Territory (together the IGAs). This agreement is also non-reciprocal.

The Cayman Islands FATCA regulatory framework consists of the IGAs, two sets of regulations (US and UK) which were brought into force on 4 July 2014 and guidance notes to assist with the interpretation of and compliance with the legislation and regulations.

The proportion of agreements between the Cayman Islands and OECD, G 7 and G 20 member countries is as follows:

- The Cayman Islands has agreements with each of the seven G 7 countries (Canada, France, Germany, Italy, Japan, the UK and the US) .
- The Cayman Islands has agreements with fourteen of the G 20 countries (Argentina, Australia, Brazil, Canada, China, France, Germany, India, Italy, Japan, Mexico, South Africa, the UK and the US) and is in negotiations with three additional G-20 countries.
- The Cayman Islands has agreements with 21 of the 34 OECD member states (Australia, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Sweden, the UK and the US) and is in negotiations with eight additional OECD countries.

The Cayman Islands has been an active participant in the OECD Global Forum on Taxation, having been one of the first non OECD jurisdictions to adopt (in 2000) the principles of transparency and exchange of information, based on a level playing field.

The Cayman Islands competent authority for tax corporation arrangements is the Tax Information Authority, established under the Tax Information Authority Law, 2005.

The Tax Information Authority also administers bilateral agreements with the 28 EU member

states in relation to the automatic reporting of savings income information, in effect since 2005. The Cayman Islands does not operate a withholding tax. This automatic reporting arises under the EU Savings Directive established a multi-national information exchange with the sole purpose of curbing tax evasion and tax avoidance by EU residents. It focuses on the savings income paid to individuals (and certain residual entities) resident in the EU by a paying agent resident in a country other than the one in which the individual is resident for tax purposes. Although not part of the EU, Cayman voluntarily chose to participate and has in place a proactive reporting mechanism in respect of all 28 EU states.

In April 2013, the OECD Global Forum on Transparency and Exchange of Information (**Global Forum**) released their Phase 2 Peer Review Report on the Cayman Islands. The Cayman Islands was one of eight countries - and among the first in the world - to be assessed under the Global Forum's Peer Review Programme. The Phase 1 Review, published in September 2010, recognised the Cayman Islands' compliance with international standards and identified "...a well developed legal and regulatory framework.". The Phase 2 Review, which was undertaken between July 2012 and January 2013, assessed the practical implementation of the Cayman Islands tax information exchange regime. The Report explicitly also identified areas that could benefit from some improvements. The assessors also reported that "in respect of access to information, the competent authority of the Cayman Islands is invested with broad powers to gather relevant information." In the Phase 2 Report, the Global Forum further confirmed that the Cayman Islands has addressed all recommendations in the Phase 1 Report and succeeded in practically implementing the international standard for transparency and exchange of information. The Report confirmed that the Tax Information Authority was well organised with adequate internal processes in place for handling EOI requests and has successfully exercised its powers in gathering information for requesting authorities. The Cayman Islands is a member of the Global Forum, as well as a member of the Steering Group and Peer Review Group.

International Regulatory Cooperation

CIMA has a statutory obligation and wide associated powers to cooperate with international counterparts. CIMA is also a party to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation, Cooperation and the Exchange of Information. Accordingly, international regulators should not be concerned by a regulated investment fund or a licensed investment manager being domiciled in Cayman as agreed gateways now exist for all IOSCO members to obtain appropriate information. In addition, CIMA has entered into specific information sharing bilateral memoranda of understanding with fifteen other major regulators, including the US Securities and Exchange Commission and the UK Financial Services Authority.

A December 2009 assessment by the International Monetary Fund found the Cayman Islands to have a generally sound framework in place for the provision of mutual assistance through domestic law and international treaties and arrangements. In relation to the international cooperation elements of the international standards for banking (Basel), securities (IOSCO) and insurance (IAIS),

the assessment reports a high level of compliance.

CIMA also negotiates memoranda of understanding, and undertakings, which provide the framework for exchange of information and cooperation between CIMA and overseas regulatory authorities (ORAs). Since 2000, CIMA has handled more than 1440 requests for assistance from overseas regulatory authorities.

Law Enforcement Cooperation

Mutual Legal Assistance Treaty with the US (**MLAT**) - Since the MLAT was signed in 1986, the Cayman Islands and US governments have cooperated in more than 300 requests for assistance under the MLAT, resulting in successful law enforcement actions. Assets seized under such actions have been both shared by the US and the Cayman Islands under an asset sharing agreement as well as returned to the US for restitution to victims of fraud and other crimes.

Misuse of Drugs Law (Revised) (**MDL**) - Misuse of Drugs (Drug Trafficking Offences) (Designated Countries) Order, 1991 - The MDL and the Proceeds of Crime Law (Revised) (**PCL**) both provide for the enforcement of external confiscation orders. Under the PCL, foreign countries may be assisted; under the MDL, all the Vienna Convention countries. The PCL also allows the Financial Reporting Authority to onward disclose suspicious activity reports (**SARs**) to foreign counterparts in order to report the possible commission of an offence, initiate a criminal investigation respecting the matter disclosed, or assist with any investigation or criminal proceedings.

Criminal Justice (International Cooperation) Law (**CJICL**) - The CJICL gives domestic effect to the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the Vienna Convention) and additionally provides for mutual legal assistance to be given in the context of a broad range of criminal offences. The purposes for which mutual legal assistance is available are also broad, and include:

- executing searches and seizures;
- providing information and items of evidence;
- identifying or tracing proceeds, property, instruments or such other things for the purposes of evidence;
- immobilising criminally obtained assets; and
- assisting in proceedings related to forfeiture and restitution.

Assistance is available, including at the investigative stage, to all 146 Vienna Convention countries. The MDL also contains “ship riding” powers. Over the period 2003-2007, more than 150 requests for assistance were handled on behalf of the Cayman Islands’ Central Authority under the CJICL.

Terrorism Law - This Law provides for mutual legal assistance and extradition in relation to terrorism and terrorist financing.

Evidence (Proceedings in other Jurisdictions) (Cayman Islands) Order (**EPOJ**) - The EPOJ enables the Grand Court to provide assistance to a court or tribunal in another jurisdiction in obtaining evidence for criminal and civil proceedings, once such proceedings have been instigated. The Court may, in relation to criminal proceedings, make an order for the examination of witnesses, either orally or in writing, or for the production of documents.

Extradition - There are a number of treaties that allow for extradition between Cayman Islands and a wide range of countries. Extradition is available for any offence that would be regarded as a serious crime carrying punishment of more than one year of imprisonment either in the Cayman Islands or in the requesting State. The European Convention on Extradition has applied to the Cayman Islands since 1996.

Recognised Stock Exchange

The Cayman Islands Stock Exchange (**CSX**) was granted approved organisation status by the London Stock Exchange in July 1999, the first offshore stock exchange to achieve this. Also, HM Revenue & Customs in the UK has designated the CSX as a “Recognised Stock Exchange” under Section 1005 of the Income Tax Act 2007 which provides some key tax efficiency advantages. The CSX has approximately 2,000 fund listings to date and 1,000 debt listings to date. Listing on the CSX provides enhanced profile and access to institutional capital.

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