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Home


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**JACK'S CORNER**

**First Curacao International Bank ("FCIB") still in the spotlight:** Many practitioners will know of the debacle of FCIB after the initiation of several criminal investigations in relation to alleged VAT fraud ("carousel fraud") involving FCIB clients. On October 9, 2006, the Central Bank of the Netherlands Antilles ("CBNA") revoked FCIB's license, took over the management of FCIB and appointed certain persons to liquidate FCIB. Subsequent to taking over the management of FCIB, CBNA released 75% of funds to accountholders who clearly had nothing to do with the alleged fraud. It is worthwhile noting that identifying the alleged fraudsters was pretty simple. The balance was expected to be released to such persons shortly thereafter. Well, folks, here we are in October 2007, and I can tell you innocent accountholders are still waiting for their monies to be released. I know because we are assisting several clients and clients of a few other fiduciaries (those who have decided it is too much bother...the clients obviously will be transferring to GCSL when renewals come about) to have their monies returned by FCIB. The CBNA, in accordance with Curacao court rulings, has issued the following documents to assist aggrieved account holders:

1. **Annex 1:** This document details the categories of clients mentioned in the court rulings and the settlement procedures, inclusive of the subject of this Jack's Corner, i.e. the "Auditor's Report".
2. **Annex 2:** This document details what is required in the "Auditor's Report".
3. **Annex 3:** This document details how to close the account and have monies remitted.

It is the "Auditor's Report", which is a declaration regarding the **lawfulness** of the accountholder's monies, that is quite disturbing for several reasons. I disclaim this comment by disclosing the obvious - I am a lawyer, not an accountant. OK, here we go. First, the document requires the auditor to be a CPA (or other professional accountant designation) who is subject "...international rules of professional conduct and practice for accountants." We have heard there are national rules, but we are not aware of any binding international rules. Please, is there an accountant out there who can provide us with those international rules to which they have agreed to be bound? Second, the accountant must take an "independent and impartial position in this matter and (in every other sense)...having no interest in the outcome of the activities performed...and client...not having indemnified..." the accountant. Hmm...are accountants, who have no legal responsibility to the Curacao authorities, generally willing to make such broad undertakings including no indemnification from the client? Third, the accountant must declare the following regarding his client, who is an aggrieved accountholder of FCIB:

1. "whether these transactions had an **unlawful** source, purpose, or were in any way connected to any form of crime;
2. whether the source of the original funds and amounts was in any way **unlawful**, or in any way connected to any form of crime;"
3. whether these funds were in any way related to **tax fraud or any form of tax crime(s)**;
4. that at least no evidence whatsoever was found that the above three events ever took place."

This declaration must be made "according to both national **law** and international **texts/treaties**, e.g. the United Nations, the Council of Europe and the European Union."

The bold letters are courtesy of yours truly. Call me crazy, but it appears the CBNA and Curacao courts are seeking the accountant to make a declaration regarding the **law and the application of the same to the accountant's client**. In addition, it also appears to me that the accountant must be fluent in the **laws of his country and international treaties**. Heck, I don't know any lawyers who can make such broad declarations...at least not within the realm of their qualifications. Finally, it is even more frightening to learn that apparently some accountants have acted on behalf of clients, made this declaration regarding the **lawfulness** of the client's monies, the same was accepted by the CBNA and the Curacao courts and the monies released.

The accountants we know are unwilling to make this declaration as they are not lawyers and they find the scope of the declaration to be, well, beyond the competence of virtually every human being on the planet!!!

We wonder what is the real objective behind this over-the-top declaration? It has been suggested that perhaps the CBNA or the Curacao courts or the Curacao government has some other agenda. What will happen with the client monies unable to be reclaimed by virtue of this nigh-on-impossible-to-meet order? Will the Curacao authorities retain the monies of all the innocent accountholders (tens if not hundreds of millions of USD) who are unable to prove their innocence due to either economic or other administrative reasons? To what account would these monies be distributed? What does this do to the international credibility of the Curacao offshore banking system? Inquiring minds are wondering.

I have quite a few friends and respected colleagues in Curacao. The lawyer with whom we have corresponded is switched on and diligent. All of them have joined me - and no doubt the international business community - in shaking their head about the conduct of the Curacao courts and government regarding FCIB. What say yee, Curacao?

Onwards and upwards...



## GCSL NEWS

### GCSL SPONSORS AMERICAN BAR ASSOCIATION MEETING

GCSL was one of the sponsors of the American Bar Association meeting in beautiful Vancouver from 27th to 29th September. GCSL delegates included Jack, Marina, Puai (GCSL Cook Islands and Samoa), Carlo (GCSL Belize) and Vance (GCSL Nevis). With more than 1,000 lawyers from the tax, trust and estate and real property sections of the American Bar Association, GCSL was in good company and established some excellent relationships. Many thanks to the good people of the American Bar Association for making the event happen!!!

### GCSL COCKTAIL PARTY CONTINUES TO BE A FAVORITE EVENING

Yes, another GCSL Cocktail Party was a great hit with all who attended. Photos, please...



### GCSL PEOPLE GETTING HITCHED!!!

The GCSL Family is expanding with Elie and Karen proposing and accepting, respectively, to Tamara and from Ken. Photos are, well, adorable :



### CENTER FOR FREEDOM & PROSPERITY DOING GOOD THINGS

The good people at the Center for Freedom & Prosperity have been hard at work spreading the gospel of good government tax policy. The following videos take a fun and occasionally more serious look at the issues...and convey their clearly objective viewpoint on the subject :

[www.youtube.com/watch?v=MrpIFNNowA0](http://www.youtube.com/watch?v=MrpIFNNowA0)

[www.freedomandprosperity.org/videos/corporatetax/corporatetax.shtml](http://www.freedomandprosperity.org/videos/corporatetax/corporatetax.shtml)

**AOA HO CHI MINH CITY CONFERENCE - BACK TO SAIGON, OCTOBER 31 TO NOVEMBER 2, 2007**

Three more weeks until the Asia Offshore Association kicks off the Ho Chi Minh City conference at The Sofitel Plaza Saigon from October 31 to November 2, 2007. We are especially honored to have Marshall Langer, an internationally renowned tax expert and member of The AOA Wise Men Committee, as our Keynote Speaker. Peter Kung, the first member of the AOA Wise Men Committee, also will update our delegates regarding the Greater China Region. We also are pleased to have AOA Global Advisory Committee Members Tran Anh Duc (Vietnam), Eric Baier (Austria), Peter Economides (Cyprus) and Josh Bennett (USA) speaking on matters relevant to Vietnam and the international arena. We equally are excited to have Brett Ashton (Savills Vietnam) speaking about the booming Vietnam property market. We welcome the Anguilla Companies Registry - better known as ACORN - as the Chief Sponsor for the conference as well as the sponsor of the "Trick or Treat" Opening Cocktail & Dinner Poolside Party with special young guests from the Christina Noble Ho Chi Minh City Orphanage ([www.cncf.org](http://www.cncf.org)). If you know Lanston, then you know he will be delighted to sponsor a party, particularly one that results in doing good things for kids who need some help in life!!!! The innovative people of Tractus ([www.tractus-asia.com](http://www.tractus-asia.com)) have decided to sponsor the second evening festivities...more to follow!!! Please visit [www.asiaoffshore.org](http://www.asiaoffshore.org) to learn more about AOA Ho Chi Minh City - Back to Saigon.

**AOA WWW SITE**

The Asia Offshore Association is back online with a new look, new functionality, new Executive, Global Advisory and Wise Men Committees. The new Members Only section will be sure to please as it will include articles, country updates and more for our loyal members. Please visit [www.asiaoffshore.org](http://www.asiaoffshore.org) for a browse!!! And smile as you no doubt conclude that "Jack's secret weapon" (aka Marina) is the true brains and heart behind the AOA and its new WWW site.

**UK UPDATE****UK OFFSHORE AMNESTY TAX DEADLINE LOOMS - 26 NOVEMBER 2007**

As reported in the May 2007 newsletter <http://www.gcsf.info/newsletter/200705/index.htm>:

This applies to those who hold or have held, either directly or indirectly, an offshore account that is in any way connected to a loss of UK tax and/or duties. Offshore means anywhere outside the United Kingdom of Great Britain and Northern Ireland. Therefore, offshore accounts include any held in the Channel Islands, the Isle of Man and the Republic of Ireland. It is a very broad and all encompassing definition.

If you are UK resident but not domiciled in the UK, the only offshore income and gains you usually pay UK tax on is the amount that you bring or transfer to the UK. So, if you have not brought or transferred any income or gains into the UK, you may not have any additional UK tax liabilities to disclose.

If you are UK domicile and notified HMRC (Her Majesty Revenue & Customs) of your intention to disclose by 22 June 2007 you have until 26 November 2007 to disclose with full payment of tax, duties, interest and penalties

If you are UK domicile and have not as yet disclosed, the HMRC has issued notice again that it is pursuing those with offshore accounts and tax liabilities who have not notified. After 26 November 2007 they will continue to pursue those who decide not to disclose. In these cases the penalties could be 100% of the tax due and in exceptional circumstances criminal investigation may be considered.

The HMRC will target holders of offshore bank accounts who do not disclose by:

- comparing the information already in HMRC's possession with UK tax histories.
- making enquiries or investigations where there is a mismatch. Where additional tax is due we will seek higher penalties than the 10 per cent available under this facility. The penalties they seek could be up to 100 per cent and are unlikely to be less than 30 per cent of the tax due.
- continuing to use their powers to obtain detailed information about other offshore accounts, held by UK residents.
- considering, in exceptional circumstances that meet the criteria within HMRC published Criminal Investigation Policy, to undertake a criminal investigation.

GCSL suggests that any clients or readers who are still unsure of their obligations to contact their legal or accounting professional advisors immediately for assistance in this process. Alternatively, drop me a line at GCSL and I will assist in connecting you with a selection of advisors who will advise further.

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**VIETNAM UPDATE****GOLDEN LAND UP FOR GRABS**

Domestic and foreign investors (already registered to do business in Vietnam) are preparing to lodge their bids for 20 plots of land (50 hectares) in District 1, which is known locally as "golden land". The land is zoned for buildings between 15 to 70 floors.

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## DUBAI UPDATE

### SCALING NEW HEIGHTS IN DUBAI

The Burj Dubai surpassed the CN Tower in Vancouver and Taipei 101 in Taiwan to claim the record for the tallest building in the world with 150 livable floors...despite the fact it will not be completed until 4th quarter 2008. When completed, the Burj Dubai will be more than 700 meters tall, which is 150 meters taller than the CN Tower and 200 meters taller than Taipei 101. Dubai...you gotta see it to believe it!!!

### DUBAI WORLD - COMING TO A CITY NEAR YOU

Dubai World recently announced that it is in the process of raising approximately USD2.7 billion in debt finance to support its global acquisition and investment strategies. A holding company wholly owned by the Government of Dubai, Dubai World manages and supervises a diversified conglomerate of businesses, investments and projects in more than 100 different cities around the world and employing over 50,000 people. Keep an eye out for Dubai World as it acquires a building or business in your neighbor.

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## CHINA UPDATE

### OVERSEAS-FUNDED COMPANIES OVER 610,000 IN CHINA

China's statistics records that more than 610,000 overseas-funded companies were approved to setup operations in China by the end of July 2007. This totals USD720billion of investment. Over 480 out of the top 500 companies have set up enterprises in China with 1,000 R&D centers and 40 regional headquarters of multinationals.

### CHINA'S CPI HITS 6.5% IN AUGUST

China's Consumer Price Index (CPI) surged to 6.5% in August more than double that of 2007. China has raised interest rates five times this year. The benchmark one-year deposit rate at 3.87% is still below the inflation rate. Media predicts the possibility of at least one more interest hike by the end of 2007.

### BLACKSTONE'S AGGRESSIVE MOVES IN CHINA

USA based leading private equity firm Blackstone is launching an aggressive campaign in China. On September 7, the firm agreed to buy a 20% stake in China National BlueStar (Group) Corp, a state-owned chemical maker, for USD600 million. Although this is the equity firm's first investment in China, the deal is by far the largest private equity investment in China this year. In July, Blackstone successfully helped China Development Bank to invest USD3 billion for a 3% stake in Barclays Bank.

### ONLINE TRADERS IN BEIJING REQUIRED TO OBTAIN LICENSES

Under the Regulations Regarding IT Application Promotion of Beijing effective from December 1, 2007, companies and individuals in Beijing are required to obtain licenses before starting online sales and publish the details of the licenses on websites.

### CHINA LAUNCHES FIRST STOCK-ORIENTED QDII FUND

The first stock-oriented QDII fund has been launched by China Southern Fund Management Co Ltd on September 12. The fund has raised almost RMB50billion on the first day. The capital will be invested in 48 countries and regions with 40% to flow into Hong Kong stock market.

### DELL TO SELL PC VIA GOME

Dell, the world's second largest personal computer maker, will sell its desktops through Gome, China's largest electronics retailer group. Dell well known for its direct-sales strategy is set to grab a larger piece of the China market. Currently, Gome boasts nearly 1000 chain stores in 168 Chinese cities.

### CHINA CHEAP...GET READY FOR STICKER SHOCK

The USA and Europe has enjoyed the 20 year China sale with inexpensive everything with the "Made in China" label. However, the spate of product recalls, particularly those initiated to avoid safety hazards, has exposed serious issues faced by Chinese manufacturers. Retailers previously dismissed Chinese suppliers' complaints about the soaring cost of wages, energy and raw materials. No more as recalls hurt large retailers like Wall Mart, Costco and Target as much or more than the manufacturers. Get ready for stick shock...or buy from Vietnam and Bangladesh?

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## SINGAPORE UPDATE

### THE LION ROARS

Recently, the Lion City clinched the global top spot for attractive investment incentives in the World Competitiveness Yearbook 2007. Singapore emerged ahead of nations such as the People's Republic of China, United Kingdom and the USA, which ranked 13th, 17th and 18th, respectively.

Coming in at second and third spots are Ireland and the Slovak Republic, respectively. Switzerland came in ninth and Malaysia took the 12th spot.

The survey data was designed to quantify issues not easily measured. These include management practices, labor relations, corruption, environmental concerns or quality of life. The responses reflect perceptions of competitiveness and indications for the future by business executives who handle international business situations. As there is little time lag, the responses from these individuals are more recent and closer to reality.

In another development, although the USA, Britain and China are tipped to be the top draws for foreign direct investment (FDI) in the next five years, smaller countries like Singapore will outperform their small sizes, according to a global survey of 602 executives.

As a share of gross domestic product (GDP), Singapore can expect the biggest FDI inflows until 2011, says the survey report by the Economist Intelligence Unit (EIU) and the Columbia Program on International Investment.

Singapore's business environment - political stability, market opportunities, taxes, workforce and infrastructure - was ranked first in 2002 - 2006 among 82 locations. While it has slipped to third this year behind Denmark and Finland, Singapore's business environment is likely to stay in the top three, even though costs here are rising, according to the report.

Singapore, which attracted US\$25.7 billion of FDI last year, is projected to see annual inflows averaging S\$27.1 billion (approximately USD18.2 billion) in 2007 - 2011. This would make it the 15th largest recipient of FDI among the 82 locations covered in the EIU-Columbia survey.

The USA, where FDI is tipped to surge from US\$183.6 billion in 2006 to an annual average of US\$250 billion in 2007 - 2011, is expected to remain the top destination.

Britain with US\$112.9 billion is likely to rank second, followed by China with US\$86.8 billion. Yet measured against GDP, Singapore has more than its fair share of FDI.

FDI averaged about 10% of Singapore's GDP yearly in the 1980s and 1990s, say the report. It peaked around 20% in 1999 and has hovered around 15% since then.

The report projects FDI to stay at this level of GDP in Singapore in the next five years. FDI is expected to remain at around 1.6% of GDP in the US, 4 per cent of GDP in the UK and 2% in China.

While China is likely to remain the top destination for FDI among emerging markets, the report reckons India, the other rising economic giant, is going to disappoint.

Overall, the report is upbeat about the medium term prospects for FDI, thanks to improved business environment, technological change and sharper global competition. But it says downside risks loom large, ranging from global financial turbulence to political uncertainty.

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## OFFSHORE UPDATE

### ANGUILLA: ONE YEAR ON - RANDOM REFLECTIONS OF A FORMER REGULATOR IN A PRIVATE SECTOR CONTEXT

As most of you should know by now, in my former life, I served as Deputy Director of the Financial Services Commission ("the Commission") in Anguilla. In other words, I was the second most senior regulator in the jurisdiction. And as many of you should know from reading last month's newsletter, GCSL Anguilla celebrated its first anniversary in September. Against this backdrop, the time for some reflections on the transition from "game-keeper" to "poacher" has come.

And so I now opine on some salient observations which hopefully will be worth the read, stir one's thinking and lend itself to doing better business. A former regulator brings unique insights into any position in the private industry. If he/she were a senior one, then it is often the case that the person has now to comply with rules, policies and procedures that he/she would have been instrumental in drafting and implementing. This poses a potential conflict where it is easy for the now former regulator, in an effort to follow his new master to either minimize these rules, or interpret them with little regard for the new found business context, or ideally, strive for the delicate balance between the two forces in order to achieve the perfect equilibrium which is the solution. After one year of facing my new context, in the interest of transparency, I can truthfully say that I have been guilty of all three.

The key to understanding doing business in an offshore context is first and foremost to understand the policy rationale behind each regulation. The rationales are often driven by external political considerations but also sound reasons which are designed to ensure that the laws of a jurisdiction are not abused and good business practices are adhered to.

The starting point to achieving success is a fundamental respect for the law and what the regulatory authorities are seeking to do. And this of course is linked to a similarly strong respect for the regulators themselves. It is a basic mistake to ignore this concept and adhere slavishly and solely to what is aptly termed "the real world business realities." While surely one should paid homage to the god of said realities, it would be unwise not to also appreciate that said god may also have clay feet.

Some examples of my experiences with squaring this circle will serve to drive this point home.

Recently, GCSL Anguilla took on a client who, for reasons which I wouldn't get into, could not meet the regulatory authorities "fit and proper person" test. The client needed a captive insurance structure to take care of her legitimate insurance needs while gaining an added tax benefit under the IRS Code. Using the framework of choices stated earlier, we could have either lobbied the regulatory authorities to reconsider its decision and try to explain away the client's conduct, which would have fallen into the first choice of the three choice approach stated earlier, or refused to do business with the client because he could not meet the regulatory authorities criteria which would have fitted into the second option. Instead, we formed a captive insurance company and issued shares in it to a family member of the client; we then had the family member declare a trust over the shares in the company thus gaining legal ownership and control over the structure while vesting beneficial ownership in the hands of the client and the family member. This approach served to show that first and foremost we respect the laws of Anguilla and views of the regulatory body while at the same time we found a legally sound and practical solution.

A second situation involved a client seeking privacy in a fund structure. While to some, clients with a high need for privacy protection may seem high-risk, the fact remains that some clients are so high profile by who they are, what they do and often who they are related to, that they possess legitimate reasons for wanting to stay in the background.

In this scenario, the client wanted to set up a fund to be controlled by himself both in terms of ownership and being a director. However, he did not want to be listed in any public documents issued that he was playing such a role. While of course the client understood that when applying for any licence or status from the Commission, full disclosure is necessary, we were able to insert a corporate entity owned and controlled by the client into the fund structure thus achieving both the client's objectives and adhering with the rules of full disclosure.

A constant theme when structuring applications for any licensed activity is the need to balance disclosure to the Commission with privacy, if such is an issue, on behalf of the client. Irrespective of the licence being applied for, the use of a multiplicity of corporate entities, all of which must be pierced both in terms of ownership and control, is usually not recommended. One way to resolve such matters though is if the client is regulated in another jurisdiction and recourse can be had to this information.

An illustration from my former life is worth noting. A service provider once submitted several funds for licensing or rather recognition which is the apt term provided for under the Mutual Funds Act 2004. The controlling directors were Wall Street players who had USA SEC disclosure requirements. Because of their high-profile and difficulty in getting them to find time to complete application forms and because the funds were part of a master-feeder structure which master was based in the Cayman, as a regulator, we waived the requirement for completion of the detailed application forms and relied on information from the Cayman authorities.

Of equal concern in terms of applications is the need, outside of such favorable dispensation from the Commission, and of which I am no longer in a position to give, to complete fully application forms. Both as a regulator and a private sector practitioner it is baffling to see clients' refusal and/ or inability, despite being shown how to, to complete application forms. Nothing slows down the process like incomplete applications and trust me, no one benefits from this. As a regulator, it made my life more difficult to have to go back and ask questions and to receive information piece-meal. And now as a practitioner, it continues to delay my work, annoy my former colleagues and even disturb the said clients whose conduct caused it in the first place. But overall, it is more of a challenge to be overcome through constantly working with clients than an obstacle to be entertained.

Regulators, like practitioners, are all human, to wit, we all have egos which need stroking. Having worn both hats, I should know. Thus, I have found that nothing works in this business like assuaging all egos and giving each person his due, or pound of flesh or paying homage, however one wishes to term it. It ensures that each side feels respected and treated fairly and thus we are all able to simply get on with the business of getting business.

So one year on, my most profound observation is that in this world, finding the optimal solution within strictly defined legal boundaries, while balancing the egos of all concerned, might in fact, be the key to success. Ask me if I still feel this way two years on, and I may have a different answer, but I believe I am right.

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### **BELIZE; REVISITING THE LIMITED DURATION COMPANY**

It is back. In fact, it never left. I'm talking about the often easily forgotten poor cousin, the Limited Duration Company (LDC). This backwater cousin of the routinely used IBC has managed to remain part of the Belizean offshore landscape, despite being almost never used. What is it, and why is it so important?

The LDC is really just a glorified IBC, that "cheap and cheerful" staple of the Belizean offshore diet. It manages to use a regular IBC, which forms the basis of the LDC, and then with special provisions turns it into a vehicle for further possibilities. The first thing is that

for a mere US\$100 more of Government Incorporation fee, an IBC can be converted into a LDC. There are some actual changes to the memorandum and articles of association for the IBC, in that for example, a resolution must be passed for the changing of the Memorandum to make the duration of the life of the company to be no more than fifty (50) years, and also, that the name of the company be changed to include the words, "LDC" or "Limited Duration Company".

Of course, the benefits are more than just a name, which, according to Shakespeare, is nothing important ("that which we call a rose by any other name would smell as sweet," Romeo & Juliet).

The real substance of the change comes when one has regard to Section 150 of the International Business Companies Act (Cap. 270, Laws of Belize, Revised Edition 2000). This section outlines the following:

The Articles of Association of the LDC may:

- a. prevent the transfer of any shares in the LDC, either fully or partially, or may require a unanimous resolution for such transfer, or a majority vote as provided by the articles of association. Nothing spectacular, except that this may serve to allow for the protection of one's interest, even against a partner who might be less than helpful.
- b. bring one's membership to an end upon the happening of an event (or events) specified in the Articles, or a limitation of the rights of the member in question, as per the Articles. Here, the Articles can actually anticipate and prepare for the particular happening of an event, and thereby protect the interests of the various members, in the event a particular thing happens, such as for example, one of the members gets sued or he or she becomes involved in a divorce. That way, the interests involved in the LDC will be protected and preserved.
- c. provide for the members instead of the directors to manage the company, and s.47 of the IBC Act won't apply in such an instance. Section 47 has stipulated that the directors will be responsible, as usually happens, for the management of the company. However, upon the conversion to a LDC, the provision can be made for the members to have the management of the company instead.
- d. specify who the liquidator will be in the event of a dissolution, and for the directors/manager to be liquidator, where no one has been designated. This is not a big issue, but then again, the issue is how the company will be treated when the time for dissolution comes, and provision can be made for that.

The nice thing about a LDC is that when it is decided that the company no longer needs to have these provisions, the company can be changed back to a regular IBC.

Although it is an entity readily available to the person who wants to ensure that there are protections in place for their interests, they have not been taken up. I hope to change that, as I am certain the lack of use is due to simple lack of knowledge. Let knowledge prevail, I say!! If you have any further questions concerning IBCs or LDCs, feel free to let me know, and I will be happy to help you.

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### **COOK ISLANDS: COST-EFFECTIVE OFFSHORE BANKING**

The **Banking Act 2003** ("the Act") of the Cook Islands was a brave move forward by the Cook Islands to meet current standards on disclosure, international co-operation and bank supervision.

While the Act provides for international banking business, it did so by including the ability for foreign banks licensed in their home jurisdictions, to carry on banking business through the Cook Islands. This is called the restricted international banking licence.

For foreign banks there are clear advantages in being licensed in the Cook Islands and having the ability to conduct its banking business via this jurisdiction. First and foremost is that all profits derived from its banking business will not attract tax liability in the Cook Islands. Second and, just as importantly, the strong privacy provisions of Cook Islands law makes this an ideal banking jurisdiction that looks to preserve client confidentiality.

Also not to be understated, is that with its very modern telecommunications and a developed infrastructure, the ability to transact banking business via the Cook Islands has become a very cost-effective alternative from other more recognised banking jurisdictions.

It goes without saying that one undoubted advantage with the Cook Islands is the high level of professional services that are available in the jurisdiction via the legal and accounting professions.

Unlike a full banking licence, a restricted licence need not have a physical presence in the Cook Islands and instead may operate through a trustee company licensed under the Trustee Companies Act.

Amongst the requirements for licensing under Section 8 of the Act, the foreign bank must show that -

- (a) The ownership, reputation, financial capacity and financial history of the applicant are satisfactory;
- (b) Each director and manager of the applicant is a fit and proper person and has sufficient experience in banking to be involved with operations or management of a bank;
- (c) The capital structure of the applicant is adequate and the amount of fully paid up capital of the applicant is at least

USD2,000,000;

- (d) If a foreign bank is an associate of the applicant - the applicant and the foreign bank will be effectively supervised on a consolidated basis.

An "associate" is defined as a person that -

- (a) Has a significant interest in the applicant; or
- (b) Is a subsidiary of the applicant; or
- (c) Is a holding company of the applicant.

Section 9 of the Act reinforces the above, and requires the foreign bank to show that there is sufficient evidence that the foreign bank is subject to comprehensive supervision and regulation on a consolidated basis by relevant authorities in the foreign bank's home country. The foreign bank must also show that the home authority has no objection to the foreign bank carrying on banking business in the Cook Islands.

Section 45 exempts foreign banks from the audit requirements if they are complying with the audit requirements of their home jurisdiction. As noted above, the Act via section 48 exempts international and restricted banks from taxation. Banking business is also zero rated for value added tax purposes, which is otherwise payable in the Cook Islands.

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### **SAMOA: SPORT AND COMPANY RENEWALS MAKE LIFE EXCITING**

The month closed with a successful Samoan participation in the South Pacific Games. New Caledonia finished on top of the medal tally with a total of 90 gold medals, followed by Tahiti with 44 gold and Samoa closely behind with 43. New Caledonia will be the next host of the Games in 2011, so come on Global Girls, time to start thinking about our sport. Suggestions from the Global Family would be welcome - anything except "weightlifting"!

Not so successful was the Manu Samoa's Rugby attempt at the World Cup in France. They had a dismal performance against Tonga, England and the United States (they just scraped through), although they bravely faced the South African Springboks in the first round with a loss much to the disgust of the locals with the referee's dodgy decisions! Oh well, Cathy was right - time to support the Super All Blacks!

On a serious note, it is that time of the year - COMPANY RENEWALS!!!

There has for some time, been confusion over the registration period (and therefore the associated registration fee payable to government) applicable in Samoa. We have heard many different versions on the same formula and feel obliged to set some clarity in place over this persistent and yet non-complex issue.

Never mind - let's set the record straight. The golden rule is actually very simple: - you only need to renew registration of an International Company the calendar year after initial incorporation. Take a deep breath and keep repeating that to yourself a few times and the logic will soon sink in.

The annual registration as an international company is due to be renewed no later than the 30 November 2007. In order to arrange renewal of the registration prior to this date, it is imperative that our clients remit the necessary funds to cover the costs of renewal and urged them to forward to us well in advance of this date.

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## **TIDBITS**

The things that make us smile, frown and generally make life interesting...

### **OUR MONTHLY QUOTE THAT MADE US SMILE**

"If you are not making mistakes, you are not making enough decisions." David Darling, Codemasters

### **GIVING THE KEYS TO THE ASYLUM TO THE INMATES**

We recently read about the New Zealand Government's plan to allow the public to recommend language for the new police act, which has not been revised since 1958...well, not much has changed really in New Zealand since that time we are told : The coppers responsible for the project are using the "wiki", which is a type of WWW site that can be edited online by anyone. We know a few Kiwis and, well, this sounds like giving the keys to the asylum to the inmates!!!

**IDIOT!!!**

We just had to shake our heads when reading about the mother who said "He's a good driver" about her five year old son to the cop who stopped her car while cruising down the street. IDIOT!!!

**WHY NOT A BOY NAMED SUE...IDIOTS!!!**

We find ourselves traveling back to New Zealand where some obviously unique parents were denied the right to name their son "4Real" and are now considering legal action to force officials to reverse the ruling. Silly us, we thought only Yanks suffered this sort of stupidity...either the name game or being litigation happy, you decide...or that it only happened in Johnny Cash songs!!!

**PRICE OF RAWHIDE IS RISING**

We read without much surprise that Barry Bonds' home run record breaking baseball sold for USD752,467 to a fella who thought it funny to place an asterisk on the ball before donating it to the Baseball Hall of Fame. For the uninitiated, the asterisk denotes the suspicion that good ole Barry was juiced up - on steroids - and therefore the record is bogus. Ah, no, perhaps it means that China also is buying up all the rawhide on the planet and the price is rising. You decide...

**BRING BACK GOOD OLE FASHION FOOD, PLEASE**

We recognized old age creeping up on us when reading about all the new terminology for food. Yup, it is no longer just food. Here ya go...

- Phood: foodstuffs enhanced with chemical additives
- Functional food: what nutritionists call food with "added functions"
- Analog food: artificial or substitute food

If that isn't bad enough, has anyone attended a pharming party lately? Old people should learn that is when teens get together and swap legally prescribed sedatives, analgesics and performance-enhancers.

Well, we call it looney tunes and illegal...but we are old!

**BASTA TO PASTA...THE ITALIANS JUST SAY NO!!!**

We were fascinated to see the news blip about Italians saying they would no longer buy pasta due to the increase in the price of wheat...and therefore pasta...which correlates directly to bad weather and the need for wheat for bio-fuel production. Hey, this is a people who consume 60 pounds of pasta per capita each year and where ? of them indicated in a poll they would prefer to go without sex than pasta!!! Sounds like a revolution in the making...we wonder if governments will issue travel alerts for Italy...watch this space...yeah, right!!!

**MUST HAVE BEEN DIFFERENT TWO YEAR OLDS THAN WE HAVE MET**

We understand a group of anthropologists conducted a study that concluded 2 year old kids are smarter than apes. First, don't these people have real jobs, hobbies or cable television!!!!?? Second, the geniuses haven't met the liliputians we know...or perhaps we just keep bad company :

**PURE GENIUS**

Did ya read about the Yank who drafted a note demanding all the money from a bank on the back of his own check complete with his name and home address? Well, ya just did. To be fair, he did try to scribble out his name and address, but he wasn't thorough enough. Pure genius!!!

**PURE GENIUS...DEJA VU**

This time we have a 17 year old German who thought he had an easy mark when attempting to mug a 33 year old blind fella. Too bad he picked a world judo champion who pummeled him to an inch of his life. Beware those old blind men...couldn't happen to a nicer human being...and I use the term loosely!!!

**PURE GENIUS AGAIN**

Back to the USA where a young fella shot himself in the thigh while fiddling with a .25 caliber pistol stuck in his waistband while waiting online for a Happy Meal at McDonald's. Is that what happens when you wait online for Mickey D's Lounge? We always knew it wasn't too healthy, but wow!!!!

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