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### JACK'S CORNER

Three years!? Time flies when you are having fun. I have little more to say than thanks to those clients, colleagues and staff who started with us, are with us and will continue to be with us as we continue to build GCSL into a leading company formation, trustee and fiduciary services firm. Special thanks to my better ½ who makes everything just that much better. The GCSL Hong Kong and Group kids playing at the races in Hong Kong says it all!



### GCSL NEWS

MARINA'S SWEET 16TH BIRTHDAY...LIKE DÉJÀ VU ALL OVER AGAIN...



Photos speak volumes as we enjoyed days and evenings at [Private H](#) with our mate Harlan, Pearl on the Peak with Marina's family and Pierre's with Herve, Pierre and all the good people at [one of Hong Kong's best restaurants](#).

GCSL TRUST SESSIONS WITH PROFESSOR RICHARD DUKE OF THE THOMAS JEFFERSON SCHOOL OF LAW

### FEATURES

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### PICTURE STORY



[MARINA'S SWEET 16TH BIRTHDAY... LIKE DÉJÀ VU ALL OVER AGAIN...](#)



[COOK ISLANDS: DECLARED A RECESSION FREE ZONE](#)

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Staff members of GCSL had the pleasure and privilege to receive a lecture from Richard Duke (<http://www.assetlaw.com/>), one of the Top 100 USA estate planning lawyers in 2008 according to Worth Magazine. Richard gave us the ABCs and then some of the XYZs regarding trusts. Just another effort by GCSL to ensure staff are well-versed in the services provided to our clients!

#### LEGAL EAGLE CARLO MASON SAVES ANOTHER LIFE

GCSL Belize Managing Director, Carlo Mason, is doing his bit for the indigent accused of Belize as he now has defended 4 people seeking legal aid during their trials in Belize. Three acquittals, some of them in murder trials, distinguishes Carlo among legal practitioners in Belize. Good on ya, Little C!!!

#### JACK & FRIENDS IN A CHARITABLE MOOD AT THE PLAYBOY MANSION

The Squid & Squash Foundation (<http://www.squidandsquash.org/>) held another fantastic event under the all too revealing slogan "Seeing is Believing! Seriously, folks, the Squid & Squash Foundation does some great things for kids around the world. Jack & Friends attended and were both proud and privileged to have some fun while helping out some good causes!!! Photos of the Bunnies, Jack with Hef - sorta - and Playmates with painted on outfits - yes, airbrushed - say it all...



#### LOUIS WINS THE PIGGY BANK RECOUNT!!

GCSL's piggy bank was full to the brim with coins and notes when our Ms Louis So made the closest guess as to the amount. Louis cashed in 1/3rd, 1/3rd went to "tea time" snacks for the staff and the final 1/3rd went to Louis' fave charity, ie the RSPCA in Hong Kong. Good guess, Louis!!!



#### GREATER CHINA UPDATE



#### SOME DARK CLOUDS IN CHINA'S ECONOMIC GROWTH

Recently, the China State Statistic Bureau issued its first quarter economic data. The good news is China experienced 6.1% GDP growth despite the worldwide recession. However, the total export value decreased by 24.9%, which contribute -0.2% to the first quarter GDP. Domestic retail sales, excluding pricing strategy issue, only grew 3.6%. This means, even though GDP was maintained both exports and domestic demand suffered from the worldwide recession. Further, the Government domestic stimulation package has yet to show good results. On the other hand, only 1.62 million people were hired during the first quarter, which is an 11.4% decrease compared to the same period last year. Considering the 20 million jobs lost in 2008, then not only is there pressure for job seekers, but willingness of business to invest is not strong.

In the year of 2007, China had issued regulation of Onshore Financial Institution Issuing RMB Bond in Hong Kong. In the year of 2008, only three state owned banks had been approved. Recently, Hong

Kong Shanghai Bank Corporation (HSBC) and Bank of East Asia have been approved to be the number 4th and 5th financial institutions to be able to issue RMB Bond in Hong Kong.

#### CREATIVE INCENTIVES TO ATTRACT FOREIGN INVESTORS

With the unification of China's tax system and cancellation of tax incentives for foreign investors, local economic zones are continuously trying to figure out ways to attract foreign investments. For example, LuHe Economic Development Zone in Nanjing offers the following to the foreign investors.

\* Rebate 50% of local VAT and 40% of Business Tax to the foreign investors and 0% local Enterprise Income Tax.

\* If a foreign investor signs a lease agreement for more than 9 years, the factory building (provided by the economic zone) will be given to foreign investor for free.

Of course, there are other economic development zones in China offering similar packages. Investing in China will never be a dull moment in life.

Contributed by Johnson Chien, Managing Director, GCSL Shanghai.  
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#### PROFESSOR TSIH SPEAKS - SALES

I was sitting in front of my laptop in my hotel room in Taipei, contemplating what to write for the GCSL 3rd anniversary newsletter, while at the same time, preparing my meetings with clients and potential clients the next day. I was bored. So I switched to the ESPN website and checked on my favorite baseball team—the Oakland As. The headline news on the web page was about Dontrelle Willis, a very talented hard thrower from Vallejo, California. The article was written by Orel Hershiser, a former major league pitcher. To be honest, I was never a fan of Hershiser and I never thought he was that good a pitcher, even in his glory days with the Dodgers. But one paragraph in his article caught my attention and I cut and paste it below for everyone to share.

*"One of the things that I used in my career was the idea of execution-thinking, not result-thinking, meaning that all you are thinking about is what it takes to get the guy at the plate out and what you need to do to accomplish that. You really need to put the thoughts of "if something happens" out of your mind. Everyone fears failure, but to focus on the outcome -- positive or negative -- before it's been determined is no good. If you do that, you are not in the right mindset to execute the pitch and give yourself the best chance for success."*

While Hershiser was talking about baseball pitching, I thought it applies to many situations, including sales, which is what I do for a living. When a pitcher stands on the mound preparing to throw the next pitch to get the hitter out, there is no room for him to be thinking about "what if". The same applies to the hitter in the batting box. If the hitter was still thinking what the pitch may be, where it will be coming from, how fast it would come, he ain't going to hit the ball for sure. In sales, as the salesperson walks into the client's office, the only thought that the salesperson should have is what it takes to get the client to sign on the dotted line. Thinking of anything else will mess up your mind and failure can almost be guaranteed. As Hershiser said in the article, everyone fears failure; and focusing on the outcome will cause severe doubt on your execution and what you fear most will simply happen.

#### PROFESSOR TSIH SPEAKS - DOING BUSINESS IN CHINA

Many of you know that in my previous life, I was a college professor teaching marketing and management, and in my latter years, I taught corporate strategy. Very few people know that I've also taught a course called "Doing Business in China" and another course called "Doing Business in the Asia Pacific". While I began studying China in 1980, my 'hands-on' experience in China didn't begin until late 1992; that a total of 13 plus years, give or take.

To understand China, one would be foolish to isolate the attention only on China and left out Hong Kong, Macau and Taiwan. It is no secret that Hong Kong can survive and maintain its prosperity as it is today without much damage from the 1997 financial crisis and the 2008 global meltdown is because of the backing of China. It is also public knowledge that Hong Kong is not among the "black list" as the other tax havens is also because of the backing of China. The importance of Hong Kong to China's future economic development is very clear.

On the other hand, Taiwan is a completely different story. As I'm sitting in my hotel room in Taipei, almost all channels and the talking heads in Taiwan are talking about Taiwan's acceptance as an observer to WHA, a sub-agency under WHO. It is no secret that the two governments have already had an understanding and therefore, after some 30+ years since Taiwan has been ousted from the U.N., they're being accepted again into an international agency under the name Chinese Taipei. It is also public knowledge that China, in addition to subsidizing Hong Kong and Macau, they're also subsidizing Taiwan in a HUGE way. From importing the Taiwan fruits to opening up the direct flights between the Mainland and Taiwan have already brought huge financial benefits and relief to the sagging Taiwan economy. Sending 3,000 people monthly to Taiwan as "tourists" is an even bigger subsidy to Taiwan's sorrowful retail industry as well as the hospitality industry and tourism in general; conservatively speaking, if each Chinese tourist spends RMB5,000 in Taiwan, how much are the Chinese government "giving" the Taiwan economy monthly? Do the math and the answer is very clear. In the flight that I took this trip, there were at least three groups of Chinese tourists. From the dialects that they use, they're

mostly from the JieJiang province, the city of Ningbo. As I was exchanging RMB2,000 at the bank in the airport, the guy next to me was exchanging the maximum he's allowed inside the airport— RMB60,000, that's approximately NTD300,000. I also happened to notice that in his "wallet", there are still stacks of 10,000 bundles of RMB. In addition to all of these, the biggest subsidy has yet to come. Before the end of 2009, there will be at least two groups of Chinese investors, one from Guangxi, investing in Taiwan real estate in the amount of 65 million RMB and the other somewhere in the range of RMB300 million.

The issue I want to bring up is not what Hu and Ma has agreed, but it is the attitude of China towards Taiwan. Once we understand the cause of the Chinese attitude towards Taiwan, it won't be too hard to understand the current mind-set of the Chinese government, and eventually, their policies and plan. Once upon a time, it was all propaganda from China—all talk and no action. Today, it is no propaganda, it's all action. One may prompt to ask, what causes the change in the Chinese attitude towards Taiwan? The answer is simply one word—CONFIDENCE. The Chinese, especially the government, are so full of confidence today that they know unification of the two sides is inevitable. The only remaining question is when. If that is the case indeed, wouldn't it be wise for the Chinese government to help Taiwan's economy now so that when the time comes for unification, they'll be taking over a rosy economy instead of having to rebuild at that time? While nothing is guaranteed, especially in politics, wouldn't one think that the Chinese government is taking a huge risk in pouring money into Taiwan now? The answer is no. Although the Ma government in Taiwan continues to resist discussion of unification, their behavior is very clear that the resistance is not of political difference but of principle in ideology—the difference in lifestyle between the people in China and Taiwan (Ma actually said that in his recent interview with the Time's magazine)—referring to issues about democracy and freedom.

It is, therefore, no surprise to me that a scholar from Sichuan told me recently—China is actually more democratic than the United States and the U.S. is more socialistic than China from an ideology's point of view. Of course, that entirely depends on how one defines democracy and socialism. The point I want to make is that China has grown to become more and more mature over the past 30 years of economic reform. They have found their path to become a world power in a peaceful and quiet way.

The sun does rise in the East. In my previous articles on the "Ten Commandments in doing business in China", I discussed two topics—Know The People and Make Friends First. Perhaps it is time to re-acquaint with China and its people. Know them well and make friends with them and you may find that pot of gold lying somewhere in that vast land.

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#### FURTHER SERVICES LIBERALISATION UNDER CHINA AND HONG KONG ECONOMIC PARTNERSHIP ARRANGEMENT ("CEPA")

The Hong Kong Special Administration Government and the Central People's Government agreed on further services liberalisation and trade co-operation under the CEPA. There will be 29 liberalisation measures covering 20 service sectors, including two new sectors (research and development, and rail transport). The total number of service sectors covered by CEPA will be expanded from 40 to 42. The liberalisation measures include:

- On banking, branches established by a Hong Kong ("HK") bank in Guangdong Province can set up "cross-location" sub-branches within Guangdong Province. HK commercial banks can establish service points in other administrative areas without first establishing branches there which enable the banks to expand their business network, and improve the quality and efficiency of their banking services.
- On securities services, qualified HK securities companies and Mainland securities companies which satisfy the requirements for establishing subsidiaries can set up in Guangdong Province joint venture securities investment advisory companies, with the scope of business focusing specifically on securities investment advisory services. The percentage of shareholding of the Hong Kong securities company could, at a maximum, reach 1/3 of the total shareholding of such a joint venture securities investment advisory company. This will allow HK securities companies to participate in the development of the Mainland's securities market.
- In relation to legal services, the Mainland will allow HK legal practitioners who have at least five years' experience in legal practice and who have passed the National Judicial Examination to undergo intensive training offered for at least one month in accordance with the relevant Mainland rules. Upon completion of the training and passing of the assessment, they can apply to practise as lawyers on the Mainland. HK law firms will be allowed to set up representative offices on the Mainland to operate in association with Mainland law firms in Guangdong Province; the Mainland law firms shall have been established for one year or more, with at least one person who established the firm having been in legal practice for five years or more.
- Following on the building block approach in further liberalisation, Supplement VI to the CEPA also includes nine measures for early and pilot implementation in Guangdong Province, covering sectors which include legal, convention and exhibition, public utility, telecommunications,

banking, securities, maritime transport and rail transport. These measures can enhance the co-operation of the services industry between Guangdong and Hong Kong.

- All the services liberalisation measures will take effect from October 1, 2009. To allow the trade to enjoy the benefits earlier, the effective date is three months ahead of the usual schedule. Apart from service liberalisation, the two sides have also agreed to enhance financial co-operation and take forward the work on mutual recognition of professional qualifications.
- To enhance financial co-operation, qualified Mainland securities companies approved by the China Securities Regulatory Commission can set up subsidiaries in Hong Kong in accordance with the relevant requirements. Furthermore, the Mainland will also actively explore the introduction on the Mainland of "open-end index-tracking exchange-traded fund", the portfolios of which are constituted by Hong Kong listed stocks.
- Regarding mutual recognition of professional qualifications, Supplement VI to CEPA also includes a number of measures to encourage mutual recognition of professional qualifications as well as technical exchange work among professionals from the accounting, construction, real estate and printing sectors. On medical and dental services, Hong Kong pharmacists can sit for examination and register on the Mainland. These measures will provide greater business opportunities for the trade and facilitate the upgrading of the professional standards of the two places.

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#### UNLIKELY CANDIDATES UP FOR IPOS IN HONG KONG

ALG, the leading recipient of the largest government bailout of financial institutions in history, has announced that it will spin off its Asian life unit (AIA) in a public offering on Hong Kong's exchange. A spokesman for the company indicated that the unit had not been affected by the recent crisis and is worth upwards of US\$25 billion. The company boasts 20,000 employees and over a quarter of a million agents throughout the region. Funds raised from the sale are to be used to begin to repay taxpayer loans.

Another highly visible and struggling company, Las Vegas Sands Corp has enlisted one of the few remaining investment banks to assist in listing its beleaguered Macau unit in Hong Kong as well. The unit includes the Venetian Macao, the Sands Macao and was to include a third property whose construction was halted due to a lack of funding. The news comes as the company announced coming layoffs of up to four thousand Macau employees.

#### HONG KONG IRD PROVIDES FURTHER CLARIFICATION ON DTA COUNTRIES

We in Hong Kong actually have a bit of a soft spot for the Inland Revenue Department (IRD). The city already boasts one of the lowest corporate tax rates (16.5%) and assesses only that profit that is derived in the territory. To make tax filings even more painless, the IRD frequently publishes guidance papers regarding recent legislation or, as in this most recent case, Double Tax Treaties.

Specifically, the Department Interpretation and Practice Notes N. 45 (DIPN45) provides corporate tax payers in Hong Kong with clear direction on treatment of transfer pricing and profit reallocation double taxation relief. Specifically, Hong Kong resident companies are able to claim tax relief from the Hong Kong IRD where either they or their trading partners have been assessed a higher tax liability in a jurisdiction with which Hong Kong has a DTA based on non-arms length transactions. In cases of both economic and juridical double taxation, Hong Kong resident companies may apply for specific tax relief. The IRD is not obligated to provide relief, but has offered examples of what it deems to be justifiable circumstances for relief. The examples are presented in a clear, straight forward manner, and, taxpayers should be able to refer to the publication in dealing with their own situations.

Hong Kong has concluded DTAs with several nations in the region and a number of EU countries as well. For those seeking to open a subsidiary in Hong Kong or to utilize Hong Kong as a base for a non-resident trading business, the tax relief on offer makes the SAR and even more attractive destination.

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## SINGAPORE UPDATE

### NEW INCOME TAX AMENDMENTS

On 4th December last year, Income Amendment Act (Act No. 34 of 2008) came into force in Singapore. Among the several changes to the tax regimen was one on a unilateral tax credit benefitting Singapore tax residents.

Before the amendment, if Singapore tax residents derived income taxable in jurisdictions with which

there is no Double Taxation Agreement (DTA) in force with Singapore, such income was still eligible for a Unilateral Tax Credit if such income was not otherwise exempt from Singapore tax upon its remittance. However, at that time, this unilateral tax credit was only available to limited types of income such as dividend, royalty, employment and professional services.

With the amendment, and with effect from YA 2009, the scope of unilateral tax credit has been enlarged and will now include most types of foreign-sourced income that are received or deemed to have been received in Singapore. Specifically, the Amendment Act has listed the following types of income to qualify for the unilateral tax credit:

- Income derived from trade or business carried on through a Permanent Establishment (PE);
- Discount/premium from debt securities or interest provided such payments are neither borne by a Singapore resident or PE nor are they deductible against Singapore sourced income;
- Rent derived from immovable properties; and
- All other gains or profits of an income nature.

The change is a good sign for the foreign income that was earned in countries other than those Singapore has DTAs with. Repatriation of foreign-sourced income is now much more encouraged.

#### DEEPER SHADE OF BLUE FOR TEMASEK

In more sobering news, those who are acquainted with the Temasek saga following Merrill Lynch's collapse would remember that as at end of 2008, their US\$5.9 billion fairy tale investment had turned into a frog in the form of Bank of America shares, at that time worth US\$2.59 billion.

In a recent revelation, Temasek has now revealed that it has, in the first 3 months of 2009, sold all its Bank of America shares. This would mean that she had missed the recent rally of Bank of America shares, which saw prices jump from US\$7 to US\$14 per share. As of 31st March 2009, Temasek no longer held any Bank of America shares.

This early sale of the 188.8 million Bank of America shares would mean that Temasek's losses in the Merrill Lynch-Bank of America saga could be estimated at between US\$2.3 billion (S\$3.4 billion) and US\$4.6 billion.

No information is available on when and how much was sold, and the prices at which the transactions were done. However based on market information on the prices of the Bank of America shares for the first 3 months of 2009 (lowest at US\$2.53 on Feb 20, with the highest at US\$14.81 on Jan 6), analysts have estimated that Temasek could have received as little as US\$500 million to as much as US\$2.8 billion.

Apparently, this quick divestment was in line with Temasek's tweaking of its long-term investment strategy to focus more on Asia and emerging markets such as Brazil and Russia.

Although now the bleeding seems to have finally stopped, the billion-dollar question remains as to who kissed the frog so early.

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## INTERNATIONAL UPDATE



### PROTOCOL TO RUSSIA-CYPRUS DOUBLE TAX TREATY SIGNED

In April 2009, the Republic of Cyprus and the Russian Federation signed a Protocol to the existing Double Tax Treaty between the two countries. As a result Russia has stricken off Cyprus from its "black list" (at the same time during the G20 meeting in London, Cyprus alongside with Russia was put into a "white list" as a country cooperating with OECD). Russia has insisted on several mostly minor amendments. The above Protocol was signed in Nicosia by the Cyprus Finance Minister Mr Charilaos Stavrakis and by the Director of the Department of Taxes and Customs Tariffs Policy of the Russian Ministry of Finance Mr Ilya Trunin. In the last few years, Russia has been insisting on the revision of some articles in the existing Double Tax Treaty, during elaborate consultations and negotiations held both in Nicosia and Moscow. According to the Cyprus Finance Minister the negotiations are finalized to the mutual satisfaction of both parties. Despite certain hysterical comments in Russian mass media, Cyprus financiers are happy with the results of the meetings and they are eager to continue their efforts for foreign investments attraction to Russian Federation. The Republic of Cyprus is the largest investor to Russian economy. Cyprus's stable financial system helps Russia to attract investments to various sectors of its economy.

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## SHEER WONDER OF THE EASE OF FILING TAX RETURNS IN HONG KONG

A big month in June as this is the GCSL third birthday edition and with it I will be embarking on my

annual compliance review of the Belize and Anguilla offices after completing my tax return here in Hong Kong.

Hong Kong has the easiest actual tax return to complete that I have had experience with in my life. Apart from countries that generously do not require their hard working citizens to pay any tax at all, Hong Kong is so simple that an average High School student could complete it.

I will be required for both my trip to Belize and Anguilla and on my Hong Kong tax return to account for my expenses. In my wildest dreams however I can't imagine Jack, Marina or Donald Tsang being too happy if I claimed for the following:

- receipts for bus tickets and groceries including pints of milk, fluffy dusters, lavatory rolls and chocolate
- payment for chauffeur-driven cars to private events
- £2,499 for a 42-inch plasma television
- £400 per month for food
- submitted receipts including comics and women's clothing as part of claims for food
- £16,000 for a non-existent mortgage
- £100 for a workman to change 25 lightbulbs
- £37,000 in expenses to furnish a tiny two-bedroom 511 sq ft flat.
- Dog food and gardening expenses

Yet, the United Kingdom, still rallying after an increase in the top tax rates where now marginal rates are astronomical

[http://www.economist.com/opinion/displayStory.cfm?story\\_id=13576151](http://www.economist.com/opinion/displayStory.cfm?story_id=13576151)

Up to 100K: 41%

100-113.5k: 61%

113.5k-150k: 41%

Above 150k: 51%

Is expected to pay for their Parliamentarians clearly excessive private expenditure.

Little wonder that we still have demand for an offshore industry. One can't blame the Brits for either packing up and leaving, or looking at tax competitive alternatives to funding the bunch of drop kicks they are paying the lifestyles of.

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#### SHOE THROWING GAINS POPULARITY

Apparently shoe throwing has become very popular with protesters at public appearances of political leaders ever since Muntazer Al Zahdi threw his at ex-President George Bush. Since then that brand of shoe became best seller in many markets. Another incident of shoe throwing involves Chinese Premier Wen Jiabao when he was speaking at the Cambridge University in England recently.

Unlike George Bush he was quick to dismiss the act as a minor misdemeanor and stressed that Chinese ties with the UK remain strong despite this despicable act. "The Chinese side has expressed its strong displeasure over this incident," China's Foreign Ministry said in a statement. "The facts demonstrate that the despicable conduct of this troublemaker will win no sympathy, and will not hold back the tide of friendly cooperation between China and Britain." British police said the protester, who also denounced Wen as a dictator, has been charged with a public order offence. China Central Television [reported the incident in full](#) on Tuesday, including footage of Wen and the removal of the protester from the hall. The shoe missed Wen, landing on the stage about a meter away from him. The state-controlled Chinese media usually avoids showing leaders in awkward situations but this time he received standing ovation from the rest of the audience for responding positively to the insult.

So if you are not happy with the tax man you now know what to do. Just bring along an extra pair so you don't have to walk bare foot to the jail house.

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#### THE FUTURE OF OFFSHORE IS ONSHORE - A FAST TRACK TO CANADA

Canada, with a reputation as a high-tax jurisdiction, offers some unique, and completely legal, tax advantages to wealthy immigrants and certain foreign corporations. For example, high net worth immigrants, unlike those permanently resident in Canada, may:

1. Set up an offshore "Immigrant Trust", income in and distributions from which are tax free in Canada for 60 months after the immigrant becomes a Canadian tax resident;
2. In many instances legally avoid becoming tax residents for a considerable period of time after they are landed in Canada;
3. Reside in Canada for 3 years, thereby qualifying for citizenship, and then move to another jurisdiction, thereby discarding the tax residency status (quite unlike American green card

- holders or citizens who are permanently saddled with US tax exposure); and
4. Be beneficiaries, generation after generation, of a "Granny Trust" which can be tax free in perpetuity vis-à-vis Canadian tax resident beneficiaries.

With OECD governments cooperating more closely on tax collection and other fiscal matters, it is imperative for all individuals and corporations operating in the international sphere to ensure they are both tax compliant and properly "tax-planned", using appropriate offshore companies and trusts when assuming tax residency status in different jurisdictions.

Canada's immigration laws facilitate the entry of certain foreign corporations and their key staff. In British Columbia, for example, the province has a "Provincial Nominee Program" that offers expedited immigration solutions for international investors wanting to immigrate to Canada and settle in BC.

BC PNP offers three compelling programs in an effort to attract more business and investment immigrants to the province. The program is currently divided into three streams – "Business Skills", "Regional Skills" and "Strategic Projects".

The Business Skills program is designed for people with viable business plans to establish or purchase and expand a business in the greater Vancouver and Abbotsford areas. The program requires a personal net worth of \$800,000, a minimum investment of \$400,000 and for the investor to hold at least 1/3 of the equity in the business. The investment must create at least three new jobs for Canadians or permanent residents and the investor must play an active role in the management of the business.

The Regional Skills program is similar to the Business Skills program, only it is designed for areas of BC outside of Greater Vancouver and Abbotsford. The program requires a personal net worth of \$400,000, a minimum investment of \$200,000 and the investment must create at least one new job for a Canadian or permanent resident.

Using a provincial business program can reduce processing times of permanent resident visa applications by 3-4 years as compared to federal entrepreneur applications. The upside is tremendous and as all successful investors now, timing and security are paramount and this PNP program offers just that.

The third program, the "Strategic Projects" program, does not offer a fast track option. This program is designed for foreign corporations that want to invest at least \$500,000 in BC. For every 3 jobs created, the foreign company can designate one potential immigrant staff member who can move to Canada to work in the Canadian business project.

A fourth related program is linked to the International Maritime Centre Initiative wherein foreign shipping companies can operate tax free in Canada (as if Canada were an offshore centre).

In all, the BC PNP and the Maritime Centre Initiative have demonstrated Canada's commitment to forward thinking approaches to real-time issues. With the current criteria in place we have seen a sharp increase in business investor immigrant applications to Vancouver, Canada helping fuel and maintain our economy. Moreover many international shipping companies, including Teekay Shipping which has its head office in Vancouver, have taken advantage of the Maritime Centre Initiative.]

*Contributed by Ryan M. Rosenberg, a practicing immigration lawyer with Larlee & Associates Law Corporation, Vancouver, Canada and Peter Scarrow, Associate Counsel, Larlee & Associates and Business Development Director, North America, The GC&S Group of Companies Limited. Ryan's email address is [Ryan.Rosenberg@larlee.com](mailto:Ryan.Rosenberg@larlee.com) and Peter's email address is [peter.scarrow@larlee.com](mailto:peter.scarrow@larlee.com)*

## OFFSHORE UPDATE



### ANGUILLA: A RANDOM OBSERVATION AFTER NEARLY 10 YEARS IN THE BUSINESS

August 2009 will mark ten years since I returned from London and started working at the then Financial Services Department of the Government of Anguilla, which was the precursor to the Financial Services Commission, Anguilla's regulatory body. Although I had written my MBA in Finance project on Anguilla as an offshore finance jurisdiction at City University Business School (London) three years earlier in the summer of 1996, my understanding of the industry was at best, rudimentary. As stated in my previous article, one of the first documents I was asked to read was the OECD's 1998 report on harmful tax competition. Much has happened since then with the OECD, the post 9/11 changes and now the G20 but also in terms of my understanding and outlook of the industry.

What has struck me recently is the basic question which underlies the entire industry in my humble opinion: Why remain onshore and seek the benefits of offshore? Earlier in my career, prior to my economic education through detailed conversations with Dr. Dan Mitchell of the Heritage Foundation, now the Cato Institute, both in Washington DC, study of international tax law in my LLM in corporate and commercial law with the University of London, and other readings and listening to various points of view, I was a bit agnostic about the legitimacy of offshore. I could and still can see the rationale of

government's seeking to tax as much economic activity generated within its sovereign geographical sphere and activity of its citizens wherever so generated. Although I disagree with this given my dislike of governmental power and understanding of economics especially the effects of taxation on economic activity, I can see the rationale of the OECD and G20 governments. To play devil's advocate for a moment, one could make the argument that citizens of onshore jurisdictions who wish to reap the benefits of the amenities of big city or onshore life while taking advantage of the tax and asset protection features of offshore jurisdictions are, as would be stated in the American context, "Benedict Arnolds."

Which brings me to the solution to my random observation. Why not simply move offshore, generate the economic activity there, if this is feasible, and in the case of US citizens and others whose citizenship carries with it worldwide taxation, surrender your passports and take the citizenship of a different jurisdiction? Sure, it may be more easier said than done but the tax benefits surely can justify such a move. And given the current and future climate and the trillions of dollars in unfunded obligations such as social security, state funded healthcare and others which OECD/G20 governments have, there might come a time when this will be a necessity. In many ways, onshore citizens wish to have their cake and eat it too and thus the radical left has a point on that score to some extent which fair-minded observers cannot help but fail to acknowledge.

When I was a child growing up in Anguilla in the 1970s and 1980s, my dream, as was the dream of many others, was to obtain a green card and to live the US. Given the dire economic circumstances of Anguilla at that time and prior to the proper development of the tourism industry beginning in 1984, mine was both a normal and practical dream. But for my father's patriotism and some decisions made by an aunt of mine back in 1981 when we were commencing the process, that dream might have come true. And for the record, I am most thankful that it did. Today, there are thousands of Anguillians who were merely born on US soil, mainly on St. Thomas in the US Virgin Islands, to get citizenship. In fact, I am a rarity for my generation to have been both born and raised in Anguilla completely. These Anguillians, like many other people in the Caribbean and the entire world, know neither the fact that they are supposed to file income tax returns each April nor the fact that if they earn more than a certain amount, they should be paying income tax. I would venture to say also that neither do they care. But it is only a matter of time before President Obama and the IRS realise that there are millions of US tax persons from whom taxes can be extracted to pay for the massive spending which is now taking place in the US.

At the recently concluded STEP Caribbean conference, a noted economist, Avinash Persaud, in describing the future of the financial services landscape for offshore jurisdictions pointed out that in order to survive centers will have to generate economic activity within their domain and thus creating more substance to their existence. This of course would be a welcome development in my view. Mr. Persaud opined that one consequence of the global economic crisis is the fact that banks will become more national since taxpayers will demand this granted the fact that they will be on the hook, per se, for their failures. An opportunity for providing capital for cross-border transactions thus exists for offshore centers which can cater to the needs of this type of business activity. Of course, if these activities are being provided by persons who are citizens or passport-holders of OECD/G20 countries, then the same problems that the offshore jurisdictions face today will persist.

While the G20 meeting advocated the signing of TIEAs with OECD member countries in exchange for staving off sanctions, this is just the latest goal-post which is likely to be moved and moved and moved until automatic reporting of all foreign held or generated income by their citizens becomes the order of the day thus making the use of offshore jurisdictions non-beneficial. The bottom line is that in the post subprime mortgage crisis world, persons wanting to take advantage of low tax rates in jurisdictions will have a fundamental choice to make. While this may seem uncomfortable for many it comes down to this: remain onshore physically and or through citizenship and enjoy the fruits of onshore life while paying the maximum tax rate of between 40 to 50 percent and more depending on where one lives, or move offshore, generate some economic activity there, to the extent that this can indeed be done, live the simple life and pay little to no tax. The choice, irrespective of whatever else is said, or arguments about lifestyle choices etc, boils down to this. There is simply no choice in between. As long as OECD/G20 countries have tax claims on persons, the use of offshore jurisdictions by said persons will be an issue. Breaking the umbilical chord removes those claims and thus makes the point moot.

GCSL Anguilla is ready to assist persons wishing to give more substance to their offshore activities or wanting to seek citizenship or residency in a non OECD/G20 country.

Contributed by Carlyle Rogers, Managing Director, GCSL Anguilla  
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#### BELIZE: INTERNATIONAL FINANCIAL SERVICES LICENSE

The International Financial Services Commission (the "IFSC") recently amended its offering of products allowing for the granting of "*licences...for the carrying on of international financial services;...*" There had been an amendment of the definition of "*international financial services*" to mean "*...the business of providing or holding oneself out as providing all or any of the services listed in the Schedule to this Act, where such businesses are conducted within or from within Belize, exclusively with persons non-resident*"

In this article, I will seek to highlight the most recent licence for review, the Securities Trading Licence.

#### Standard Conditions for the Belize Securities Trading Licence

These conditions are as follows:

1. The Licensee shall at all times comply with the provisions of the Act, the Amended Act and the Regulations made thereunder, as amended from time to time, as well as the IFS Practitioners (Code of Conduct) Regulations, 2001, as amended from time to time.
2. The Licensee shall not transact any trading (securities, foreign exchange, derivatives or otherwise) with any person or entity who is a resident of Belize unless such person or entity:
  - i) is a bank licensed under the Banks and Financial Institutions Act (CAP. 263) or the International Banking Act (CAP. 267); or
  - ii) is the Government of Belize or a public statutory corporation wholly owned by the Government of Belize.
3. The Licensee shall conduct its business in a currency other than the currency of Belize.
4. The Licensee must provide all of its customers with monthly statements with the following specified information:
  - i) the amount due to such customers; and
  - ii) the fact that such funds are payable on demand of the customer.
5. The Licensee must hold in cash or qualified authorized securities as prescribed by the IFSC, either solely or in common, customer credit items in excess of customer debit items. In addition, the Licensee is required to:
  - i) segregate customer funds;
  - ii) maintain physical possession or control of fully paid and excess margin securities carried for customers.
6. The Licensee shall not encourage excessive trading in a customer's account for the purposes of increasing the Licensee's or stockbroker's or broker's commission or other revenue generated by such trading.
7. The Licensee is prohibited from executing any transaction or from making improper use of a customer's securities or funds, including but not limited to, cases of theft or borrowing, lending or pledging without the customer's prior written authorization.
8. The Licensee is required to fully disclose to customers the charges for services performed by registered firms in connection with securities transactions and shall not be discriminatory between customers.
9. The Licensee shall report to the IFSC not later than five business days after the event whenever the Licensee or any of its employees:
  - i) is the subject of any written customer complaint involving allegations of forgery, fraud, theft or misappropriation of funds or securities;
  - ii) is named a defendant or respondent in any criminal or regulatory proceeding or any civil proceeding exceeding US \$25,000, whether in Belize or abroad.
10. Before effecting a margin trade on behalf of any customer, the Licensee must:
  - i) be in possession of a Margin Agreement signed by the benefiting customer;
  - ii) obtain from the customer a minimum margin deposit of US \$2,000.
11. The Licensee's foreign exchange trading is limited to over-the counter markets and organized exchanges and the Licensee is prohibited from conducting foreign exchange transactions in the cash/parallel market.
12. The Licensee must give priority to customer's orders and shall transmit instructions in order of receipt.
13. The Licensee shall file by fax or other electronic means by the tenth of each month (or at such other times as may be specified by the IFSC) the calculations and evidence of the Licensee's:
  - i) paid-up and unimpaired capital, compliance with margin requirements as of the last business day of the previous month and an income statement for the previous month;
  - ii) the number, volume, and value of all trades executed and such other information as the IFSC deems necessary; and
  - iii) any other information required by the IFSC.
14. In the event of insolvency, whether deemed insolvent in Belize or any other jurisdiction, the Licensee is prohibited from effecting securities or derivatives transactions and must provide immediate notice to the IFSC. For this purpose, insolvency is defined by:
  - i) the placement in a voluntary or involuntary bankruptcy or similar proceeding; or
  - ii) the appointment of a trustee, receiver, or similar official; or
  - iii) a general assignment by the Licensee for the benefit of its creditors; or
  - iv) an admission of insolvency; or
  - v) the protracted inability to make computations necessary to establish compliance with IFSC's net capital licensing requirement.
15. The Licensee shall not, without the written approval of the IFSC:
  - i) enter into a merger, amalgamation or consolidation;

- ii) transfer the whole or any substantial parts of its assets or liabilities;
  - iii) change its name or address from that set out in its license;
  - iv) alter its Memorandum or Articles of Association;
  - v) accept or keep a resident of Belize as a customer for any of its trading services.
16. The IFSC reserves the right to approve changes in the original shareholdings, directorate or management of the Licensee.
  17. The Licensee will be required to meet with the IFSC at least once a year to review the Licensee's performance in the preceding year and prospects for the ensuing year.
  18. The services offered by the Licensee shall be consistent with products offered by licensed brokers for trading in financial and commodity based derivatives.
  19. The Licensee is prohibited from conducting any banking business such as receiving money from the public through the acceptance of deposits on current account, deposit account or other similar accounts which may be withdrawn on demand by cheque, draft, order or notice by customers and using that money to make advances, loans, extensions of credit, guarantees and investments.
  20. The Licensee shall not accept deposits from any person, cash or bearer monetary instruments, which aggregate to an amount in excess of US\$10,000 or its equivalent in any currency, in any calendar year.
  21. The Licensee's investment in equity of a single issuer, including any affiliate, shall not exceed 25 percent of its fully paid-up and unimpaired capital.
  22. The Licensee shall not establish a branch, subsidiary or representative office without the prior approval of the IFSC.
  23. The Licensee shall submit to the IFSC as soon as possible a manual of operating procedures, including liquidity and money laundering prevention controls.
  24. The Licensee shall immediately notify the IFSC of any change in the information previously supplied by the Licensee.
  25. A breach of or non-compliance with any of the above conditions may result in the revocation of the License.

#### Application requirements

If you recall, all licence applications must be made through an already existing licenceholder. That would be us, at GCSL Belize. The following persons shall be eligible to obtain a securities trading licence:

- Attorneys-at-law (barristers or solicitors included, as Belize's legal system has fused both);
- Accountants possessing a current practising certificate in accordance with the Accountancy Profession Act;
- A company registered under the Companies Act that is a licensed financial institution within the meaning of the Banks and Financial Institutions Act;
- Any other company or corporate entity that has management with the requisite knowledge and expertise of the business to be carried on and has at least one director resident in Belize;
- Any other person designated as fit and proper for this purpose by the IFSC.

All applicants must provide to the IFSC:

- A completed application form,
- A biographical affidavit of each director, shareholder and officer of the applicant company,
- The prescribed application fee, which is non-refundable,
- Evidence of capital requirements and
- Business Plan (of the applicant company)
- Any other necessary documentation as may be required by the IFSC.

We can be contacted with a view to assisting you in the procurement of this license. Let us help you to do so.

*Contributed by Carlo Mason, Managing Director, GCSL Belize  
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#### COOK ISLANDS: DECLARED A RECESSION FREE ZONE

The Cook Islands Government this week declared the Cook Islands as the first country in the world to be "Recession Free". While the rest of the world is drowning in economic depression, the Cook Islands have created headlines since choosing to opt out of the recession this week.

On Monday, tourism minister Wilkie Rasmussen announced the Government's decision of not taking part



in the financial downturn. Since the decision, this country has been lauded in illustrious international newspapers such as The Wall Street Journal, UK's Daily Telegraph and The Guardian. Many of

the editorials give a tongue-and-cheek poke at their own governments for 'joining' the recession bandwagon.

"Now, why can't our politicians be this decisive," the Daily Telegraph asked.

"It's a land immune from the international effects of slowing economies and non-consuming consumers. It's a place where local businesses are growing and new companies are opening up," the Birmingham Post declared.

The Cook Islands haven is also being touted on cyberspace with mentions on Twitter, Wordpress, Islands Business, Scoop.com, Stuff and of course, recessionfreeoasis.com. The official website is a colourful guide to living in a recession free zone. It hosts an anonymous international blogger who is impressed with what this country offers. "It could be that there are no franchise properties here yet (all hotels are independently owned), or it could be that nothing is overbuilt. It could be that everyone we meet is genuinely cheerful and happy to see us. Whatever it is, we've decided that the Cook Islands may be free from recession, but they offer an abundance of hospitality." Included on the site is a list of regulations on how to operate in an anti-recession nation such as, 'Please refrain from showing any signs of recession. The best way to achieve this is by chillin...' and 'Do not be troubled with the absence of Italian shoes. Walking barefoot on the beach is de rigueur in the Cook Islands.'

So if you are suffering from a recession hangover, give our GCSL Cook Islands a call, and we promise to give helpful hints on how to get over the slump, turn the corner, and find that oasis in an otherwise dreary and negative world.

*Contributed by Puai Wichman, Managing Director, GCSL Cook Islands  
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#### SAMOA: HOTEL CRISIS

"Crisis, what crisis?" That's the headline in our local newspaper today. Apparently, there's a global recession going on. However, the hotels according to the Samoa Hotel Association are busy taking online bookings and it seems there will be a shortage of rooms, what with several meetings scheduled now and in the next few weeks in Apia. It is believed that Samoa is benefitting from Fiji's current crisis, i.e. being kicked out of the Pacific Forum. There are two high profile meetings scheduled for early next month, one being the ACP (African, Caribbean and Pacific) Trade Meeting plus the Trade Forum Ministers Meeting originally intended for the Solomon Islands.

#### SURVIVOR

More exciting however, to our shores are the visitors who are taking over Aggie Grey's Lagoon Resort plus a few other small beach resorts in the next three months. "Survivor Samoa" series is to be filmed here, having already filmed in Borneo, the Marquesas Islands, Palau, Fiji, Vanuatu and the Cook Islands!

#### MONEY LAUNDERING PREVENTION AUTHORITY

The Governor and Head of the Money Laundering Prevention Authority (Leasi Papalii T. Scanlan) released a Press Release highlighting their recent workshop for Non-Profit Organizations (NPO) in Samoa. This workshop stemmed from the need and an effort to cooperate with international requirements in combating the offences of money laundering and terrorist financing. Their objective was to promote and enhance NPO awareness and for them to understand the methods that would help combat money laundering and terrorist financing as specified in the Money Laundering Prevention Act 2007 and the Financial Action Task Force (FATF), special recommendations. Apparently, NPO's are one of the most vulnerable entities targeted by criminals, and the reasons being that they generally have weak management structures and lack regulatory supervision in their operations.

HAPPY 3RD YEAR ANNIVERSARY JACK, MARINA AND THE CREW, FROM THE GLOBAL GIRLS! WISHING MANY MORE ANNIVERSARIES TO COME!

## TIDBITS



### OUR MONTHLY QUOTE THAT MADE US SMILE

"Go to the Concierge (at the Four Seasons) and ask for a lawyer." Trusted advisor of the boyfriend detailing "advice" to the trailer trash girlfriend when the "romance" ended. - Anon

### JAIL BREAK REWARDED

We recently read about a cow that escaped custody just before entering a New York slaughterhouse, was finally captured while running through the streets and was turned over to an animal care agency rather than sent back to certain death. Lesson to be learned? Perhaps jail breaks are rewarded in the world of cows!

### THE GRATEFUL DEAD

We recently read about the Oz government paying cash bonuses of AU\$14 million to 16,000 dead people as part of a multi-billion AU\$ plan to boost the economy. The local media named the deceased "the grateful dead". No comment regarding the government...

### 2009 WACKY WARNING LABEL CONTEST

The Foundation for Fair Civil Justice (<http://www.legalreforminthenews.com/>) recently announced the wacky label winners. In its 12th year, this Foundation decided the following were the best...or worse:

- 1st Place: The label is attached to a portable toilet seat for outdoorsmen called "The Off-Road Commode" because it is designed to attach to a vehicle's trailer hitch. The warning label reads "Not for use on moving vehicles".
- 2nd Place: A wart removal product instruction guide that warns, "Do not use if you cannot see clearly to read the information in the information booklet."
- 3rd Place: A label on the underside of a cereal bowl warns, "Always use this product with adult supervision."
- 4th Place: A small, 1" x 4" LCD panel warns, "Do not eat the LCD panel."
- 5th Place: A bag of livestock castration rings warns, "For animal use only."

### 2009 TEN HAPPIEST PLACES...HMMM, TOO COLD LAH

It seems like to be happy you have to freeze your butt off at least half the year...we will remain unhappy in the heat of Hong Kong! By the way, the list was put together by the OECD...perhaps non-members like Hong Kong and all those other warm places were excepted...the mind wonders about the geniuses in that odd little club.

1. Denmark
2. Finland
3. Netherlands
4. Sweden
5. Ireland
6. Canada
7. Switzerland
8. New Zealand
9. Norway
10. Belgium

### SEALED WITH A KISS

We applauded the sensibilities of a Turkish court that ordered an employer to reinstate a woman who was fired after she kissed her boyfriend at work, ruling it was just a stolen kiss and that no customers saw it. Oh my...we understand that if customers had seen this sorta everyday activity in which boyfriends and girlfriends engage that the court would have upheld the dismissal!!!! Hmmm...we thought Turkey was a secular state...no wonder the Europeans, who engage in such outrageous behavior fairly frequently, in our experience, have denied European Union membership to the Turks. Guess you could call the Turks' fate "sealed with a kiss"!

### CONSTITUTIONAL RIGHT NOT TO KNOW!

We read with concern about Massachusetts and other USA States planning to enact restaurant menu labeling rules requiring fast-food chains to list how many calories are in the food they sell in a bid to combat obesity. C'mon folks, when we slam down a Big Mac or Double Whopper or double cheese with everything Pizza Hut pie, do we really care or even want to know how many calories we are consuming or how we have shortened our lives just a little more? The USA needs an amendment to the Constitution upholding Yanks' right not to know!!!

