



The GCSL Group of Companies Limited

Suite 18B, 148 Connaught Road Central, Hong Kong
G.P.O. Box 12290, Hong Kong
Tel: +852 3966 1800 Fax: +852 3966 1888
www.gcsl.info Email: group@gcsl.info

JACK'S CORNER

EFFECTIVE THEFT OF TRUST ASSETS - THE THIEVING TRUSTEE

Alas, I am yet again compelled to discuss what I consider to be effective theft of trust assets via the creation of invoices detailing "time spent" to justify charging US\$ 3,450 over 5 months for an underlying entity of a trust structure that was effectively dormant. The invoices go into great detail regarding time spent for "administrative services" (remember, no activity), "storing annual invoice" (what does that mean?) and "thank you email for bank statements received" (thanks, Mr. Banker). Despite the details of these invoices, the culprit did not indicate how much time was spent for each line item or the actual fee for each purportedly provided "service". To add insult to injury, the thieving trustee also charged US\$750 to transfer the company. No shame!!! Please call me to learn the name of and avoid using the thieving trustee!!!

AROUND THE WORLD IN 23 DAYS

I started in Zurich at the International Tax Planning Association conference (www.itpa.org). I would like to thank Brad, Ariel and all the other good ITPA folks who bought me drinks and dinners during the meeting. I had a great time and enjoyed, as always, the fabulous food, wonderful wine and challenging conversations. Of equal importance, I discovered a jewel called Caduff's Wine Loft (www.wineloft.ch) where you will find excellent food, a spectacular cellar and an owner - Beat - who knows how to make an evening exceedingly nice!!! Next, I popped over to Riga to attend the Global Wealth Management conference with quite a few practitioners from Russia and East Europe. I even learned of the draconian drink driving laws in Riga (15 days in the klink for blowing 0.5) that prompt some of our friends to use a breathalyzer to confirm their alcohol level before departing for home!!! The whirlwind ended in San Francisco where GCSL sponsored the American College of Trust and Estate Counsel meeting. Thanks to Gerry and the ACTEC ladies for making it a great week! Good to be home...for a little while 😊!!!



FEATURES

- [Jack's Corner](#)
- [Greater China](#)
- [Hong Kong](#)
- [Singapore](#)
- [International](#)
- [Anguilla](#)
- [Belize](#)
- [Cook Islands](#)
- [Samoa](#)
- [Tidbits](#)

PICTURE STORY



[AROUND THE WORLD IN 23 DAYS](#)



[UKRAINE DELEGATION VISITS HONG KONG](#)

[Visit Our Website](#)

[Contact Us](#)

UKRAINE DELEGATION VISITS HONG KONG

Jack recently was invited to speak to 40 Ukrainian business people visiting Hong Kong to learn about the Special Administrative Region's and China's many opportunities. The photo speaks to what happened during dinner after some of China's famous five grain, 52% alcohol, i.e. 104 proof...oh my...



GREATER CHINA UPDATE

CIRCULAR NO. 744 IMPACT ON CHINA INVESTMENT THROUGH HONG KONG COMPANIES

A new circular (No. 744) was recently issued by The Association of China Appointed Attesting Officers Ltd. in Hong Kong (the "ACAAO"). The circular now requires a Hong Kong Company that has a sole director or shareholder to make a director or shareholder declaration confirming that is the status and having the resolution signed before a China Appointed Attesting Officer. The appointment of a second natural person director would avoid this extra step.

VENTURE CAPITAL OR EQUITY MANAGEMENT COMPANY IN CHINA

On June 2, 2009, the Shanghai Pudong New Area Development Government issued a new Circular "PuFuZhongGai [2009] No. 2" stating that Foreign investment in an Equity Management Company can be established either through a Wholly Foreign Owned Enterprise ("WFOE") or Joint Venture. This is a great news for foreign equity investors. Previously, foreigners only could setup either a Representative Office or "Consultancy" WFOE to represent themselves in China. All the management would have to be done outside of China. However, there is a catch as the Circular also stated that the time frame for setting up such an entity is only available to June 30, 2010. In addition, the Circular also requires minimum registered capital of not less than US\$2 million and there must be at least two high ranking staff with at least two years experience on Equity Management.

*Contributed by Johnson Chien, Managing Director, GCSL Shanghai.
Johnson's email address is Johnson@gcsl.info.*

PROFESSOR TSIH SPEAKS - UNDERSTANDING CHINA—THE SEQUEL

The success of 'socialism with Chinese characteristics' has produced significant, to the point of miraculous achievements over the past 30 years of Chinese economic reform. This success has not only produced an economic status to the nation in the global community, and personal wealth to individuals; it has also restored the Chinese people's self-confidence, something that has been sorely missed since the disaster of the Cultural Revolution. As Martin Jacques argues that a modernizing and modernized China will keep its essential and dynamic "Chineseness" in a new era of 'contested modernity', and that the rise of China as both a "civilized-state" and a nation-state is ending the dominance of the west and ushering in a new era of global diversity in values and power distribution.

Throughout China's very long history there has been a persistent theme of continuity and change—the former very tenacious, but the latter sometimes very drastic. The majority of Chinese have a strong belief in Chineseness and its overwhelming importance to national reform and development. What is interesting to note is that many expatriates in China have adapted and adopted this Chineseness—claiming 'when in Rome, do what the Romans do'.

One doesn't have to look far for evidence of such—the Chinese job market for the new graduates in 2009, particularly the female graduates. An estimated six million young people will graduate from universities in China in 2009. While all of them will face a very tough job market and competition, the female graduates will face a very precarious situation—a very subtle and yet blatant gender discrimination from potential employers.

It is understandable that during the current economic hard time, salaries in general will be significantly lower than that of the economic good time. However, according to a survey by the Ministry of Human Resources and Social Security in 2007, female employees earn 10.4% less than male employees in

equivalent positions. The more shocking discovery is that 67% of the employers make explicitly unfavorable requirement in job descriptions and recruitment policies, such as prohibiting pregnancy during the term of a contract. The report also revealed that 80% of female graduates encountered discrimination in their search for employment.

There were high hopes that with the passing of the new labor laws at the beginning of 2008, the employment condition for female employees will improve; but it doesn't seem to be the case at all. Many companies look to circumvent these regulations by indirectly forcing female employees out of the workplace, or, by simply not hiring them in the first place.

Many female graduates about to enter the workforce are being forced to resort to desperate measures to give themselves a better chance of finding a job. China Daily reports that many female graduates include in their CVs with information such as their singing skills, culinary abilities, 'bai jiu' chugging capability and beauty pageant results with revealing photos in order to catch the attention and tempt potential male employers to the prospect of afternoon serenades, or simply to convince the potential employer of the ability to participate in entertaining clients and business dinners.

Against such odds, many female graduates have given the hope of starting a career altogether. Instead, they focus on family life. In a survey taken by a prominent Chinese dating site, the result indicated that the number of Chinese female university graduates signing-up in the hope of finding Mr. Right has increased by 20%.

China is aware that it still faces many challenges—from its huge size and population to its domestic problems and foreign policy. But at this point of time, on this one particular issue, with the world gripped by financial crisis, the problem may get worse before it gets better.

*Contributed by Stephen Tsih, Business Development Director –Greater China, The GCSL Group of Companies Limited.
Stephen's email address is Stephen@gcsl.info*

HONG KONG AND CHINA BUSINESSES PREPARING TO TRADE IN RMB

The People's Bank of China and Hong Kong Monetary Authority signed a memorandum of understanding in June to allow companies on both sides of the border to settle trade in RMB. This long-awaited move should help to increase Hong Kong's desire to be a RMB offshore center as well as Beijing's wish to make the RMB freely convertible.

*Contributed by Kitty Lee, Client Services Manager, GCSL Hong Kong
Kitty's email address kitty.lee@gcsl.info*

THE HONG KONG EXPORT CREDIT AND INSURANCE CORPORATION (ECIC): MORE VALUE ADDED SERVICES FOR HONG KONG INCORPORATED COMPANIES

The ECIC, capitalized to the tune of HK\$30 billion by the HKSAR Government, offers any and all Hong Kong incorporated companies conducting export business with overseas clients a range of insurance related products and services. Insurance is offered for all "non-payment risks arising from commercial and political events" at commercially competitive rates. What makes the ECIC all the more competitive in the global market is that it will offer coverage to not only those shipments exported directly from Hong Kong, but also shipments from and to destinations outside of Hong Kong so long as the transaction is undertaken by a Hong Kong company.

Although financed by the government and identified as a public company for the purposes of the Prevention of Bribery Ordinance, the ECIC is professionally run, offering convenient and practical range of services including:

- Export Credit Insurance – Including standard coverage for shipments under 180 day credit periods and specialized medium and long term facilities for periods up to five years.
- Risk Assessment and Monitoring Services – Including comprehensive and global credit check facilities.
- Collateral for Discounting Export Bills – Useful for obtaining bank facilities on the back of ECIC issued policies.
- Assistance in Loss Minimization – Including referrals to a worldwide network of lawyers and other professionals.

Hong Kong is already an extremely popular jurisdiction for the establishment of trading companies for many reasons, including its stable legal and financial infrastructure, world leading port facilities and low tax base. The availability of ECIC coverage and services for global transactions makes Hong Kong all the more attractive as a base for not only regional but worldwide trading businesses. GCSL works closely with ECIC staff and provides introduction and assistance to our clients in obtaining ECIC policies. Should you require further information please do not hesitate to contact us.

*Contributed by Jason Geber, Business Development Manager, GCSL Hong Kong
Jason's email address is Jason@gcsl.info*



THE SINGAPORE PIG-OUT

For the Singaporeans, eating out is a national pastime. It consumes them (pardon the pun) and like samba is to the Brazilians or cricket to the English, eating is dispatched with an unreal passion. While tucking into a sumptuous meal, they are already discussing and planning on where the next snack or meal will be.

Being a cosmopolitan melting pot of different cultures, the fare offered is both diverse and complex. This accounts for the thousands of eating outlets all over the island. There are 120 hawker centres in Singapore. Of the 24,000 food outlets, 75% of these are hawker stalls, providing delicious and economical fare. Apart from “foreigners’ food”, many hawkers and eateries serve up food from the main races that comprise the Singapore society-Chinese, Malay, Indian. There are also Eurasians and Straits-born Chinese (Peranakan).

In the last 10 to 15 years, there has also emerged the famous “food court”. These are state-of-the-art eating centres that are organized and maintained ala Singapore style of efficiency. Food courts are usually thematic, and are extremely comfortable and clean. Many are quite upmarket and can rival some of the better restaurants in décor and furnishing. Usually, each food court will offer about 30 to 40 outlets peddling all manner of food, including Japanese, Korean and Western food. With QC control maintained at management level, the standard of the food dished out is usually very high.

With current economic woes, and with belts tightening up, many restaurant goers have gone for the cheaper alternative of the food court.

Among the local fare available, many have attained iconic status.

- Curry Fish Head (Indian): Reputed to be a Southern Indian dish, this light sour curry dish features an entire red snapper fish head simmered in the curry. Well known to be Jack Flader's favorite dish in Singapore, the Indian Curry Fish Head is most well known in Little India in Singapore. This delectable concoction is accompanied with steamed rice and is best eaten with the hands. Rice and other condiments are served on a piece of banana leaf. Many a Singaporean has argued that this must be a Singapore dish as Indians are not reputed to consume fish heads.
- Satay (Malay): The Malay version of the shish kebab, satay are pieces of sweetened meat on a wooden stick barbecued over a charcoal fire. The magic of this dish is not only the sweet seasoning but the chef's control of the charcoal fire. The meat is cooked to a perfect crisp on the outside and succulent on the inside. Many well known satay vendors are found in the Malay quarter of Singapore, Geylang Serai.
- Fried Hokkien Prawn Mee (Chinese): Imagine this. Egg noodles and rice vermicelli stir-fried with pork, prawn, squid, bean sprouts and loads of garlic, and then braised in a rich pork and prawn stock. The dish is served steaming hot and garnished with fresh lime and a dollop of spicy chilli *sambal*. This delightful concoction is both aromatic and pungent at the same time and is one of the most popular Singapore dishes both among the locals and foreigners.

The 3 Singapore iconic dishes above are but a mere sampling of the gastronomic delights that can be found in Singapore. With many places open round the clock, one could strictu sensu, eat 24/7 in the Lion City.

*Contributed by Lawrence Fong, Managing Director, GCSL Singapore
Lawrence's email address is lawrence@gcsl.info*

FINANCIAL INVESTOR SCHEME FOR SINGAPORE PERMANENT RESIDENCE

Singapore's political stability and economic prosperity have always attracted foreign talent looking to set up new homes for themselves and their families. For all its residents, Singapore offers a meritocratic society, a safe, family-friendly environment with high standards of living. The Financial Investor Scheme offers high net worth individuals an opportunity to apply for permanent residence in Singapore. Among other conditions, the scheme requires the placement of S\$5 million (at the time of writing) in financial assets with Monetary Authority of Singapore regulated financial institutions.

*Contributed by Ooi Hoay Beng, Business Development Director –Asia, The GCSL Group of Companies Limited.
Ooi's email address is ooi@gcsl.info*

INTERNATIONAL UPDATE



RUSSIA'S MOVE TO CLAMPDOWN ON LEGAL CASINOS

Russia recently announced plans to shut down every legal casino and slot machine under an anti-vice plan promoted by Prime Minister Putin. The move comes as a shock given the estimated 400,000 people who will immediately join the unemployment lines in major commercial cities such as Moscow. The plan is to relocate the gambling industry to four regions in the remote areas of Russia. One can

only imagine the marketing slogans, i.e. Sizzling Slots of Siberia Want You!, Value at the tables in Vladivostok, etc. The Mayor of Moscow made the objective clear when saying: "There was a time when all these clubs and casinos grew like a cancer tumour. We will close them all. By July 1, Moscow will be clean." We wonder...

*Contributed by Cathy Odgers, Group Legal Counsel and Compliance, The GCSL Group of Companies Limited
Cathy's email address is cathy@gcsl.info*

HOW BRIC IS POSITIONED IN THE GLOBAL CRISIS AND BRAZIL'S PERSPECTIVE
Integrated by four main emergent countries in the world, Brazil, Russia, India and China, Brics - the acronym created by Goldman Sachs Bank of Investments - have similar index of development and economic scenarios, such as, among others, recent economic stabilization, GDP growth, political stability, digital inclusion, and investment in infrastructure sectors (railroad, roads, airports, ports, hydroelectric plants etc).

Since its creation in November 2001, the IMF has already estimated that Bric is responsible for 30% of the global economy and 47% of the worldwide growth. Brazil would serve as a supplier of food products; Russia, of oil and natural gas; India, of manpower; and China, of technology.

Jim O' Neill, head economist of the global economic research of the Goldman Sachs Bank of Investments and creator of the Bric concept (group of emergent countries that must surpass the currently most economically powerful nations up to 2050), said in a recent interview that Brazil GDP only needs to grow 3.5% per year to turn into an economic power, and advises the country not to be concerned about an even higher GDP growth.

To this specialist, constant control of inflation is not seen as an obstacle, however, more important than reaching the goal of 3.5% growth a year, Brazil needs to keep inflation under control by means of annual goals. A lower inflation will foster investments in the country, whereas loans at low interest rates will favor production, consumption, and job creation.

In view of this optimistic scenario, Brazil's outlook towards the international crisis is a positive one, where a slight GDP growth rate is expected for 2009 year end. It is thus estimated Bric's economic strength will be greater than that of G6 (U.S.A., Japan, Germany, United Kingdom, Italy and France) in less than 50 years.

*Contributed by Carlota Berault, Miguel Neto Advogados Associados
Carlota's email address is pay@mnadv.com.br*

OFFSHORE UPDATE



ANGUILLA: MAXIMISING ANGUILLA'S NICHE MARKET

As a niche captive domicile with a robust regulatory framework, Anguilla provides a fertile breeding ground for small- to medium-sized captives in a business-friendly environment. In comparison to more established domiciles, this nimble and cost-effective jurisdiction certainly has a lot to offer, especially in today's rocky economic terrain.

To demonstrate one of Anguilla's key attributes, Carlyle Rogers, managing director of Global Insurance Managers (Anguilla) gives Captive Review an insight into the regulatory constructs that underlie this emerging captive domicile.

Captive Review: What are the advantages of setting up a captive in Anguilla?

Carlyle Rogers (CR): I would say that Anguilla's advantages are three-fold. Firstly, because we were a late entrant into the market, we had the advantage of hindsight in examining the successes and failures from both a legislative/regulatory and marketing strategy perspectives. This allowed us to adopt best practice from the other jurisdictions in terms of what works and discard that which does not. We were also able to better the position of the jurisdiction. This is reflected in the fact that Anguilla focuses mainly on small- to medium-sized captives which can take advantage of the IRS tax benefits for US owners. The legislation was drafted in such a way that the sections 953(d) and 831(b) captives can be easily licensed in Anguilla.

Our niche marketing strategy is further reflected in the fact that our minimum paid-up capital requirements are relatively low. For example, a captive owned by a single individual writing risk for the individual requires a paid-up capital of US\$10,000. For captives with more owners writing related and unrelated-party business, the paid-up capital requirements, based on structure, could be US\$25,000 for a 'group captive', US\$25,000 for an 'association captive', US\$100,000 for a 'general insurance captive' and US\$200,000 for an 'unrestricted-insurance captive'. In addition to paid-up capital, the government fees are paid to the Financial Services Commission (the Commission). Anguilla's regulatory body is extremely low ranging between US\$1,500 to US\$2,000. These fees and paid-up capital requirements reflect Anguilla's overall strategy to be an attractive and affordable place to do business. Support services for registered agent/registered office, accounting, legal, and the actual insurance managers

who have offices on-island, are also reasonably priced compared to be the more established jurisdictions where operating costs are higher.

Secondly, Anguilla's regulatory regime is flexible and robust. The jurisdiction is a member of the International Association and Insurance Supervisors (IAIS) and is an observer of the Offshore Group of Insurance Supervisors (OGIS). The legislation is clear and specific in what is required and the Commission adopts a risk analysis to conducting a thorough review of each application while engaging in post-licensing oversight. Annual filings regarding accounts, actuarial reviews and solvency statements, depending on the type of licence held, are required to be submitted to the Commission. However, where a credible argument based on specific and unique circumstances can be made for exempting a captive from any of these requirements, the Commission has the discretion to do so by allowing owners a fair and impartial hearing to make their case. Other beneficial features of the regulatory regime include – but are not limited to – the fact that the shares of a captive company can be owned by a trust domiciled under Anguillian law and that the legislation provides for the establishment of protected premium accounts to ensure that the monies held by a captive for long-term insurance coverage do not form part of the assets of the company in the event of a liquidation or an action by a creditor.

Recently, the Commission issued specific regulations addressing a number of areas including the legal obligations of insurance managers, what constitutes allowable assets and the limits for the purpose of calculating the margins of solvency for insurers as well as the minimum margin of solvency for insurers. All these regulations reflect best practice while acknowledging the niche nature of the Anguilla captive industry.

Finally, the small size of Anguilla is itself an advantage since this allows not only for the regulatory flexibility discussed above but also the speed and efficiency of conducting business, the informal, yet professional nature of the regulatory officials, and the general welcoming atmosphere that the jurisdiction has for sound and legitimate business. One factor that highlights this is Anguilla's online-incorporation system which allows for companies to be incorporated via the internet at anytime thus allowing for same-day company incorporation for an entity seeking licensing. The business-friendly approach of the Commission can be summed up with an anecdote: a few days before Christmas, a potential captive client requested a meeting with the Commission to discuss business, having given me less than 24 hours notice, the director and his team accommodated the client's late arrival on private jet, and within 90 minutes of his arrival, the client was airborne out of Anguilla having successfully accomplished his meeting. While I can't speak for all jurisdictions, I am quite sure that few would be as accommodating to potential clients as Anguilla is.

Captive Review: How does the domicile measure up to more established jurisdictions?

CR: In my opinion, Anguilla measures up favourably to more established jurisdictions. As indicated above, from a regulatory perspective, our regime is robust but flexible and, legislatively, we are sound. However, the key question is not whether Anguilla measures up to more established jurisdictions, it is whether Anguilla facilitates the establishment of captives which meet the business and insurance needs of the owners. Anguilla is a niche player in the captive industry. It is not seeking to target the Fortune 500 companies, or business of a similar ilk, but rather is marketing for the small- to medium-size business organisations, and professionals such as doctors, lawyers and so on who have specific insurance needs and find it either difficult to secure coverage or more economical to do so either individually or as part of a group with similar needs. Most captives domiciled in Anguilla are property and casualty (asset protection) based and currently 184 are active.

Captive Review: How well structured is the regulatory infrastructure of the jurisdiction?

CR: The regulatory structure for Anguilla has been in place since 1995 and was totally revamped in 2000 and again in 2004. The structure with regards to captive business is set out in two legislative instruments: the Insurance Act 2004 addressing specific issues of insurance licensing and regulation and the Financial Services Commission Act 2003 which established the Commission as an independent statutory body five years ago. The Commission has broad powers to ensure that licensees, including all captives, adhere to the strictest regulatory standards including severe enforcement powers which allow for the revocation of licences, appointment of receivers in the event of solvency issues and so on. Currently, the Commission has a staff of six regulators, three of which focus on insurance, and is headed by a former senior central banker with the Eastern Caribbean Central Bank of many years, Niguel Streete, and Eleanor Astaphan, who comes from an insurance background in the Ministry of Finance.

Captive Review: Is there an established pool of recognised service providers on the island?

CR: The captive industry is the fastest growing of the offshore sectors in Anguilla. Today, there are 19 insurance managers licensed in the jurisdiction and several with their own dedicated offices. While much of the work is still done onshore with the fronting company domiciled in Anguilla, in time, there is likely to be an influx of staff onto the island who will take on the actual work, thus further bolstering our capabili-

ties as a captive domicile.

Captive Review: What can Anguilla provide the industry as it continues to weather economic strife?

CR: As a jurisdiction which allows for lower costs when compared to, say, Bermuda and the Cayman Islands and for more flexibility for smaller captives. Anguilla will help facilitate the establishment of these captives for companies which are seeking to reduce operational costs. In the current economic climate, high operating costs for captives obviously do not benefit captive owners who are already facing reduced profit margins.

*Contributed by Carlyle Rogers, Managing Director, GCSL Anguilla
Carlyle's email address is carlyle@gcsll.info*

BELIZE: THE PROPOSED FOUNDATIONS BILL

Belize has long been seeking to complement its Trust and IBC product offerings with something that the world can take advantage of. Indeed, last year there was a change in how the International Financial Services Commission organised the various licences that it could issue, so that there are now thirteen of them, not the least of which was the Securities Trading Licence, which I commented on last month (see GCSL's June Newsletter - Belize Update).

Now although Belize has had interest in Foundations legislation for some time, there has not been much of a push to bring this desire into the realm of reality. As such, it has been on the back-burner for quite some time. Not so anymore, as there is a renewed push to have new offerings. We are once again looking at Foundations as a potential product offering.

A bill was circulated quite recently, which would form the legislation foundation (excuse the pun) of this entity. I will now seek to examine this same legislation in some detail.

A foundation will be established under these proposed laws, and in so being established, the usual information will be required, as outlined in the following list:

- the name of the foundation;
- the initial property endowment referred to in section 4(3) accompanied by a certified confirmation, by the person designated as the registered agent of the foundation, that such initial endowment of property is readily available to the foundation and will be vested in or under its legal control immediately upon the foundation's acquisition of legal personality pursuant to section 16;
- the name and address of the founder or founders, but, if at any time the founder's rights are assigned, any assignee of the founder's rights shall be deemed to be a founder for the purposes of section the full names and addresses of the Foundation Council members;
- the name and address of the registered agent;
- the name and address of the Secretary, if any;
- the name and address of the guardian, if any;
- the purposes of the foundation;
- provisions, if any, for the designation of beneficiaries;
- the names and addresses of any designated beneficiaries;
- provisions, if any, for the exercise of powers otherwise than by the Foundation Council;
- the method of appointing and changing Foundation Council members;
- provisions concerning the making of by-laws and their amendment;
- provisions concerning any power to amend the declaration of establishment of the foundation;
- provisions concerning the application of the foundation's property endowment in the event of the dissolution of the foundation;
- provisions concerning the term of the foundation and whether such term shall be for a definite or indefinite period of time.

This is how a "declaration of establishment" of the foundation is achieved, but also, it may provide for the following:

- provide for the appointment, removal and term of office of the auditor, if any;
- provide for the appointment and removal of its guardian for the maintenance of the objectives and purposes of the foundation;
- specify the duties, functions, powers and rights (including rights to remuneration) of its guardian, if appointed;
- provide for the appointment of persons to act by power of attorney or otherwise to carry out particular duties on behalf of the foundation;
- provide for the transfer to the foundation of supplementary assets in addition to the initial assets;
- specify any named beneficiary; and
- make any other lawful provision that the founder or founders may deem appropriate.

Of course, it would be safe to say that most persons with any knowledge of the working of a foundation

know that it can be established for any purposes which are "...capable of fulfillment and are not unlawful, immoral or contrary to public policy." The foundation will not be able to carry on any business activity that is prohibited from being carried on "in or within Belize."

All documentation should be in English or at least have a certified English translation. Also, it must have By-Laws which have the following regulations:

- concerning distributions or applications of property endowment;
- naming beneficiaries, defining classes of beneficiaries or providing for additional beneficiaries of the foundation;
- providing for the identification of the residual beneficiary on a dissolution of the foundation;
- providing guidelines, policies and procedures for the Foundation Council; or
- providing for any other lawful matter compatible with the purposes of the Foundation.

Bear in mind that the above is not an exhaustive list, so there is much more that the by-laws can include, should the need to incorporate more arise.

A foundation council will be established, which will have responsibility for the daily supervision of the activities of the foundation. Its duties and responsibilities will be set out in the By-Laws. The By-Laws will provide for the powers of the foundation, allow the foundation to enter into transactions, contracts or other lawful business that may fulfill the purpose of the foundation, provide information relating to property endowment to the beneficiaries of the foundation, and make distributions or applications of all or any part of the property endowment or the income of the foundation.

Also, it will have a registered agent, who will be someone who has been licensed to operate in this manner by the IFSC. In a nutshell, in the same way that a Registered Agent works for an IBC, the agent will work for the foundation.

What is of interest is that a foundation can be continued in Belize, again, in the same manner in which one can have continuance of an IBC from another jurisdiction to Belize. Further, one can have the appointment of a guardian for the foundation. His or her powers will be specified in the declaration of establishment and the By-Laws.

In terms of the Disputing Rights, there is the express exclusion of the applicability of foreign law, once the foundation is governed by Belize law. Thus, one is shielded from foreign courts and the sometimes crazy judgments they have been known to come to.

Finally, a foundation can be dissolved, either by a process through the Supreme Court, or by voluntary dissolution. I submit that the latter shall be the method by which most of these will be concluded.

I will continue to update you all on any further developments in relation to this matter. Keep listening out for more.

*Contributed by Carlo Mason, Managing Director, GCSL Belize
Carlo's email address is carlo@gcsl.info*

COOK ISLANDS: MOMENTUM OF CHANGE CONTINUES IN THE COOK ISLANDS

The Cook Islands certainly can't be accused of sitting back and waiting for things to happen. Instead, this jurisdiction in the South Pacific is going out to create its own opportunities. Fresh off making it clear that there is no "R" word in the Cook Islands, the country has launched into an ambitious plan to open up greater trade with that mother of all trading partners – The Peoples Republic of China. Yes, plans are afoot to open a Cook Islands representative office in China this August at a cost of around \$1.0 million. The Cook Islands Government is clearly keen to show that their overture of a Recession Free Oasis is not idle talk.

As part of its plan to open up trade, Government announced that Leon Xu, a New Zealand citizen and businessman, would be its honorary consul to China. A new representative office will be based in Qingdao, a major seaport and industrial city located between Beijing and Shanghai, where Xu also owns a 1000-room hotel.

This is a major step for the country as it moves to promote greater trade as well as stronger ties with the Peoples Republic. The country already has an honorary consul in Cook Islander, Angela Manarangi, based in Shanghai. However, this is the first time that a dedicated Cook Islands office will be set up in Asia. It was announced that Xu will have the authority to act as Special Representative in Beijing and Asia in general. Xu's appointment is seen as critical to the promotion of the Cook Islands in China.

Back to the financial services sector, time for a brief update on the revamped Insurance regime that now prevails in the Cooks might be appropriate. Clearly the jurisdiction is keen to promote captive insurance business with the finalisation of the Insurance Code which stipulates (amongst other things), a Government application fee of US\$1,000 and capitalization requirement of US\$100,000 for captives. This surely makes it very attractive to set up captive vehicles in the jurisdiction. Of course the message promoted by the Financial Supervisory Commission is that the Cook Islands are a well regulated

jurisdiction where it is safe and secure to do business. With the forthcoming promulgation of the Insurance Code, it seems the jurisdiction is getting the balance right between rigorous monitoring and supervision on the one hand and the development of business.

Full credit needs to be given to the FSC Commissioner, Lorraine Allen, who has worked tirelessly over the last three years to bring the jurisdiction to where it is now and particularly for finding that fine balance between sturdy regulation and good business. We cannot sing her praises enough, on this front! Unfortunately, Lorraine will shortly depart our shores to the dismay of an admiring financial services industry. Thank you Lorraine, for a job well done, but please find us someone just like you!

*Contributed by Puai Wichman, Managing Director, GCSL Cook Islands
Puai's email address is puai@gcsl.info*

SAMOA: SAMOA HOSTS PGA EXTRAVAGANZA

Samoa has completed a two week Extravaganza which has shown the world Professional Golf Association (PGA) that Samoa's budding golfers will be a force to reckon with in the near future. Proudly sponsored by the Samoa International Finance Authority (SIFA), The Australian arm of the PGA sanctioned the events and the major sponsors SIFA up the prize pool to an excess of \$100,000.00 Australian Dollars. Samoa played host to 57 professional golfers from Australasia in both the Samoa Classic (18th-20th June) and the Samoa Masters (25th-27th June) Golf tournaments. With the sport becoming the fastest growing for all ages the SIFA support has been earmarked as the key to the tournaments success and the development of the game in Samoa.

Local trust companies were invited to take part in the event be it as amateurs on the fairways or just part take in the many cocktail prize giving functions to exalt the winners of each day of play. The Prime Minister Tuilaepa Lupesoliai Sailele and Governor of the Central Papalii Tommy Scanlan expressed their gratitude towards the indirect support of offshore investors in the tournaments and the developing of not only golf but sports in general in Samoa.

*Contributed by Laura Fepuleai, Manager, GCSL Samoa
Laura's email address is laura@gcsl.info*

TIDBITS



OUR MONTHLY QUOTE THAT MADE US SMILE

"Those who say it cannot be done should not interrupt those doing it." Chinese Proverb

TRUE DAT!

An attractive blonde from Cork, Ireland arrived at the casino. She seemed a little intoxicated and bet US\$20,000 on a single roll of the dice. She said, 'I hope you don't mind, but I feel much luckier when I'm completely nude'. With that, she stripped from the neck down, rolled the dice and with an Irish brogue yelled, 'Come on, baby, Mama needs new clothes!' As the dice came to a stop, she jumped up and down and squealed...'YES! YES! I WON, I WON!' She hugged each of the dealers and then picked up her winnings and her clothes and quickly departed. The dealers stared at each other dumbfounded. Finally, one of them asked, 'What did she roll?' The other answered, 'I don't know - I thought you were watching.'

MORAL OF THE STORY -

Not all Irish are drunks,
Not all blondes are dumb,
But men are men

POORLY PLANNED PRESS CONFERENCE

We recently read about an airline's marketing gimmick to release 1000 balloons with cash coupons in the air for onlookers to capture after a press conference in Budapest. Well, the onlookers noticed the coupons and long before the media could arrive and the festivities to begin, the crowd attacked the balloons and made away with the coupons. Never, ever underestimate the conduct of the consumer!!! Now that is what we call a poorly planned press conference!

SWAN UPPING!?

We now believe that the true meaning of life has been unveiled as we learned that Buckingham Palace actually engages in an annual Swan Upping, a tradition dating back to the 12th century which involves a census of the swan population on the River Thames. Yes, folks, the Brits really do this and there even is a Swan Marker and Swan Warden who perform various important functions in successfully discharging this most "useful" activity. Meanwhile, somewhere and everywhere in the UK, people are suffering unemployment and loss of faith in the future. No doubt the hungry will join in the annual festivities associated with Swan Upping...yeah, right!

TOILET PAPER

We read recently that the Governor, aka The Governator, of the Great State of California declared a fiscal emergency to force lawmakers into a special session to tackle a state budget gap that has achieved the nice round number of approximately US\$26 billion. Dems and Repubs were engaged in their usual useless dance until it was clear the only resolution to meet payments to vendors and local agencies was the issuance of "IOU" notes promising payment. Could they be more embarrassing? Joke of the World!!! Talk about toilet paper!!!