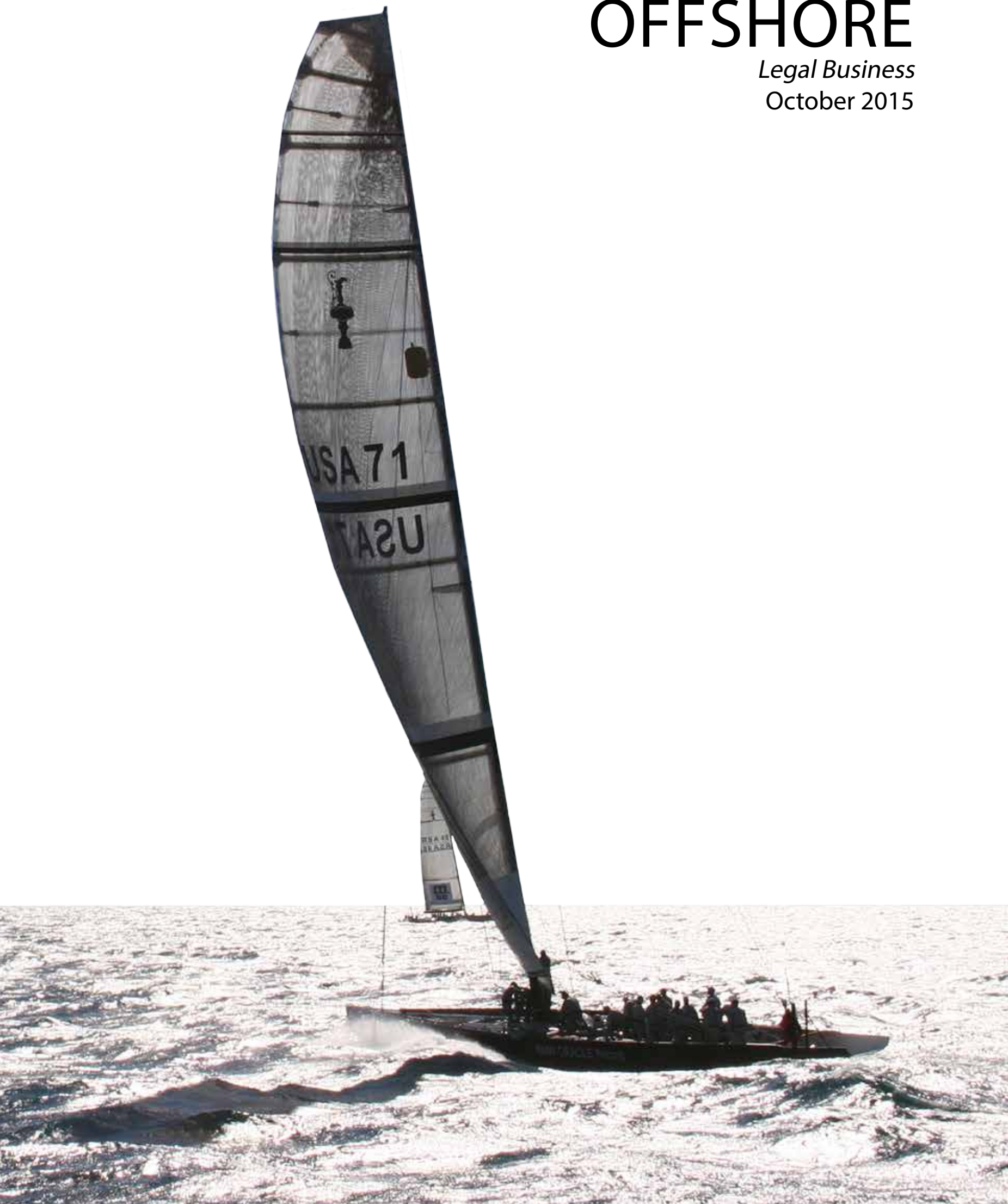


# OFFSHORE

*Legal Business*

October 2015





# Making gains

Offshore legal practices continue to sell or relaunch their lucrative fiduciary businesses. *Legal Business* assesses the divergent strategies

**JULIAN MATTEUCCI**

**I**n July, global offshore firm Appleby announced the management buyout (MBO) of its fiduciary business for an undisclosed sum, backed by private equity house Bridgepoint. Completion is subject to regulatory and legal approvals, but is expected to wrap up by the end of 2015.

According to group chair Frances Woo, the sale had been considered for some time, so that the fiduciary arm could continue to develop new products while the legal side could invest in new technology and knowledge management going forward.

Appleby is not the first firm to travel this road; there has been a steady trickle of fiduciary business disposals by offshore law firms, particularly to private equity, in the last couple of years. In 2014, Ogier Fiduciary Services' (OFS) partners completed the MBO of OFS – now branded Elian – from the Ogier Group, backed by Electra Partners for £180m.

But while some are disposing of their fiduciary arms, others are reacquainting themselves with this business line again. In June, in response to client demand for registered corporate and company





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**‘The consolidation of the fiduciary market has made it more important than ever for the sector’s main players to be in a position to compete powerfully.’**

Frances Woo,  
Appleby

► secretarial services, Cayman-based Walkers launched Walkers Professional Services (WPS) in Cayman, Dubai and Hong Kong, three years after selling off Walkers Management Services (WMS) to Intertrust Group.

WPS’ corporate services offering is full service, replicating Walkers’ core offshore practices. ‘We have made significant investment in technology and resources and we believe that WPS will set a new benchmark in the quality and delivery of corporate services,’ says global managing partner Ingrid Pierce.

Fiduciary businesses generally provide trust, fund and company administration services to corporates, private clients and investment funds, fielding specialists – often across multiple jurisdictions – from disciplines including administration, compliance, accountancy, chartered

## DEALWATCH: OFFSHORE FUNDS AND PRIVATE EQUITY DEALS DOMINATE

In July 2015, Jersey and Guernsey were recommended for priority assessment by the European Securities and Markets Authority (ESMA) with a view to granting them full EU Alternative Investment Fund Managers Directive (AIFMD) passports. Their selection is testament to their

international importance as fund domiciles – which together have over £500bn of assets under management – and of their standing as internationally co-operative and transparent jurisdictions.

‘For Jersey to be included in the first wave of “third non-EU countries” to receive this recommendation was clearly a fantastic endorsement of its foresight, regulatory framework and expertise as a funds centre, particularly underlining its position as a specialist centre for alternative funds benefiting European investors,’ says Jersey Finance’s chief executive, Geoff Cook.

Jersey has also enjoyed a period of hedge fund migration, with many of the largest European hedge fund managers such as BlueCrest and Brevan Howard establishing significant offices in Jersey.

‘Jersey’s financial industry has been working with Jersey’s financial regulator for the last five years to improve regulation and education, in order to attract hedge funds and hedge fund managers to Jersey,’ Mourant Ozannes’ partner Joel Hernandez tells *Legal Business*.

Recent high-profile instructions for the islands include Carey Olsen partner Ben Morgan advising Dutch private equity firm Waterland Private Equity Investments on its sixth fund, which closed in April 2015 following a successful €1.55bn fundraising after just three months in the market.

In the same month, Ogier’s partner Niamh Lalor advised Intermediate Capital Group on its latest fund, ICG Europe Fund VI, which closed on its hard cap of €3bn, raised in just seven months; and in May, Mourant Ozannes’ partner Darren Bacon acted as Guernsey legal adviser to iCON Infrastructure

on the successful launch of its third fund, a Guernsey-registered closed-ended investment scheme with €800m in commitments.

Channel Islands firms have also enjoyed instructions on a series of acquisitions of financial services companies by the private equity sector. ‘The uptick

in such transactions reflects an increased confidence in the offshore service provider sector’s profitability, based on a return of confidence for new structures, new funds and further investment capital,’ says Collas Crill managing partner Jason Romer.

Headline instructions include Mourant Ozannes partner Mark Chambers advising Praxis Holdings on its January 2015 merger with Jersey-based IFM Group, the newly-formed group to be one of the largest independent and owner-managed financial services groups headquartered in the Channel Islands, with more than €30bn in assets under administration. Appleby’s corporate practice group head in Jersey, Wendy Benjamin, and Guernsey counsel Kate Storey, acted for IFM Group.

Offshore law firms in the Caribbean also continue to enjoy significant growth across their global funds practice, including debt and distressed debt funds. ‘We continue to have numerous existing clients and prospects exploiting this sector in terms of new and ongoing products globally,’ says Appleby’s Cayman managing partner, Bryan Hunter.

(Continues, page 80)





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**‘The fiduciary business could not have grown as quickly as it will grow with this level of capital investment.’**

Michael O’Connell,  
Appleby

## DEALWATCH: OFFSHORE FUNDS AND PRIVATE EQUITY DEALS DOMINATE (CONTINUED)

Key instructions for Appleby have included Hunter acting for Stabilis Capital Management in November 2014 on the establishment of a \$540m real estate and distressed debt fund. ‘Interest in this new fund was so high, room had to be made for an additional \$40m in commitments,’ says Hunter.

According to Walkers partner Philip Paschalides, institutional investors continue to select Cayman as the offshore jurisdiction of choice. ‘This, combined with the strength and expansion of the private equity sector over the last several years, has led to a significant increase in the use of Cayman entities in M&A and general corporate structuring,’ he says.

In particular, de-listings and take-privates have increased activity. One reason is that the cost of regulation associated with being a public company is now greater, or at least perceived to be greater, than ever before. Companies feel that the benefits of a listing may not justify the increased regulatory costs and burden. Other factors include more debt being readily available from financial institutions, which lessens the need for equity financing. Furthermore, certain companies feel they are undervalued by the

stock market, particularly companies with Chinese or Asia-located operations, while take-privates are being used as a means by which listed companies may be acquired.

Deal examples include Walkers’ Ramesh Maharaj leading as offshore counsel to target Coastal Energy on its \$2.2bn 2014 sale to Compañía Española de Petróleos (CEPSA) and Strategic Resources (Global), the transaction made possible by Cayman’s merger regime, which allows a buyer, with the backing of the board of the target company, to acquire 100% control of a Cayman company in a relatively short timeframe. Conyers Dill & Pearman acted for CEPSA and Strategic Resources, led by Richard Fear and British Virgin Islands office head Robert Briant.

Transactions involving Asian offices included Walkers’ Hong Kong partners Arwel Lewis and Paul Aherne acting as Cayman counsel to The Baring Asia Private Equity Fund V on the 2014 takeover of New York Stock Exchange-listed Chinese online game developer Giant Interactive – the transaction’s total value was around \$3bn. Conyers acted as Cayman legal counsel to Giant Investment and Maples and Calder’s Cayman office advised Giant Investment’s special committee.

► secretarial and banking. As part of a desire to offer key clients a one-stop shop, law firms began to offer fiduciary services to clients as far back as the 1970s. It was not until the 1980s and 1990s that these service lines developed into fully fledged, discrete areas of business for law firms.

In corporate administration, for example, the service includes providing a company secretary and directors, resident representatives and a registered office, in addition to maintaining records and advising on legislative changes in the jurisdictions that impact on the company’s statutory requirements. In trusts, fiduciary businesses establish trusts and offshore companies, including private trust companies, and administers them. The funds offering includes establishing and incorporating offshore fund structures, and liaising with the regulatory authorities.

The contrasting approaches taken by offshore firms towards fiduciary services show that no single strategy suits all and that nothing is set in stone. But it is a win-win scenario for offshore law firms all round – industry consolidation leading to acquisitions and disposals of fiduciary branches by both legal practices and trust and corporate services providers are providing offshore law firms with lucrative deal work as well.

Appleby Fiduciary & Administration employed over 250 people worldwide prior to the disposal, while Appleby, the law firm, had around 500 staff last year. At the time of Walkers’ WMS sale, it generated annual sales in excess of \$50m. Fiduciary also provides vital instructions from clients as well as a steady flow of revenue.

With larger organisations coming into the fiduciary market, such as Sanne – which

began trading on the London Stock Exchange in April following its successful £141.6m flotation – Intertrust, Elian and organisations such as First Names growing quickly through acquisition strategies, the fiduciary market is becoming more consolidated and more difficult to compete in. ‘This has made it more important than ever for the sector’s main players to be in a position to compete powerfully,’ adds Woo.

### ADDED VALUE

Appleby’s combined legal and fiduciary sides had both grown successfully but the firm wanted to find the right way for both businesses to grow further, with the law firm flourishing on a standalone basis.

‘The fiduciary business could not have grown as quickly as it will grow with this level of capital investment, under our own flag, ►



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**‘Where a merger between legal service providers involves additional entities, this creates additional dialogue and action points which may complicate matters.’**

Chris Bound, Collas Crill



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► because we would not be able to generate this level of capital as quickly as we can with this private equity injection,’ says group managing partner, Michael O’Connell.

According to Collas Crill partner Joss Morris, the reason behind these disposals generally boils down to the original law firm owners realising the value from these businesses, which have been built up over several years and have become attractive assets, particularly to private equity firms.

Extracting the value in these businesses also removes a potential barrier to consolidation among offshore law firms: the built-up value in a fiduciary business – and how it should be apportioned – has undoubtedly led to more than one merger discussion being dropped, according to a number of senior figures in the offshore legal world.

‘Historically, fiduciary businesses have posed a barrier to consolidation,’ says Mourant Ozannes global managing partner Jonathan Rigby. As offshore law firms continue to expand across competing jurisdictions and the likelihood of consolidation increases, those firms

that have removed this issue may find themselves in a more straightforward merger environment.

Mourant du Feu & Jeune disposed of its own corporate, fiduciary and funds businesses in 2009, ahead of its merger with Ozannes in 2010 to form the current firm. It then established a new corporate services arm in 2013.

Collas Crill senior partner Chris Bound says that fiduciary services arms will always be a critical factor in merger talks, as they were ahead of his firm’s merger with Cayman firm Charles Adams Ritchie & Duckworth (CARD) in January 2015: ‘Where a merger between legal service providers involves not only the legal partnerships themselves but also additional entities, especially separately regulated service providers, this inevitably creates additional dialogue and action points which may complicate matters. The merger between Collas Crill and CARD was a strategic decision for both businesses, managed by a dedicated and professional management team.’

According to Morris, history suggests that once the relevant restrictive covenant periods

relating to disposals have expired, most law firms operating in this space will revert to some level of fiduciary business – usually citing client demand – and law firms remain ideally placed to generate the relevant clients and continue to build up these businesses.

Since WMS’ sale in 2012, Walkers says it has assessed the corporate services market and listened to its clients to better understand what services they want and how they want them delivered. ‘The overwhelming feedback was that certain of our clients want us to provide these services and that is the genesis of WPS,’ says Pierce.

With an increased regulatory and compliance burden, clients are increasingly relying on quality information being delivered internally or by their providers. Consequently, Walkers designed its systems not only to capture such information, but continually to check it against internal and external databases in order to assist clients in meeting their filing and reporting obligations.

‘We believe that clients are seeing huge benefits with improved filing, regulatory compliance and report generation,’ says ►





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► partner Tim Buckley, who was integral in WPS' set-up.

The recent re-entry into the corporate services sector also marked an important development for Walkers' Asian business, which has well-regarded asset and structured finance teams in Hong Kong and Singapore. 'The ability to offer corporate, fiduciary and Foreign Account Tax Compliance Act (FATCA) services to Cayman entities in aircraft and structured finance transactions has been well received by the market in Asia,' Pierce says.

Other offshore firms are strengthening their existing fiduciary branches. The fiduciary arm of pan-Channel Islands firm Bedell Cristin, expanded its international presence through growth in Asia. In September 2015, Bedell Trust acquired a majority stake in Singapore Trust Company (STC), a well-established fiduciary and corporate services business in Singapore.

Bedell Trust's executive chairman Michael Richardson says: 'Our investment in STC is a natural development of Bedell Trust's international strategy, which is to align the firm with like-minded business partners in key markets worldwide, which should enable us to build on existing client and intermediary relationships in Asia and to meet the demands of our international clients who increasingly require services within the Asian time zone.'

Harneys Fiduciary (HF) – rebranded from Harneys Services as of October 2015 – head Ross Munro, who splits his time between London and the British Virgin Islands, says that HF views the relationship between its fiduciary services arm and related law firm as a major selling point.

'Many clients need high-quality legal services to complement corporate and trust services with a provider that can provide advice on issues as diverse as automatic exchange of information, regulatory requests, sanctions and complex transactions,' he says.

Given the upsurge in demand for its corporate services across various markets, HF has made significant strategic investments in the past two years, including the recruitment of several fiduciary and compliance experts. It has also introduced a range of new products, including Cayman trust services – obtaining a trustee licence earlier this year – and launched offerings designed to serve the international business sector in Barbados and Hong Kong.

### DEAL FLOW

In addition to law firms' disposals of their fiduciary businesses giving rise to corporate



**'Regulators are looking for better-regulated and bigger businesses, and this has led to a number of mergers, particularly at the smaller end of the market.'** Helen Ruelle, Mourant Ozannes

work for other offshore firms, there has been an uptick in M&A generally in the fiduciary sector.

The Channel Islands' M&A trust and fiduciary sector is faring particularly well; it still has a comparatively high proportion of small independently-owned trust companies providing potential for consolidation and growth through M&A.

According to Mourant Ozannes partner Helen Ruelle, the significant compliance costs and regulatory requirements are driving M&A in this sector. 'Regulators are looking for better-regulated and bigger businesses, and this has led to a number of mergers, particularly at the smaller end of the market,' she says.

The acquisition of a small, well-run trust company is also seen as an easier way to break into markets such as the Channel Islands than

setting up a greenfield operation – and private equity buyers are looking to consolidate and scale up their interests. Furthermore, having a multi-jurisdictional presence is key to growing market share for larger groups and there are also significant benefits for local businesses when they become part of an international group, says Carey Olsen partner Natasha Kapp.

Ogier partner Matthew Shaxson tells *Legal Business* that he and his corporate colleagues have seen increasing traffic to Ogier in this sector, including acting for the unnamed acquirer of Barclays' offshore fiduciary business – which at the time of writing remains subject to regulatory approval – across three jurisdictions in which Ogier provides legal advice. In September 2015, Shaxson also led the advice to Elian on the Jersey aspects of its agreement to buy SFM Europe, a provider of corporate services with more than €1trn of assets under administration.

Shaxson expects further activity in this sector. 'As one of the few law firms without an investment in the administration market, we will continue to pick up work in this area,' he says.

Recent high-profile fiduciary sector deals for other Channel Islands firms include Carey Olsen's Konrad Friedlaender and Kapp advising Ardel Holdings on the February 2015 sale of Ardel Trust Company (Guernsey) to Equiom Group for an undisclosed value. Collas Crill partner Paul Wilkes advised Equiom.

Meanwhile, Collas Crill partner Nicholas Davies also acted for Equiom on the May 2015 purchase of Lloyds Trust Company (Channel Islands) and its subsidiaries from Lloyds Holdings (Jersey), while other significant deals for Carey Olsen include partners Mike Jeffrey and Graham Hall advising JTC Group on the due diligence, regulatory and legal aspects of its acquisition of Kleinwort Benson's fund administration business in July 2015. Mourant Ozannes partner John Lewis acted for Kleinwort.

The focus is well and truly back on fiduciary services for offshore firms right now. Whether it is acquiring new business to better service clients or disposing of their businesses to release funds, or simply picking up solid instructions from a burgeoning M&A market, it seems that fiduciary services have never really been off the agenda. With greater competitiveness and further consolidation expected, more high-profile transactions are expected. **LB**

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OFFSHORE

# Changing tack

Attention is now on Bermuda as offshore firms look to cover the Caribbean

**JULIAN MATTEUCCI**









**M**ythical triangles notwithstanding, the island state of Bermuda plays host to the prestigious America's Cup in June 2017. But while it may be two years before the world's sailing elite descends on the island state, competition for the local offshore firms has already arrived. In May, Cayman-based Walkers announced it would open in Bermuda later this year. This came just one month after Bennett Jones' (Bermuda) law practice was launched through an association with Canada-based law firm, Bennett Jones.

These are significant changes for the islands, which have little experience of overseas firms on their territory, save for Sedgwick Chudleigh, which opened in Bermuda in 2006 in conjunction with international firm Sedgwick. Subject to regulatory approval, Walkers' opening will be the first major offshore firm headquartered outside the islands to open in Bermuda. It wasn't the only major player to show a keen interest this year either: British Virgin Islands (BVI)-based Harneys at press time announced a combination with Bermudian firm Hurriion & Associates to form a full-service practice, Harneys Bermuda.

Global offshore firms Appleby and Conyers Dill & Pearman are traditionally the strongest legal practices native to Bermuda: Appleby's office can be traced back to 1897, while Conyers was established on the islands in 1928, but until recently Bermuda was the most untouched of the three major Caribbean offshore jurisdictions. While Cayman remains the offshore funds domicile of choice, and BVI incorporations are globally renowned for offering asset security and high levels of confidentiality, Bermuda has developed a leading reputation for its insurance and reinsurance sector, which forms the greatest part of its international business. Its enlightened approach to regulation is also of particular appeal to investors.

New entrants to Bermuda need to come prepared and will need an appetite for investment, which may be considerable as they face trying to break into a market where key relationships between law firms and major clients are well established. Nonetheless, with significant movements both into and out of Bermuda, and the BVI, Bermuda and Cayman all increasingly competing for similar international

## BIG IN JAPAN: OFFSHORE EXPANSION IN ASIA CONTINUES



Tokyo has seen an increase in office openings from offshore jurisdictions

While interest in Bermuda from the international business community – particularly Asia – has continued to grow, Asia also retains a hold on Caribbean firms' expansion plans. Just one year after its Singapore office launch, in 2015 Harneys broadened its Asia-Pacific operations with the opening of a representative office in Tokyo.

Harneys' Japan practice was initiated in late 2014 with the hiring of Hong Kong-based counsel Junko Shiokawa – a native Japanese-qualified lawyer (*bengoshi*) practising offshore law – from Conyers. The firm further strengthened its practice in 2015 with the arrival of consultant Yuji Asano as Japan representative in Tokyo from Sumitomo Mitsui Trust (UK), where he worked on the structuring and launch of offshore funds.

Harneys' Japan practice's key area is Cayman funds, a popular offshore offering in Japan. 'I believe we have put together a really strong team and I've been surprised

at how quickly the team has picked up traction with numerous institutional level mandates coming in,' says Asia managing partner Jonathan Culshaw.

Harneys was not the first offshore practice to make the move. Ogier opened a Tokyo office in 2008, which provided it with access to a market traditionally difficult to penetrate. 'We have been in Japan for over seven years now and we are committed to the Japanese market for the long term,' says Tokyo managing director, Skip Hashimoto.

Others take the view that the Japanese market is already well served by offshore firms based in Hong Kong. 'The challenge for foreign lawyers attempting to operate in Japan is that the restriction on practising foreign law means that offices tend to be limited to providing a marketing function or representative office,' says Walkers' global managing partner Ingrid Pierce.

(Continues, page 94)





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**‘We believe that to offer Bermuda as a jurisdiction, we need to have strong local partners and team members on the ground in Bermuda.’**

Ingrid Pierce, Walkers

► business, the historical walls between the Caribbean’s three largest offshore jurisdictions are being chipped away. However, it will take some time before they come down entirely.

#### **CLIENT DEMAND**

According to Walkers’ global managing partner, Ingrid Pierce, the firm was receiving requests from clients for some time to expand its service offering to include Bermuda. ‘We believe now is the right time for us to take steps to achieve that; and as is the case with our operations in Cayman, the BVI, Jersey and Ireland, we believe that to offer Bermuda as a jurisdiction, we need to have strong local partners and team members on the ground in Bermuda,’ Pierce says.

Bermuda Business Development Agency (BDA)’s chief executive, Ross Webber, says the island territory has one of the best and most transparent regulatory regimes in the world. ‘In recent years our regulator, the Bermuda Monetary Authority, has fulfilled a leadership role globally on regulatory change and



legislative updates: We're justifiably proud of that,' he tells *Legal Business*.

Bermuda is also one of the world's top three insurance centres, a key international trading partner in reinsurance, finance and risk, and has enjoyed particular growth in insurance-linked securities and a convergence between hedge funds and the reinsurance sector.

The islands are also highly rated for shipping, aviation and capital markets work, and attract their fair share of private client and trust instructions. Moreover, Bermuda has emerged from the financial crisis with a strong government-backed policy of welcoming new business to the island, and productive co-operation between the government and the business sector.

According to Appleby's Bermuda managing partner Kiernan Bell, the location is going from strength to strength. It is therefore not surprising that the legal sector – among others – is responding well to this and she welcomes other entrants to Hamilton's legal market. 'It remains a distinct market with great growth opportunities, and there is plenty of work for established players and new entrants alike,' she says.

However, Bermuda has been well served by its incumbent law firms for over a century. BDA's Webber believes there was a perception that rival offshore law firms felt the expense of entering the market was too high considering the market was already so well catered for. 'However, in more recent years, the expanding market and the prospect of greater expansion has been sufficient to compel others to re-examine the jurisdiction and set up shop,' he says.

One traditional stumbling block to setting up a law firm in Bermuda has been an anti-competitive ►

**'In Bermuda, the expanding market and the prospect of greater expansion has been sufficient to compel others to re-examine the jurisdiction and set up shop.'** Ross Webber, BDA



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## **‘Bermuda remains a distinct market with great growth opportunities, and there is plenty of work for established players and new entrants alike.’**

Kiernan Bell, Appleby



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**DICKINSON GLEESON**

► regime put in place to protect local lawyers, believes Ogier partner James Bergstrom, and this has had one noticeable effect: ‘This means that the legal talent pool is not as strong as on Cayman.’

Bergstrom suspects that new entrants might look to take over or merge with existing firms, rather than try to establish new practices from scratch. This could also lead to much of the work being serviced from offices elsewhere rather than within Bermuda itself.

Having been part of the first overseas firm to open an office in Bermuda, Sedgwick Chudleigh’s name partner Mark Chudleigh understands the challenges and rewards of opening an office on the island. He believes that the key is to understand that Bermuda has a small business and legal community and is more inward-facing than other offshore jurisdictions. ‘It is important to be a member of and to contribute to the community,’ he says.

Chudleigh also believes that competition is to be welcomed and will help stave off complacency. ‘We must work harder to deliver a better service and keep Bermuda relevant: new entrants to the market will help ensure that we stay at the top of our game,’ he says.



**SETTLING DIFFERENCES**

Even before Walkers' announcement, there were signs that certain traditional distinctions within the Caribbean were being eroded as the three main jurisdictions increased the competition with each other and competed for international business, according to Conyers' Hamilton-based co-chair Narinder Hargun.

With respect to investment funds, for example, Bermuda has introduced changes to regulation to be more competitive with Cayman. Bergstrom tells *Legal Business* that Ogier's contacts onshore, particularly in New York, report that Bermuda is pushing to take some of Cayman's market share in investment funds work. 'However, intermediaries report that they have not seen any substantive changes that would make their clients tempted to consider Bermuda over Cayman and its funds industry remains extremely small compared to Cayman,' he says.

Some outside observers do not believe that the traditional distinctions between BVI, Bermuda and Cayman are being eroded. 'Although this is an interesting development, we believe that the moves are driven by a niche interest in Bermudian litigation and

**'We must work harder to deliver a better service and keep Bermuda relevant: new entrants will help ensure that we stay at the top of our game.'**

Mark Chudleigh, Sedgwick Chudleigh



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**‘Intermediaries report that they have not seen any substantive changes that would make their clients tempted to consider Bermuda over Cayman.’**

**James Bergstrom, Ogier**

► insolvency work coming out of Asia at the minute,’ says Mourant Ozannes’ Jersey-based global managing partner, Jonathan Rigby.

Aside from Cayman funds, other practice areas are also proprietary, such as insurance in Bermuda and BVI incorporations. ‘Cayman is the second largest jurisdiction in the world for numbers of licensed captive insurers – after Bermuda – but changes would be required to its statutory or regulatory platform for it to look to overtake Bermuda,’ believes Bergstrom.

During the first half of 2015, the significance of Bermuda’s insurance market was evidenced by a frenzied period of deals, following consolidation in its insurance industry. ‘Expected benefits for the merged entities include business

## **BIG IN JAPAN: OFFSHORE EXPANSION IN ASIA CONTINUES (CONTINUED)**

After Harneys’ 2014 arrival, Singapore has experienced more new entrants. Offshore law firm Forbes Hare launched a Singapore office in July 2015, led jointly by partner Sam Robertson and director Michael Pringle, both of whom previously practised in Forbes Hare’s BVI office.

The Singapore office is the firm’s first presence in Asia itself, providing both geographical proximity to its Asian clientele and the ability to offer its services in another time zone. ‘Singapore offers something a bit different to Hong Kong in terms of business opportunities throughout South-East Asia; its dynamism and international reach should suit us well,’ says Robertson.

Elsewhere in Asia, many offshore firms continue to focus on building strong on-the-ground litigation expertise.

In June 2015, Mourant Ozannes announced that litigation partner Shaun Folpp would head to the Hong Kong office from the BVI to establish a contentious restructuring and litigation offering to Asia-based clients; and in September 2015, Conyers Dill & Pearman relocated Nigel Meeson QC from the Cayman office to Hong Kong as it has seen a growing need for litigation services in the Far East. ‘The move will bolster our current litigation team in Hong Kong to meet growing client demands,’ says Conyers’ Hamilton-based co-chair Narinder Hargun.

synergies, capital efficiencies and greater strategic flexibility, as well as enhanced product and geographic diversification, expanded and more efficient global networks, and improved standing with intermediaries,’ says Hargun.

Examples of significant Bermuda deals include Appleby’s insurance group head Tim Faries acting as Bermuda counsel to PartnerRe, which entered into a merger plan with Exor in August 2015, under which Exor will acquire PartnerRe, with the total transaction valued at \$6.9bn. The merger is subject to obtaining shareholder approval from both parties’ shareholders and is expected to close in the second half of 2015.

The deal is particularly interesting because of the public pursuit of PartnerRe by Exor – the investment vehicle of Italy’s Agnelli family – which culminated in the PartnerRe board deciding that the Exor bid constituted a superior offer to that agreed with Axis Capital Holdings (Axis), and because the merger agreement included a go-shop period whereby PartnerRe could solicit higher bids until 14 September 2015. Conyers’ Bermuda partner Graham Collis advised Axis alongside US firm Simpson Thacher & Bartlett, while Italian law firm Pedersoli e Associati, together with UK firm Macfarlanes, acted for Exor.

Other especially prominent insurance deals in 2015 included Conyers’ Cayman and Bermuda offices advising insurance group Ironshore, which provides broker-sourced specialty commercial property and casualty insurance through its Bermuda-based insurance subsidiary, on the \$1.84bn sale to Chinese investment group Fosun of the remaining 80% of its share capital. At the time of press, the acquisition was expected to close in September 2015. Cahill Gordon & Reindel and Kirkland & Ellis also advised Ironshore and its private equity investors, while DLA Piper acted as legal adviser to Fosun.

‘This transaction demonstrates Conyers’ ability to provide Cayman corporate advice on an acquisition and merger through its Cayman office and Bermuda regulatory insurance advice through its Bermuda office,’ says co-chair David Lamb.

It would appear that Mark Twain was right when he said: ‘You go to heaven if you want to, I’d rather stay right here in Bermuda.’ As such, competition in the local legal market is expected to intensify. ‘Yes, it keeps us all on our toes, but if the client benefits as we all respond to changing needs, this has got to be a good thing,’ says Appleby’s Bell. **LB**

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# Bermuda's evolving legal services landscape

BDA's Ross Webber highlights the benefits international entrants bring to the market

**Recent moves by leading global law firms** to set up offices in Bermuda mark something of a watershed for our jurisdiction. Bermuda has been renowned for its strength and depth with regard to quality lawyers – however, it has not always been heralded for its variety of choice. That looks set to change.

International offshore firm Walkers announced in May plans to open a full-service Bermuda operation in 2015, adding to its current stable of eight other locales around the world. The firm said it plans to offer a broad range of practice areas from the island, encompassing litigation, insolvency, corporate, investment funds, finance, insurance and trusts. Its intent signals demand for the Bermuda product, as well as confidence in the future of the jurisdiction. 'Our clients have long told us that they would value the expansion of Walkers' service offering to include Bermuda legal advice,' managing partner John Rogers noted. 'As with our other global offices, we intend to become a major force in the legal services industry in Bermuda, and to grow and develop talent in that jurisdiction.'

Last month, fellow offshore leader Harneys followed suit, combining with Bermudian firm Hurron & Associates to form Harneys Bermuda, a full-service legal and fiduciary services business. And there's a broader interest in the island too. Several onshore firms have been examining Bermuda closely with an eye to a possible presence. In April, Canadian firm Bennett Jones formally announced the establishment of its affiliated law practice in the City of Hamilton, with former Toronto-based partner, Bermudian Duncan Card, as managing principal. 'Bermuda is of rapidly growing interest to our international clients who wish to operate in, and through, a highly sophisticated commercial and legal environment,' Bennett Jones' chair and chief executive, Hugh MacKinnon, said in a press release. 'Bermuda is the premier jurisdiction for those investments.'

Bennett Jones followed Sedgwick, which partnered with a Bermudian firm to form Sedgwick Chudleigh in 2009, an associated Bermuda office of the leading San Francisco-born firm that today has 400 offices across the US and Europe.

Make no mistake: Bermuda already has two international powerhouses in both Appleby and Conyers Dill & Pearman. These Bermuda-born firms have gone global over the decades and now count a total of 19 offices around the world between them. Yet having more of the so-called 'offshore magic circle' – a nine-member club of law firms, including Appleby and Conyers, along with Bedell Cristin, Carey Olsen, Harneys,

Maples and Calder, Mourant Ozannes, Ogier and Walkers – embrace Bermuda as part of their conversation is significant for our island from a competitive perspective. It raises Bermuda's profile internationally in the spheres of prospective business; indeed, the trend can't help but increase business flow to the jurisdiction.

It's about being part of the conversation. It's about having more people tell your story.

Adding more multi-jurisdictional firms to our mix – to complement the work of Conyers, Appleby and the impressive group of Bermuda-based law firms that handle international transactions – broadens distribution channels and provides extra pipelines for business. We become a part of their marketing and business development messages. Our profile is boosted globally, attracting the business world's attention – and, with it, fresh opportunities.

There is an argument that new arrivals end up harming rather than helping our economy by cannibalising local law firms (both by poaching business and people). However, the expansion of the offshore magic circle has already disproved this theory. As each of these firms has entered new product markets, they have all flourished and expanded. New entrants tend to enhance, not hurt, the marketplace; they provide competition for incumbents without knocking the latter off their hard-won perches. Indeed, when large law firms commit themselves to a jurisdiction, they are determined to make a successful go of it. We can only expect Walkers, Bennett Jones and others will work hard to get themselves up and running.

Interestingly, when large, multi-layered deals land in Bermuda, many players are involved and each prefers to hire a top-tier, brand-recognised law firm. They can do that in many competing jurisdictions. It helps Bermuda's jurisdictional marketing to have a broader range of big-name firms available here.

Conyers was the first offshore firm to open up in Asia with its Hong Kong office. Many have followed suit. Now, with Walkers also spreading the word about Bermuda in the region, our name will be noted on the other side of the globe. Notably, both Walkers and Bennett Jones have advised they were pressured by their own client base to add Bermuda to their product offerings – a clear indication that clients have a desire for the Bermuda product and want more channels delivering it to them.

A bonus of this fast-changing legal landscape is that law firms, like those within the offshore magic circle, have a commitment to train island attorneys in their international offices. Appleby and Conyers already offer such training in



**'New entrants provide competition for incumbents without knocking them off their hard-won perches.'**

Ross Webber, BDA

London, Singapore, Dubai and Hong Kong for their Bermudian lawyers. As more firms follow suit, such a scenario could spell a multitude of career-enhancing opportunities for aspiring counsel, just as Bermuda's big four accountancy firms have made possible for the island's accountants-in-training.

Ultimately, this is about Bermuda and Bermudians. It's about the maintenance and creation of jobs. The jurisdiction stands to gain from opening up its respected marketplace and allowing corporate entities with much to offer to come in. We look forward to embracing those benefits and making them feel welcome.

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# Research reinforces the global value of IFCs

Geoff Cook of Jersey Finance discusses the role of offshore jurisdictions

International finance centres (IFCs) have for some time known that they make a considerable, positive contribution to global economies, but until recently empirical evidence to reflect that has not been readily available.

In addition, while IFCs have been quick to point to the high quality of their regulation, their probity and the endorsements they receive on a consistent basis from global authorities such as the Organisation for Economic Development (OECD) and the International Monetary Fund, this has not necessarily filtered through to mainstream public debate and occasionally there has been some misunderstanding of the positive role they play globally.

However, that situation is now changing, with a growing body of research clarifying the important role leading IFCs play in facilitating the flow of capital into markets around the world.

The studies shed light on how IFCs can, and wish to, offer a solution to global financial flows by bringing knowledge and investment to and from developed and developing countries.

Over the past few years, Jersey Finance has taken up the initiative to build a strong library of research in order to position the jurisdiction at the forefront of thought leadership around IFCs and to set it apart as a destination of choice for managing and facilitating high-quality cross-border financial flows.

This evidence-based research is giving Jersey the ability to position itself strongly on the international stage and ensure key messages are communicated to current and potential investors, media, political groups, and those interested in Jersey and IFCs more widely.

In 2013, Jersey Finance commissioned its first research-based report ('Jersey's Value to Britain'), carried out by independent research firm, Capital Economics, in order to showcase the benefits Jersey provides to the UK. Among its findings were that Jersey is a net benefit to the UK and a conduit for nearly £1/2trn of foreign investment into the UK, helping support an estimated 100,000 British jobs. Further, Jersey generates around £2.3bn in annual tax revenues.

This data has enabled the island to respond with hard evidence to accusations about 'tax leakage' having a detrimental effect on the UK economy. The research showed, for instance, that the amount of



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tax evaded through Jersey is far less than is often claimed, with the study indicating that tax evasion in the year in which data was collected (2011) was estimated to be no more than £150m and was probably much less.

Further reports have since followed, including 'Moving Money', a paper published by two leading US academics, which provided a powerful answer to the critics of offshore financial centres and demonstrated the value of IFCs in an open global financial market, helping to boost global trade and economic growth.

This was followed by the 'Jersey's Value to Africa' report last year, also carried out by Capital Economics. This report confirmed the fundamental role that Jersey can play in facilitating foreign direct investment (FDI) into the continent to help Africa fulfil its economic potential by 2040. It calculated that around \$6.1trn of inward FDI through secure IFCs like Jersey is the only way Africa is likely to be able to plug its funding gap of \$11.4trn.

## FDI

The latest study to be completed and commissioned by Jersey Finance is a report published by global management advisory firm, Investment Consulting Associates, entitled 'Jersey's Contribution to Foreign Direct Investment'.

In seeking to identify the role of IFCs in supporting cross-border investment, the report highlighted how they are increasingly important in facilitating FDI and make a positive contribution to the world's economy. The report calculated that the total global value of FDI by investors increased from \$1.33trn in 2012 to \$1.41trn in 2013, while such investments routed through IFCs are at historically high levels accounting for a significant share of worldwide FDI flows.

Within the report, FDI was defined as investment by corporate investors in a company or entity based in another country, investment by individuals to optimise their international investment revenues and 'greenfield' investment, which creates new physical operations such as factories, distribution centres, service centres and regional headquarters.

As far as Jersey specifically is concerned, the stock of outbound FDI distributed globally in 2012 was \$75.8bn, with FDI originating from the jurisdiction flowing to a diverse range of countries including many emerging markets. In the top 20 countries for capital invested and jobs created through Jersey FDI were Poland, Germany and the Netherlands, while several African developing markets were also found to benefit from FDI originating from Jersey.

In addition, greenfield FDI distributed from Jersey helped 94 projects get completed between 2003 and 2014, with an aggregated value of \$13.34bn, creating over 39,000 foreign jobs and raising a potential \$445m in foreign tax revenues.

The report suggested that investors continue to find IFCs like Jersey attractive for FDI precisely because of the strengths of their financial markets and the quality of the services they offer, as well as the suitability of their vehicles and the stable institutional, tax and regulatory environment they provide for cross-border transactions.

With a growing amount of capital flowing across borders, the report concluded that IFCs like Jersey are key providers of investment vehicles, supporting financial services and other essential services, all of which serve to increase the scope and flexibility of capital



to make it easier to invest around the world in pursuit of FDI objectives by attracting, pooling and directing economic flows between source and destination jurisdictions.

While we have known for some time that private clients and corporate investors find Jersey an attractive centre, this latest report provides concrete evidence that the island not only attracts significant financial inflows, but also enables outflows that stimulate economic growth across the globe.

By asserting its cross-border investment expertise and capabilities, as well as its position in terms of standards of regulation and commitment to international cooperation, Jersey is giving investors confidence in its ability to structure wealth and investments more safely and more efficiently around the world.

#### CONTRIBUTION

Reports like this are serving as a good illustration of how leading IFCs are making a positive contribution to global investment, in both developed and developing markets. Annual wealth management surveys depict a world in which there are increasing numbers of high-net-worth individuals, especially in the developing markets in the far east, the Gulf and Africa.

This in turn is prompting an increase in demand for infrastructure investment and can present IFCs with further potential in facilitating cross-border aspirations where developing countries are concerned, provided the IFCs in question can demonstrate high standards of regulation, a robust legislative framework, a strong pool of professional expertise and a commitment to international co-operation.

It is clear that cross-border business is being driven by a need for a quality service, with decisions surrounding IFCs being less led by tax and more by a need for very specific expertise, knowledge, strong case law and the availability of a range of structures. As a result, there will be increasing opportunities for jurisdictions that can demonstrate substance on all of those factors to play a key role in meeting the needs of an increasingly diverse and complex cross-border investment landscape.

For Jersey's part, it continues to drive forward its international co-operation programme and to date has signed in excess of 40 tax agreements with countries worldwide. Jersey is also a signatory to the US Foreign Account Tax Compliance Act, the OECD's Common Reporting Standard, an inter-governmental agreement with the UK and the European Savings Taxation Directive for automatic exchange of information within the EU.



## 'Jersey is giving investors confidence in its ability to structure wealth and investments more safely and more efficiently around the world.'

Where beneficial ownership is concerned, Jersey is more advanced than many other jurisdictions, having captured corporate beneficial ownership information on a centrally held registry since 1999, with this information being made available to law enforcement agencies under information exchange mechanisms.

Overall, as the research produced recently for Jersey shows, there is strong evidence to suggest that IFCs have a constructive role to play in putting capital to work in order to achieve a good profit return for investors while also benefiting developing nations.

#### LOOKING FORWARD

As we look forward now, there is a real opportunity to move the dialogue about IFCs and their role in the global economy on to a more constructive footing. For its part, Jersey has been arguing for some time that its inherent strengths can be a force for economic good.

New research, such as that commissioned by Jersey, is highlighting the role IFCs play in the global economy, providing compelling evidence of their positive role internationally in both developed and developing markets, and in their ability to add considerable value for investors.

Where developing countries are concerned, quality IFCs can help bring knowledge, offer a solution and facilitate much-needed infrastructure investment. By using IFCs' investment vehicles, investors can reduce the risks of transferring assets across

borders, particularly to countries, such as some emerging markets, which are less stable and not as well-regulated.

Without IFCs and their stable fiscal and regulatory regimes, flows to developing economies might not happen, since the risks of such investments could outweigh the returns.

There's no doubt, though, that further research is needed and will be warmly welcomed in order to strengthen ongoing conversations regarding IFCs with renewed energy. It is Jersey's intention to continue commissioning relevant studies to add to its library of research. Gaining this invaluable knowledge is giving Jersey the power to further strengthen its core investment and private wealth management platforms while enhancing its reputation as a cutting-edge jurisdiction.

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