Summer 2018

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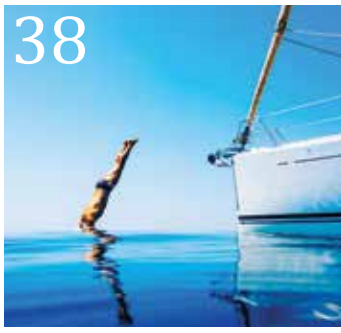

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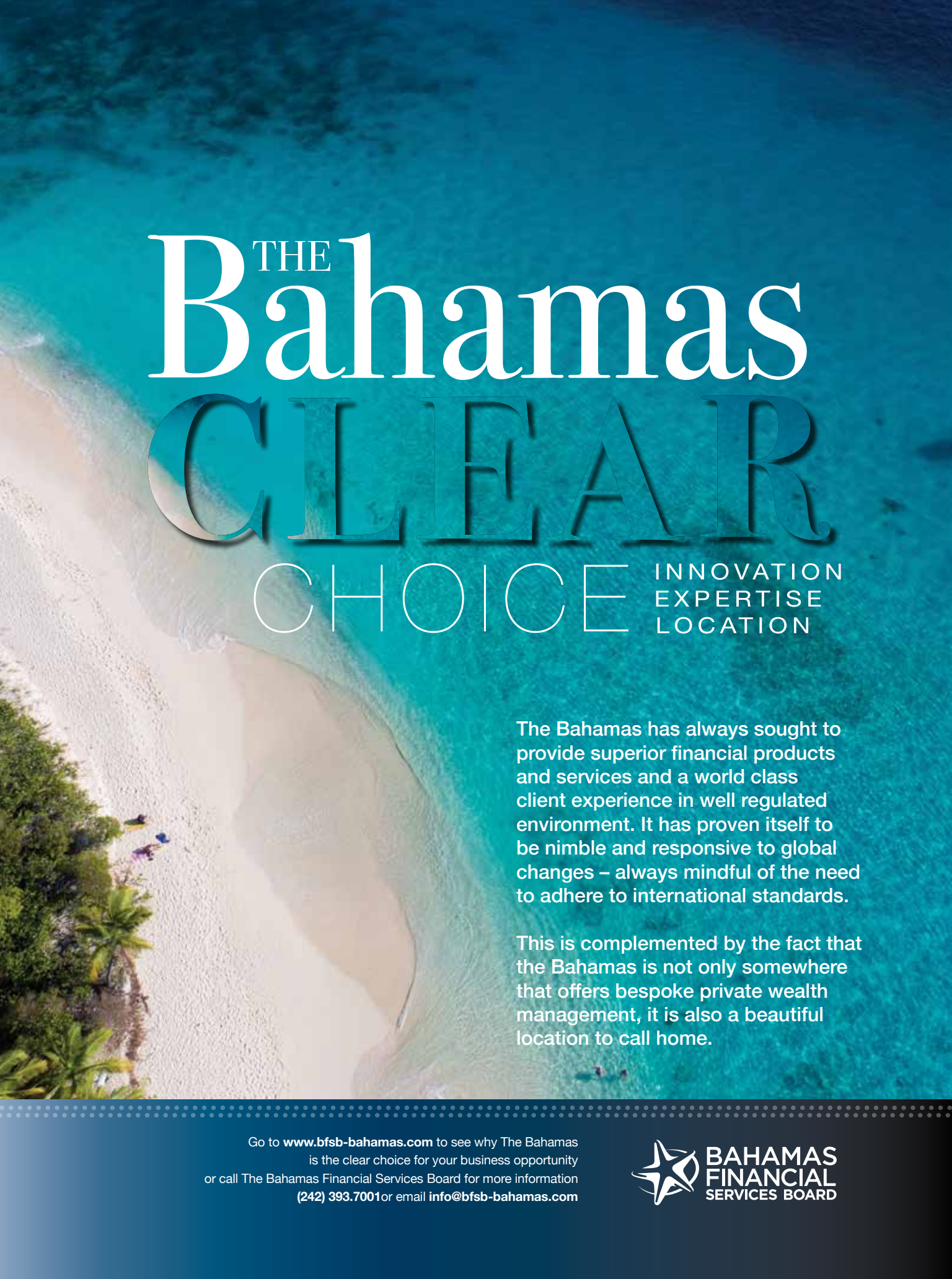
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BAHAMAS FINANCIAL SERVICES BOARD

From the Chairman & the CEO

Antoinette Russell,
Chairman, Bahamas Financial Services Board (BFSB)

Tanya McCartney, *CEO & Executive Director, Bahamas Financial Services Board (BFSB)*

Welcome to the Summer 2018 issue of Gateway Magazine. With each issue of our signature publication, we endeavour to provide articles and insights on the broad range of issues impacting international financial services as well as developments in The Bahamas.

This issue includes articles by several international legal experts specializing in financial services: Camilla Arno Sant' Amor, Norton Rose Fulbright provides her views on What's next for Latin America; and Gina Pereira, Dana Philanthropy reviews The Battle of Good Intentions: Charities versus CRS.

A number of leading Bahamian industry professionals are also contributors to this issue: Tiffany Norris-Pilcher from EY reviews The Top Ten Drivers Impacting Global Wealth and Asset Management; John Rolle, Governor of the Central Bank of The Bahamas discusses De-risking; while Kim Bodie, from the Bahamas Institute of Financial Services, Linda Beidler D'Aguilar from Glinton, Sweeting, O' Brien and Brian Jones from Deltec comment on the four elements of the Bahamas Value Proposition (BVP) – Regulation, Innovation, Expertise and Location.

Also included in this issue is excerpts from a Bahamas Roundtable hosted by Opalesque which highlighted Family Office developments in The Bahamas, featuring comments by a number of Bahamian financial services professionals.

The elements of the Bahamas Value Proposition are the pillars of financial services in The Bahamas. In combination, they form a compelling reason to consider The Bahamas as place to do business and will continue to guide the jurisdiction's pathway to be a provider of superior financial products and a world class client experience. They are also the basis of BFSB's new branding for financial services in The Bahamas: "The Clear Choice" which we are introducing with this issue.

We hope you enjoy this issue of Gateway, and as always your comments and feedback are always welcome.

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embracing **disruption**

The Top 10 drivers impacting wealth & asset management — & how to prepare?

By Tiffany Pilcher

Disruption, innovation and change are rapidly heading to the financial services industry across the globe, and the Bahamas will not escape untouched by the impact this seismic shift will have, so we need to start preparing now. Not only will we face dramatic change in light of a current boom in the global wealth and asset management industry, but financial services providers in the Bahamas can also expect to embrace exciting new opportunities that could lead to sustainable growth.

As developed markets continue to recover, firms are experiencing strong growth, marred by often conflicting regulatory environments, a changing remuneration model in distribution and evolving investor demographics.

EY has unveiled 10 disruptive drivers in global wealth and asset management that present unique challenges and opportunities alike.

1. FinTech and innovation

Arguably, the most disruptive opportunity — or threat — is FinTech. Technology will redefine the future of investment advice. With robo-advisors, blockchain and artificial intelligence acting as key accelerators in the industry, there are multiple opportunities to innovate ahead of the competition. Across many sectors technology is disrupting traditional business models, but this disruption will also create opportunities for traditional firms in the Bahamas to partner with or even acquire new start-ups.

FinTech investment is poised to accelerate rapidly and focus primarily on client interface, increased automation and operational efficiency, and greater transparency.

In addition, robo-advisor platforms are enhancing, supplementing and, in some cases, replacing advisor-client interaction. While this may take a little longer to come into play in the Bahamas, it is nonetheless going to be a game-changing opportunity to deliver more value, services and efficiency to customers. All major wealth management firms that wish to survive in the Bahamas and elsewhere must either roll out their own version of a robo-advisor platform, acquire one outright or strategically align with an existing platform.

The trend toward automated delivery of advice is changing expectations for the entire investor group — not just the mass affluent. The entire wealth and asset management industry must change and meet new expectations in order to survive.

Bitcon, or the tech underpinning it, is another emerging driver impacting the industry. Asset servicers will be forced to restructure their business models and fully integrate distributed ledger technology, rather than compete against it. Moreover, blockchain technology presents an opportunity to radically transform, modernize and streamline the way asset management firms handle payments, custody, clearing and settlements for most financial transactions.

Robotics are also revolutionizing the entire operations value chain to aggressively manage costs, increase productivity, streamline processes and replace manual actions enterprise-wide.

In the Bahamas, we can certainly expect to see new opportunities as a result of new innovation, but there will also be a rebalancing of client assets as banks and asset managers will be able to deliver services more cost effectively. People will demand more, so the expectation bar will be raised significantly and capital will take flight. Financial services institutions that want to stay in the game will need to make the right investments in technology not only to stay ahead of client demands but also to defend existing client business and seek out new clients who will look for an institution with the latest technology solutions.

2. Cybersecurity

Given the abundance of ultra-high net worth individuals in the Bahamas, it is crucial to protect their data and provide the confidentiality that they expect and demand. In this industry, the greatest asset any firm has is trust, so it is critically important for institutions to do everything in their power to uphold and maintain this trust.

However, this is no easy task as there are two types of institutions: those that have been hacked and those that don't know they have been hacked. Understanding that it will happen and having a policy in place to respond quickly and appropriately are key and will go a long way towards restoring trust and order once a breach occurs.

Cyber attacks cost businesses US$400 billion every year. It is increasingly vital to safeguard the trust of clients and regulators by investing aggressively and strategically in cybersecurity to prepare for cyber attacks. High-profile instances involving cybercrime have shaken several financial institutions. This occurred as a result of the expansion of web-accessible digital client interfaces and the increasing use of online platforms for product distribution, transaction and data storage.

"There are two types of institutions: those that have been hacked and those that don't know they have been hacked. Understanding that it will happen and having a policy in place to respond quickly"

One way of thoroughly testing cybersecurity is to conduct "Red Team" exercises – simulated attempts executed by an external IT vendor specialist who plays the part of a highly skilled and determined hacker. Real-life exercises can identify gaps in cybersecurity and social defenses and lead not only to identifying security weaknesses but also to determining plans of action for a potential attack.

Another way to prepare for a potential cyber attack is to scrutinize coverage of cybersecurity insurance that would transfer some of the costs of a security breach to the insurer. Even the most extensive policies may not cover the unquantifiable cost of reputational damage.

3. Liquidity risk

Liquidity risk made headlines in 2015 when several high-yield funds ceased trading because of volatile market conditions. Any hiccup in asset allocation in the current low-rate environment leaves investors exceptionally vulnerable to further liquidity shocks. Firms can grow their business by catering to the risk-seeking segment of the fixed-income market. But they must implement and maintain a solid system of liquidity risk controls and well-established oversight to gain the confidence of both investors and regulators. Many global regulators are proposing new requirements to monitor portfolio liquidity risk, such as classifying liquidity of portfolio assets based on the amount of time they can be converted to cash without market impact and analyzing the risk.

4. Conduct risk

How firms conduct business with their clients is high on the agenda for most global regulators. Delivering real value for fees received is now a key enforcement theme. Meanwhile, the media is also monitoring financial institutions to establish whether or not they are practicing good conduct, and whether or not clients are receiving value for their money.

Conduct risk is also gaining priority in the C-suite with liquidity and market risk. For those firms that clearly display to the market the highest standards of conduct toward advising clients, the prize will be winning the status of most trusted advisor.

5. Long-term conviction vs. short-term action

Corporate strategy must balance the need to meet near-term earnings targets against the necessity to achieve long-term sustainability. In challenging market conditions, such as those we witnessed in early 2016, this conflict is acute. Firms in the Bahamas and around the world must safeguard their commitment and resolve to invest in and promote long-term sustainable growth that will enhance value for all stakeholders. Although emerging markets may be down for the short term, they are certainly not out for the long term, so global firms must keep a foot in the door and invest accordingly.

6. Investments with purpose

The client base in the Bahamas today is so diverse, with more wealth coming from trust-fund beneficiaries and other less conventional sources, and so they have different demands from previous generations. It is no longer just about making a profit. When deciding how to allocate their assets, more investors are focusing on opportunities that deliver a purpose above and beyond merely outperforming the market. Socially responsible, sustainable, ethical and affinity-driven investments are just a few examples.

This product class has been one of the fastest-growth industry segments across the globe in recent years. Forward-thinking firms must enhance their product suite targeted to this complex market segment in order to leverage this rapid growth.

Service providers across the product manufacturing and distribution value chain are seeking growth in a highly competitive industry where commodification is rapid. Investments with purpose are not just a marketing message but a key to any successful, sustainable growth strategy.

Knowing your customers and how you package products for them is becoming increasingly important.

7. Focus on client experience

It is essential for wealth and asset management firms to shift from a focus on simply promoting products to building and leveraging a core business model based primarily on enhancing the customer experience. For firms to win new business, their clients must feel that a trusted lifetime financial coach is advising them to reach their long-term personal goals.
The most innovative firms in wealth and asset management, although operating in an intensely competitive sector, can find ways to add value by improving the personalized client

experience. Value will depend heavily on the customer experience, as well as the firm's ability to seamlessly fit into a customer's digitized, connected life and address his personal core values and preferences.

Millennials investing in the Bahamas want to see their portfolio 24/7, so having the right systems in place to meet that need is essential for all institutions. Value creation begins well before an account is even opened as the result of developing a fresh brand identity in the market, enhancing the firm's reputation and clearly communicating a compelling purpose.

With little real differentiation between one product suite and another, improving the client experience will emerge as the only true source of competitive advantage.

8. Simplifying the proposition

For all constituents within the product life cycle — manufacturer, distributor, investor and regulator — the drive is toward simplicity. Gone are the days of striving to develop complex products that were less transparent in risks and fee structure and often led to unsatisfied clients. Simple, clear and transparent is the new mantra. With clients demanding products and services they can understand, winning firms are reducing unnecessary complexity and simplifying the proposition.

"Gone are the days of striving to develop complex products that were less transparent in risks and fee structure and often led to unsatisfied clients. Simple, clear and transparent is the new mantra. "

9. Technology and strategic efficiency

Global firms will find that data is their greatest opportunity and their greatest challenge. Firms must no longer confine technology to the back office for cost-saving purposes. By aggressively leveraging technology in the front office as well, winning firms can grow distribution through big data techniques using client analytics. Data has become an asset, and skillfully leveraging that data will undoubtedly drive growth for the long term.

Disruption is rife throughout the entire value chain of the global wealth and asset management industry. The client-facing advisor is under threat from the robo-advisor. Asset servicers are threatened by blockchain technology, which may introduce decentralization, new non-traditional players and peer-to-peer processing into a highly concentrated business environment. Traditional fund distributors are under threat. In many international markets, such as the EU, these distributors' remuneration models will be restructured amid sweeping conduct-focused regulatory reform.

10. Complexity of global tax reporting

Rapidly evolving global tax regulations are driving fundamental change and creating significant challenges in how firms can meet compliance in a controllable and sustainable way. Tax reporting is no longer simply a periodic procedure of filing required documents. Compliance has become a complex, year-round process of data collection, validation, documentation, classification, and report generation and submission. In fact, most global wealth and asset management firms now face substantial tax compliance challenges.

For over a decade, the Paris-based Organisation for Economic Co-operation and Development (OECD) has been proposing recommended guidelines for global financial information exchange, and this is now becoming a reality. In fact, with the Common Reporting Standard (CRS) already coming into play in 2017 in the Bahamas and many other countries, institutions will have to be prepared to report financial activity back to the home country of the client to avoid offshore tax evasion and maintain the integrity of tax systems.

This is no easy task. In a recent EY survey of compliance executives in the industry, 27% of respondents said they lack sufficient skilled resources and are challenged to meet future tax reporting demands. For 40%, the top compliance issue was monitoring and adapting to changing reporting requirements. A compliant and efficient globalized reporting process is now required, supported with the appropriate tools for local activity and backed by centralized oversight.

Conclusion

While disruption is inevitable for the wealth and asset management industry, savvy institutions in the Bahamas will develop ways to enhance their systems in 2017 to better embrace and understand their customers. With rapidly evolving technology and new regulations coming into play, it is more important than ever to build and protect secure systems.

The client advisor is under threat from the robo-advisor. Although artificial intelligence may take a little longer to impact the Bahamas than some other countries, it will come eventually, so institutions that bury their heads in the sand will not survive. Thoughtful planning, coordination with all stakeholders and long-term strategic insight will prove to be essential elements for wealth and asset management. Firms that seize disruption and use it to identify new ways to increase productivity, innovate to enhance the client experience and creatively deliver more value in their service offerings will ultimately grow their business and emerge as winners in the changing market.

Tiffany Pilcher
Partner, Ernst & Young

Tiffany is a partner in the BBC and leads EY's Emerging Manager Platform. The BBC region consists of EY's offices in Bermuda, Cayman Islands and BVI. The BBC is part of our Financial Services Office ("FSO") based in New York.

Tiffany has over 18 years of experience at EY and specializes in the wealth and asset management industry, with a focus on providing assurance services to hedge funds, private equity funds and fund of funds. Her other clients include commercial banks, private banks and insurance companies. Her clients range in size and complexity from smaller private companies to larger listed companies. Tiffany's extensive experience includes advising clients on financial reporting under United States (US) Generally Accepted Accounting Principles and International Financial Reporting Standards as well as regulatory compliance for investment managers registered with the Securities Exchange Commission in the U.S. She also works closely with regulators in the Bahamas including the Central Bank of the Bahamas, the Securities Commission of the Bahamas and the Insurance Commission of the Bahamas.

Tiffany graduated from Philadelphia University with a Bachelor of Science (Cum Laude) degree in Accounting and is a licensed Certified Public Accountant in the state of Pennsylvania, and is also a licensed member of the Bahamas Institute of Chartered Accountants. She has served on the council of the Bahamas Institute of Chartered Accountants (BICA), during which time she chaired BICA's Technical Committee and she has also served as a director on the Bahamas Financial Services Board (BFSB) and is presently involved with BFSB's marketing committee.

Threatened Correspondent Banking Relationships Endanger both Domestic and International Finance

By John A Rolle
Governor, Central Bank of The Bahamas

Introduction

The Bahamas, like other jurisdictions in the Caribbean, and many in the Pacific, Africa, Europe and Latin America, have been negatively impacted by eroding access to international correspondent banking services. It is a worrisome trend that threatens to degrade vital payments support for domestic economic activity and exclude individuals and businesses from vital banking services in a broader context. At risk activities include processing of credit card payments for tourists, salary remittances for expatriate workers, and payments for goods and services acquired from abroad. As far as international financial services are concerned, compromised access can, in extreme cases, unravel such business models.

Below, this article looks at the key drivers behind this so called "de-risking" trend and the initiatives that are already in progress to reduce threats to the jurisdiction. As is clear, the interventions needed reflect a combination of national action, and collective efforts at the Caribbean regional level alongside key global stakeholders. It is important that The Bahamas maintains a proactive approach to countering "de-risking", addressing areas where legitimate, constructive reforms can be made, and countering any mischaracterizations that unjustly harm the jurisdiction.

Though de-risking impacts in The Bahamas have not been as great as in some neighbouring countries, they have still been remarkable. The Central Bank has surveyed its licensees on these trends twice, since 2015. The results reveal greater challenges for locally owned commercial banks and for standalone international operations. Otherwise, approximately 25% of licensees reported some lost services. Such affected licensees however, either coped by finding replacement arrangements, under heightened scrutiny and additional reporting requirements, or they managed to continue with fewer correspondent relationships. As such, all licensees continue to have direct access to international payments services.

Key drivers of de-risking

Correspondent banks intermediate payments between their client respondent banks, against deposits held by the latter within the correspondent banks. These include payments for international goods and services, foreign investment financing, or transfers of deposits from one location to another. In part, the risks in such relationships are of a regulatory and compliance nature from potential exposure to money laundering or terrorist financing activities. These risks are amplified because correspondents rely on the due-diligence systems within respondent banks as the first line of defense against abuses. On the other hand, the correspondent banks are expected to benefit by deploying surplus deposits to earn returns, until the funds are drawn down for payments.

De-risking has taken many forms, largely as a result of the upheaval of the risk versus return dynamics. Some entities

have gotten out of the business completely. More measured responses have included withdrawal from certain sectors, countries or region. Also common are relationship terminations on a client by client basis, or modified or restricted terms of services for retained clients.

The driving factors behind this upheaval, with its uneven global impact, are varied. One is a suspected element of bias against transactions passing through "offshore" financial centers. Beyond this, it encapsulates escalated concerns about the misuse of the global banking infrastructure to support illicit activities. Correspondingly, more stringent anti-money laundering (AML) and combating the financing of terrorist (CFT) initiatives have increased compliance and litigation costs for the correspondent banks, with very exorbitant civil and criminal penalties tied to breaches. In a defensive response to financial stability risks following the 2008 global crisis, the regulatory capital and liquidity requirements have also increased, leaving correspondents with less surpluses to invest, and the business model less lucrative, even as it has become riskier.

Counter responses at the regional level

There has been a very active response within the wider Caribbean to confront de-risking, with The Bahamas very visible in such initiatives. Regional and international forums have brought together central banks, bank supervisors, US regulators and law enforcement agencies, other foreign regulators, correspondent banks, Caribbean commercial banks, the Financial Action Task Force (FATF) and Financial Stability Board (FSB). Multilateral organisations such as the IMF, IDB, World Bank and Commonwealth Secretariat have also become engaged. They provide input through studies to coalesce the issues, and bring valuable offers of technical assistance to further strengthen regulatory and compliance systems in impacted countries.

In addition to improving their AML/CFT frameworks, Caribbean governments and regulators have called for global authorities to identify the gaps in regional systems that pose "high-risk" concerns. They have also lobbied for clearer guidance on how correspondent banks should manage, rather than sever high risk relationships.

Such outreach has started to produce constructive responses from actors such as the Financial Stability Board and, particularly, US authorities. Guidance from such sources have stressed the importance of taking heightened risk-based approaches to managing correspondent banking relations rather than opting for rash terminations. Even overly prescriptive know-your-clients' customer's advice is now being tempered in deference to such risk-based guidance. When no other option exists, more emphasis has been directed to encourage orderly termination of relationships, through advance notification. The FSB's four-point plan of response encapsulates much of these interventions, and has been wholly embraced by Caribbean authorities. The FSB has called for (i) further examination of the issue to identify the drivers; (ii) more efforts to clarify regulatory expectations, including guidance from the FATF on the application of AML/CFT standards to correspondent banking; (iii) domestic capacity-building in adversely affected jurisdictions; and (iv) strengthening tools for due diligence by correspondent banks.

Alongside the international engagement, there is intense regional focus on contingent policies to minimise exposure to de-risking. This includes exploring cost effective, alternative approaches to shared compliance and payments solutions, either on a regional or national basis. Pooled solutions will also place more emphasis on achieving regional convergence in regulatory effectiveness against the FATF standards and in adherence to transparency and cooperation standards of the OECD's Global Forum. This is, notwithstanding documented assessments that already place regional countries favourably against their global counterparts.

The Bahamas' national responses

Alongside the regional initiatives, The Bahamas is also formulating an effective national response. As regard misconceptions about the quality and transparency of the regulatory regime, more spotlight is being placed on The Bahamas' record of regulatory cooperation and transparency. Regulators have consistently employed

strategies to improve the AML/CFT regime. As part of the interaction with licensees, the Central Bank has already updated the AML and CFT guidance notes that were issued in December 2015. These re-emphasised the high level of due diligence that banks and trust companies must observe when establishing and maintaining relationships with local and international clients. The next focus will be on smooth transition of licensees to meet The Bahamas' information sharing obligation under the new legal framework for the OECD's common reporting standards.

Other initiatives will also enhance effectiveness of the local AML/CFT system. The recent CFATF mutual evaluation report on The Bahamas is expected to be publicised in 2017. It will spotlight updated national progress on effectiveness against the FATF's standards, and frame new initiatives that are planned to strengthen AML/CFT systems. The National Risk Assessment (NRA) on AML and CFT risks complements this process and will also guide reforms. In this regard, the Central Bank and other local regulators will pursue regime strengthening, focused on capacity building for supervisors and industry compliance officers. Through a structured campaign, the banking public will also be sensitised to the AML due diligence obligations which banks are required to observe, so that trust and cooperation bonds between financial institutions and clients can be strengthened.

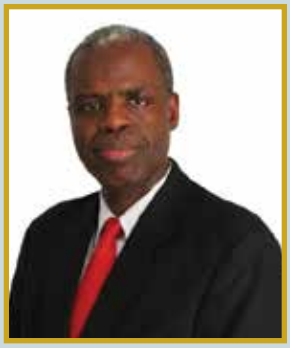
Strands of the Central Bank's work are also targeting outcomes that promote greater financial inclusion and access, particularly within the domestic banking sector. Such is vital to reduce the volume of untraceable transactions which occur outside of the banking system. The Central Bank is accelerating efforts to modernize the domestic payments system, to provide consumers with greater access to non-cash means of transacting, and to ensure that the infrastructure for routing of local currency electronic payments evolves more independently of the channels though which international payments are directed. The Bank will ensure that the evolution of regulations for the effective functioning of the payment embrace innovative trends in e-money and financial technology that help to wean the local system of dependence on cash.

"The Central Bank will seek to identify reforms to improve the ease of information flow under the more rigorous international and standards for transactions monitoring, and underarrangements where banks might invest in shared infrastructure."

Another focus is greater transactions transparency. The Central Bank will seek to identify reforms to improve the ease of information flow under the more rigorous international and standards for transactions monitoring, and under arrangements where banks might invest in shared infrastructure. The Central Bank also sees merit in embracing standardised international conventions for profiling commercial customers, using templates such as those recommended by the Legal Entity Identifier (LEI) Regulatory Oversight Committee.

Conclusion

De-risking in correspondent banking relationships is expected to persist in some elevated form, given the range of reasons behind the phenomenon. The Bahamas must, therefore, aggressively pursue interventions to minimize the fallout, including cultivating a much better understanding within the international community of the quality of its regulatory and oversight systems. Bahamian institutions should expect to remain under increased scrutiny, as they strengthen their AML/CFT systems. They are also expected provide input on strategies to build and strengthen alternative international payments infrastructure that introduce economical but more robust transactions monitoring and tracing capabilities. For the Central Bank of the Bahamas, outcomes which strengthen domestic financial inclusiveness will also be prioritised.



John A. Rolle

Governor, Central Bank of The Bahamas

Mr. Rolle was appointed Governor of the Central Bank of The Bahamas, in January, 2016 returning to the starting point of his career in central banking. From 1990 to 2012, he was employed in various capacities at the Bank, progressing to the position of chief economist and Manager of the Research Department.

From 2009 to 2012, Mr. Rolle was seconded to the Executive Board of the International Monetary Fund (IMF) as a Senior Advisor to the Executive Director for Canada, Ireland and the Caribbean Constituency, before serving as the Financial Secretary in the Ministry of Finance as well as Acting VAT Controller.

Mr. Rolle holds both undergraduate and graduate degrees in economics, he has published scholarly articles in a number of professional journals and he has earned the right to use the Chartered Financial Analyst (CFA) designation.

The Governor has also contributed as an Adjunct Lecturer, in Economics, at the American University (2008) in Washington, DC, and, for many years, as a Part-Time Lecturer in Economics and Statistics at The College of The Bahamas.

The Bahamas prepares risk-based approach to regulatory oversight

By Christina Rolle

Last July, the Securities Commission of The Bahamas (the Commission) embarked on a process to overhaul the Investment Funds Act.

The Investment Funds Act 2003 was largely structured to be in line with the operations of fiduciary administrators and did not necessarily account for the appropriate regulation of the various roles within a fund structure. Consequently, the SCB's mission last summer was to address those gaps by asking two major law firms to develop draft legislation and update the Investment Funds Act that would help support institutional, as well as private wealth business.

"In launching the overhaul, it was important to the Commission that we develop best in class legislation from a regulatory point of view and to enable the jurisdiction to gain ground in the investment funds space, particularly with respect to institutional funds," explains Christina Rolle, Executive Director, Securities Commission of The Bahamas.

Updating the regulatory regime is being proposed to remove and address elements that may cause The Bahamas to be viewed as a less attractive jurisdiction.

There are certainly other elements in play that may not be within the Commission's scope but, as Rolle highlights, it is anticipated that amending the IFA "will accomplish key improvements to the regulatory structure which will enhance The Bahamas' competitive appeal".

Filling the gaps

Two key changes will be coming down the line with the new funds regime.

When the SCB commenced the overhaul, it determined that measures would need to be taken to introduce licensing and/or registration of the fund manager. Also, measures will be taken to increase the oversight of key players in a fund structure, including the fund operator, fund manager, investment manager and custodian. The aim is to arrive at a realignment of the obligations and responsibilities of the various parties to a fund.

It is hoped that by enhancing the regulatory framework, the SCB will have greater oversight of the fiduciary responsibilities of all key players and ensure that they adhere to appropriate ongoing reporting obligations, and in so doing establishing best practices in keeping with global regulatory standards.

Ultimately, the regulatory environment must establish a regime which includes a robust framework for the licencing, ongoing supervision (inclusive of onsite and offsite examinations), investigation and enforcement of regulatory and supervisory requirements for various investment fund participants.

"We are aiming to open the jurisdiction to the global funds industry with the new IFA regime," says Rolle, adding that the new regime will also set to establish clear frameworks for Closed End and Master/Feeder fund structures.

"We are seeking to extend the regulatory framework to custodial relationships but more importantly, we will provide a formal framework for the regulation of investment managers. We don't have the intention that all investment managers will need to be licensed by the SCB but they will probably need to submit to some sort of registration as opposed to full licensing. Those operating retail funds, for example, will need to be licensed," continues Rolle.

Manager oversight

With Europe now well down the path to manager-based regulation under AIFMD, and the SEC requiring investment managers to register with the SEC once they exceed USD150 million in AUM, it has become de rigeur among global regulators to regulate managers.

Even offshore jurisdictions have taken steps such as the BVI, which introduced the BVI Approved Fund and BVI Incubator Fund. The Incubator Fund gives start-up managers a two-year easier ride, from a regulatory perspective, where they can test their investment strategy and gain a track record, which can be extended to a third year with regulatory consent, before converting to a BVI

Professional Fund

The Commission sees the value in adopting more of a risk-based approach, with Rolle quick to confirm that there are no plans to create a blanket requirement for the licensing "of all fund managers".

"It is certainly required as a global standard that we have the capability to oversee investment managers," remarks Rolle. "Jurisdictions like the Cayman Islands do it on a risk-based approach. In The Bahamas, we intend to adopt a similar approach. We are considering building some AUM thresholds into the legislation at the fund level."

It is safe to say that in circumstances where there are strong investor protection concerns, for example, where fund managers act on behalf of retail investors, the Commission will propose licensing.

Striving for excellence

To succeed as an international funds centre requires not just a proactive regulator but a willingness to respond to the changing needs of the global industry. In that regard, The Bahamas became the first independent country in the region with IOSCO "A" Status, which it received on December 27, 2012.

Having a robust regulatory framework in tandem with a commitment to meeting international standards is something that The Bahamas prides itself on. Being viewed as a responsible jurisdiction requires not just committing to global best practices but acting upon it.

This means adhering to, and implementing, the structures to support international cooperation and transparency.

With that in mind, the Commission's aim is to ensure that The Bahamas has all the tools necessary to ensure that it is – and will remain - a competitive jurisdiction. Pragmatism is the name of the game and while The Bahamas does not want to overregulate, it does want to be respected for best in class regulation.

"It is our view that good fund promoters and good businesses want to be in jurisdictions that are considered best in class for regulation. Anything we can do to ensure a legislative environment that complies with latest global standards can only bode well for The Bahamas," opines Rolle.

Over the years, The Bahamas has shown its commitment by establishing robust AML and KYC regimes, not to mention the fact that it has now entered into 33 Tax Information Exchange Agreements ('TIEAs') to meet international standards on transparency and tax cooperation.

On 3rd November 2014, The Bahamas and the US signed their Agreement to Improve International Tax Compliance (the Agreement) and to Implement FATCA based on the Model I IGA. As an IGA partner jurisdiction, Bahamas-based Financial Institutions will not be subject to a 30 per cent withholding tax on US source income, unless they fail to meet the requirements set out in the IGA and in Bahamas domestic implementing legislation.

The Bahamas has also built upon its FATCA platform to bring itself in line with Common Reporting Standards ('CRS').

Widening the scope of administration services

Rolle is keen to stress that more can always be done, no matter what the jurisdiction.

She says that the Commission is looking to enhance the legislative framework by making key changes to the current funds regime, particularly, by introducing oversight of investment managers for certain funds where investor protection is an issue and also by addressing other key gaps, for example oversight of custodial relationships.

"We certainly want to be up to date with what's going on in Europe and are taking a proactive approach to ensure AIFMD requirements are met.

"Moreover, we are looking to open the jurisdiction to allow administration to take place from anywhere in the world and also to rationalize the responsibilities of each of the fund's operators. Both of these points are important. "I think it would certainly put us 'best in class' from a regulatory point of view and it would also remove any barriers people might have when it comes to selecting a jurisdiction that might previously have prevented them from selecting The Bahamas," says Rolle.

This point about widening out administration services is key and should go some way to making the jurisdiction more attractive to fund managers who may already have longstanding relationships with Europe-based fund administrators, for example.

Asked what the SCB would need to do to get comfortable with Bahamian funds using non-local administrators, Rolle responds: "We would prescribe a list of jurisdictions that licensed fund administrators could operate from. The main fund jurisdictions in the world will likely be on such a list. For a jurisdiction that is not, we would need to be comfortable with the regulatory environment. Places like Ireland would fit into that category easily."

Enhancing Financial and Corporate Service Providers Act

Aside from filling the gaps by overhauling the Investment Funds Act, The Bahamas is also currently working to overhaul the Financial and Corporate Service Providers Act.

Specifically, the SCB wishes to enhance its regulatory and supervisory powers and to bring definition and clarity to the range of activities that fall within the scope of the Act.

It is looking to develop Rules for each specific activity, and to build a licensing and supervisory structure that is centered around each activity, as opposed to the broad, 'one size fits all' licensing/supervisory regime that presently exists.

Rolle explains this as follows:

"For example, at the moment we have one broad Financial & Corporate Service Providers license. Going forward, we intend to have different categories of licenses.

"Someone who is providing corporate services would have a corporate services license, someone else providing escrow services would have an escrow services license and so on. Whatever activity they are engaged in, provided it is covered under the Act, that is the license they will receive. Also, it will be possible for the license to extend to more than one activity."

This will allow the SCB to move away from blanket regulation that treats all service providers the same. With these changes, they will be regulated in a way that reflects their activities in the market. In other words, it will be a more considered, tailored approach.

Rolle confirms that the Commission is in the process of finalizing the Act, which should be completed within the next couple of months.

As for engaging with the local financial services industry, the Financial and Corporate Service Providers Bill has already gone out for public consultation and feedback has been duly received for the Commission's consideration.

Proposed changes to the IFA regime, as highlighted above, are due to go out for public consultation in the coming weeks.

With independent directors playing a key role in providing proper governance and oversight to the way funds operate, jurisdictions like the Cayman Islands have taken strong measures to ensure that greater transparency and accountability are achieved.

As part of Cayman's drive to enhance its corporate governance environment, the Directors Registration and Licensing Law (2014) was introduced. Part of the rationale for doing this was to provide CIMA with greater

transparency in respect of directors of Cayman funds. Although this has not made any significant change to how funds operate or who may act for funds, CIMA is increasingly proactive in its collation of information and active regulation of funds.

"We are currently considering our own register of approved directors and we are looking into the implementation of this in line with other jurisdictions," confirms Rolle.

Europe still on radar

As well as addressing the custodian and fund manager opportunities, another catalyst for overhauling the Investment Funds Act, 2003 is the European Union's Alternative Investment Fund Managers Directive (AIFMD).

The Directive has been up and running for several years, following its implementation and incorporation into the national laws of individual Member States, the rules of which became applicable to AIFMs from 22 July 2013.

As AIFMD also applies to non-EU AIFMs that manage or market AIFs in the EU, Bahamian investment managers to EU funds are subject to the impact and requirements of the Directive. The Commission has already engaged with and executed 27 Memoranda of Understanding with counterpart regulators in EU Member states, in order to facilitate participation in their respective countries but there are still two outstanding, which it is working to finalise: one with Germany, the other with Italy.

Europe is a key market for fund managers wishing to raise capital so it is understandably vital that those operating Bahamian funds have the confidence, and the imprimatur, to continue marketing them into individual EU Member States through national private placement rules; hence the importance of establishing MoUs.

Updating the regulatory regime will go a long way towards maintaining The Bahamas' competitive appeal and satisfy EU regulators that the necessary controls and best practices are in place, in keeping with a progressive offshore jurisdiction. "The Commission has reached out to ESMA requesting to be included in the next round of assessments to be done by them for purposes of the AIFMD passport. We are looking to finalise the outstanding MoUs with Germany and Italy and are continuing to dialogue with ESMA with respect to its passporting process.

"In the meantime, we are writing the legislation that will enable us to be ready for passporting under AIFMD," says Rolle, who rightly points out that Europe is "too large a market" for any serious jurisdiction to ignore.

In the Cayman Islands, the Mutual Funds Law has been revised primarily to introduce the concept of an "EU Connected Fund" to give such funds the option to be registered or licensed under the Mutual Funds Law. When the AIFMD Like Regime is formally introduced, Cayman promoters will have the opportunity to have a registered EU Connected Fund or become an EU Connected Manager.

"We aren't looking to go that route. Rather, we will be updating our licensing regime, making additional requirements which will meet AIFMD standards," confirms Rolle.

What's on the horizon?

Looking ahead to 2018, The Commission is in the final stages of developing legislation to address crowdfunding and over the counter capital raising. It is also looking to make some key amendments to the Securities Industry Act early next year.

With respect to equity crowdfunding, new legislation is being drafted that will make it easier for smaller businesses and entrepreneurs to raise small amounts of capital under new Business Capital Rules.

In an interview with Tribune Business*, Keith Davies, chief executive of the Bahamas International Securities Exchange's (BISX) said the exchange had completed internal drafts of market models for both crowdfunding and small business listing platforms, to boost capital access for Bahamian entrepreneurs and small and medium-sized businesses (SMEs).

"The idea is designed to support those who want to raise say, USD1 million in a crowdfunding scenario, or up to USD3 million in an over-the-counter scenario. Instead of having to meet the full-blown requirements of an IPO, the new rules will be lighter touch and enable entrepreneurs to more easily raise capital in the marketplace," states Rolle.

Another key regulatory initiative identified by the Commission is the development and implementation of a risk based supervisory framework (referred to earlier) for all Bahamian registrants and licensees.

At the moment, the Commission takes a rules-based, compliance-based approach.

"We are currently looking to implement a risk-based approach which would mean collecting much more data than we do today: data on AUMs, funds' activities, AML data; a whole host of things. We would then need to establish a set of parameters on risk criteria that would be of concern to the SCB. The next step would then be to risk weight those parameters to provide a risk score on each licensee. We are beginning with the implementation of risk-based capital requirements and will refine this over time.

"Finally, according to the risk score, we would determine the level of monitoring that we would need to conduct on the licensee. We are at the initial stages of this," concludes Rolle.

With a host of regulatory initiatives and updates underway, there are clear signs that The Bahamas is committed to building a funds jurisdiction that is more transparent, more streamlined and more focused in how it oversees different fund activities and operations. With global jurisdictions under the microscope more than ever, being able to demonstrate best practices in its regulatory regime should mean The Bahamas is well placed for further continued growth. ⁘

Christina R. Rolle
Executive Director
Securities Commission of The Bahamas

Ms. Christina R. Rolle is the Executive Director of the Securities Commission of The Bahamas, having been appointed effective 26 January 2015.

Ms. Rolle has over 20 years of experience in the financial services industry. Over the course of her career, Ms. Rolle has acted as Director and Deputy CEO for a prominent international private bank and held various senior managerial positions with local and other international institutions including Head of Trust and Fiduciary, Head of Risk, Compliance and Corporate Governance and Manager of Banking Services. She is highly skilled in quantitative and statistical analysis, marketing, operations and business strategy.

Ms. Rolle was a member of the FATCA advisory group for the Government of The Bahamas and has served on the Board of Directors of The Bahamas Financial Services Board (2009 – 2012) and the Society of Trust and Estate Practitioners (STEP), Bahamas branch (2003 – 2005).

Ms. Rolle holds an MBA from Kellogg School of Management, Northwestern University.

The Bahamas & Family Offices

A Roundtable Discussion, facilitated by Matthias Knab

Roundtable Participants

Matthias Knab
Opalesque
Facilitator

Andrew Law
IPG Family Office

Christina Rolle
Bahamas Security
Commission

Bryan Glinton
Glinton, Sweeting,
O'Brien

Katie Booth
Katie Booth Ltd

Kevin Burrows
Adi Dassler
International Family
Office

In November of 2017, Matthias Knab from Opalesque facilitated a roundtable discussion in Nassau with a number of Bahamian financial services professionals on the topic of Family Offices. While the full report on the those discussions is available at www.bfsb-bahamas.com here are some excerpts from those discussions.

Matthias Knab: Can you tell us more about the rise of the family offices here in the Bahamas?

Andrew Law (IPG Family Office): First of all, the Bahamas is in the most beautiful location, it's a stunning destination, actually. Of the many places that one can go to, the Bahamas is definitely one that you absolutely have no problem getting people to come to. And for people with second and third homes, the Bahamas is a very popular choice.

The Bahamas has a fantastic legislation as it relates to trusts, statute of limitations and related issues, and so the Bahamas has emerged as a very successful center for where people want to use the law and the jurisdiction as a basis for their family office.

Maybe this is one of our challenges that we don't actually shout and brag and tell what we are actually doing and who already is here on the Bahamas. If we would publish the list of the owners of the Exuma chain of islands, I think it would blow people's minds who in the world has chosen to have an important base in the Bahamas. And that is just one chain of islands.

If then we would further unravel that and go into more details such as who is the lawyer giving legal advice, who is the manager giving investment or wealth management advice, who is offering the concierge services, etc., you would find a staggering list of extremely qualified, trusted and professional advisors. But, of course, we will not do this as we tend to give the clients of the Bahamas complete confidentiality. And so, right on the premises where we are having this Roundtable meeting today, we could have had any number of quite famous people who could have passed by or on their golf cart, and nobody is going to bother them.

Christina Rolle (Bahamas Security Commission): Within the scope of the Securities Commission, we are seeing a growth in our licenses which is primarily driven by family offices who are coming here.

There are a couple of aspects to this development. We see family offices coming to the jurisdiction who are choosing to be licensed here, mainly as an investment management and adviser firm or they choose to be licensed under the Financial and Corporate Service Providers Act as an administrator.

We also seen entities who are providing niche services to family offices, so broker dealers and sometimes investment advisors. We are also seeing trends that more and more of these stand-alone supporting entities are coming to the Bahamas. So since 2014, we have seen an 8% increase in the number of licenses under the SIA and a 3% increase in the number of investment funded administrators. And then, we have also an 8% increase in the number of licenses under the

Financial and Corporate Service Providers Act. And again, the vast majority of these new entrants are either family offices that are choosing to be licensed or they are providing niche services mainly the family offices and other types of entities. I also wanted to touch on the ease of doing business.We sometimes see the statistics and we think that there's a bleak picture with respect to the ease of doing business.

The truth is that for an entity that wants to be regulated in the Bahamas, when an application is completed, I mean completed, we take about three weeks to license that entity. I think that's a good story and I think that it is a story that the Bahamas probably has a little bit of an advantage over other jurisdictions. And at the same time, we're not losing quality in terms in terms of the due diligence we perform. We've increased the due diligence, we perform on our end.

Also, we've heard from many licensee or prospect licensees who want to come to the jurisdiction that they really appreciative of the fact that they can come and have a conversation with the regulator, I mean I think that also is something that maybe unique to the Bahamas. And we as the regulator, we don't see ourselves as being opposed to business. We see ourselves as having a role to ensure the integrity of the industry so that businesses can thrive. And when we have that perspective then we can see that it's okay to sit down with the prospect and have a conversation about what it is that they wanted to do in the Bahamas.

Bryan Glinton (Glinton Sweeting O'Brien): I believe that private wealth management and advisory services will continue being a large part of our future, for a number of reasons.

One is location, location, location. The Bahamas have a great location. We are 30 minutes off the coast of the world's largest economy. We are in the same time zone as New York, and there is ready access into Europe as well as Latin American from our jurisdiction. I think that's one critical factor.

Secondly, the Bahamas has been very nimble when it comes to the legislation. The Securities Commission has been very open to working with the private sector in coming up and defining a lot of the products we have in our jurisdiction, and this has then created a lot of opportunities for anyone coming into our jurisdiction.

Third, I think we are all aware of what's happening since 2000 as far as the OECD initiatives on anti-money laundering that has now evolved to the CRS or common reporting standards. So that international regulation has from one side created a level playing ground as the rules are binding for everyone. But I think what makes the Bahamas very unique for those who really want to redomicile to a jurisdiction like ours is not only because we have more attractive tax policies here, but it's also a great jurisdiction to live and to have a lifestyle. Unlike some of the other jurisdictions that we compete against, we have a very vibrant cosmopolitan community in New Providence and we were certainly able to attract a lot of high net worth individuals to our jurisdiction because of that.

Katie Booth (Katie Booth Limited): The question of residence and determining where you are in fact resident and domicile for tax purposes obviously goes beyond the private individual. One of the reasons that Family Offices are actively seeking to be licensed here is because given the breath of administrative functions that even the single Family Offices performed, it is increasingly important from a tax perspective that they can demonstrate residence if they choose to be in the Bahamas. They must be able to demonstrate that they are performing their key functions particularly with respect to company administration and company decision making in the Bahamas. And by having a license gives that anchor for the family office to demonstrate that it is conducting its affairs here, that it is making investment decisions and managing its companies from the Bahamas.

Over the years there have been some significant changes around the set up and the operations of single family offices. Once upon a time, clients would come to me and they would say, "We want diversification, in all of our arrangements. We have beneficiaries living in different jurisdictions. We have a family office in say in London, but we are running businesses from another location. We also have private equity investments across the globe and directors in four different countries. We all correspond virtually, so everything is fine."

But in this new era of transparency, regulation and reporting,

it is not helpful now for the clients' business and personal interests to be so fragmented, to be split across so many different jurisdictions. It raises all sorts of challenges for the family for reporting and compliance and even in immigration perspective. So, now, where 10 years ago, families would have been saying to me, "We want the most complex multi jurisdictional structure available.", now they say, "We need to streamline everything. We need to make this simple. We need out single family office to be able to report accurately on this structure, on our investments, on our personal tax affairs."

And so, we have gone from jurisdictional diversification, and as complex as it gets, down to streamlined simplicity. And what's exciting for the Bahamas is that we can facilitate all of that here. We have an amazing advisory network, excellent private client lawyers, accountants, the full suite of services available that we can actually allow a very successful international family to use the Bahamas as their global HQ for everything and have real nexus with the jurisdiction. And with residential developments like Albany with state of the art office property facilities services and amenities, they can have their cake and eat it.

Kevin Burrows (Adi Dassler International Family Office): I think my family office is a good reflection of what you have been discussing so far about family offices in the Bahamas. So on our case, the oldest daughter of Adi Dassler actually moved to the Bahamas in the early 1990's. That decision was purely a lifestyle decision, so she wasn't choosing a jurisdiction because of tax purposes or anything like that. She relocated herself from Germany to Lyford Keys, so a very nice development similar to Albany where we are meeting today. Now, two out of her three sons actually live here in the Bahamas as well, and the third son lives in Switzerland, but his son, who is now fourth generation Dassler, is working in the family office here in Nassau.

So here you have a good example of a very prominent family that clearly has a true residency nexus for family members, and it wasn't just a structuring or a tax driven decision that they made. And then, of course, all management investment decisions and such things are really performed out of the office here in Nassau.

Matthias Knab: We talked about the Bahamas having a client centric character. How important is this to the family office business? How does that make the Bahamas more attractive? Could that be helpful or attractive to family offices relocating here?

Brian Glinton: Many big banks like JPMorgan and Citi are running AI intelligence to generate some of the contracts that they are using to enter into different types of financial transactions.

I would not think that the high-net-worth individuals and families that you are advising will rely on artificial intelligence, and they don't like to take the one size fits all approach. They expect to meet and deal with advisors who actually customize their services towards their needs, and this is exactly where the Bahamas could play a significant role. I think we as a jurisdiction get that, and this is why I would say the Bahamas is considered a world leader in private wealth management on this side of the hemisphere.

Our clientele definitely expects one-on-one, they expect you to know the family members. They expect you to understand and appreciate the family dynamics when you are advising them. And sometimes it is also about helping them to formulate and have a sense of what their own vision is for their family, and how do you give them the type of product or service that would help them to realize their vision or long-term planning for their family members.

Kevin Burrows: I'd like to go back for a moment to our discussion about being smart not clever, which I really like. What I have seen in the investment area is a move back towards focusing on efficiency, focusing on cause, a kind of back to basics in terms of strategic and tactical asset allegation. These include things that really were considered smart investments that 20, 25 years ago were taught to professionals and CFAs, before everything got too clever with the hedge funds, the leverage, the arbitrage and everything else which just added a lot of complexity, added a lot of cost, and ultimately did not outperform but rather underperformed dramatically in fact.

And to Bryan's about artificial intelligence, in the investment

arena we welcome things like AI or anything that makes the market more efficient because all that means is I get a more efficient beta. But there's still skill in how you build a portfolio, how you build your risk parameters, or how you construct or combine those betas. So in the investment arena, I see us going back to focusing on the risk and returns of a portfolio rather than seeing how fancy I can get to outperform. So, I believe that also in the wealth management, the smart, not clever mantra I think is really starting to play through. I like to tell people that investing a portfolio globally is really more like jazz than classical music; you have to be technically proficient but you have to know when to improvise and when to use your judgment and kind of go off the script.

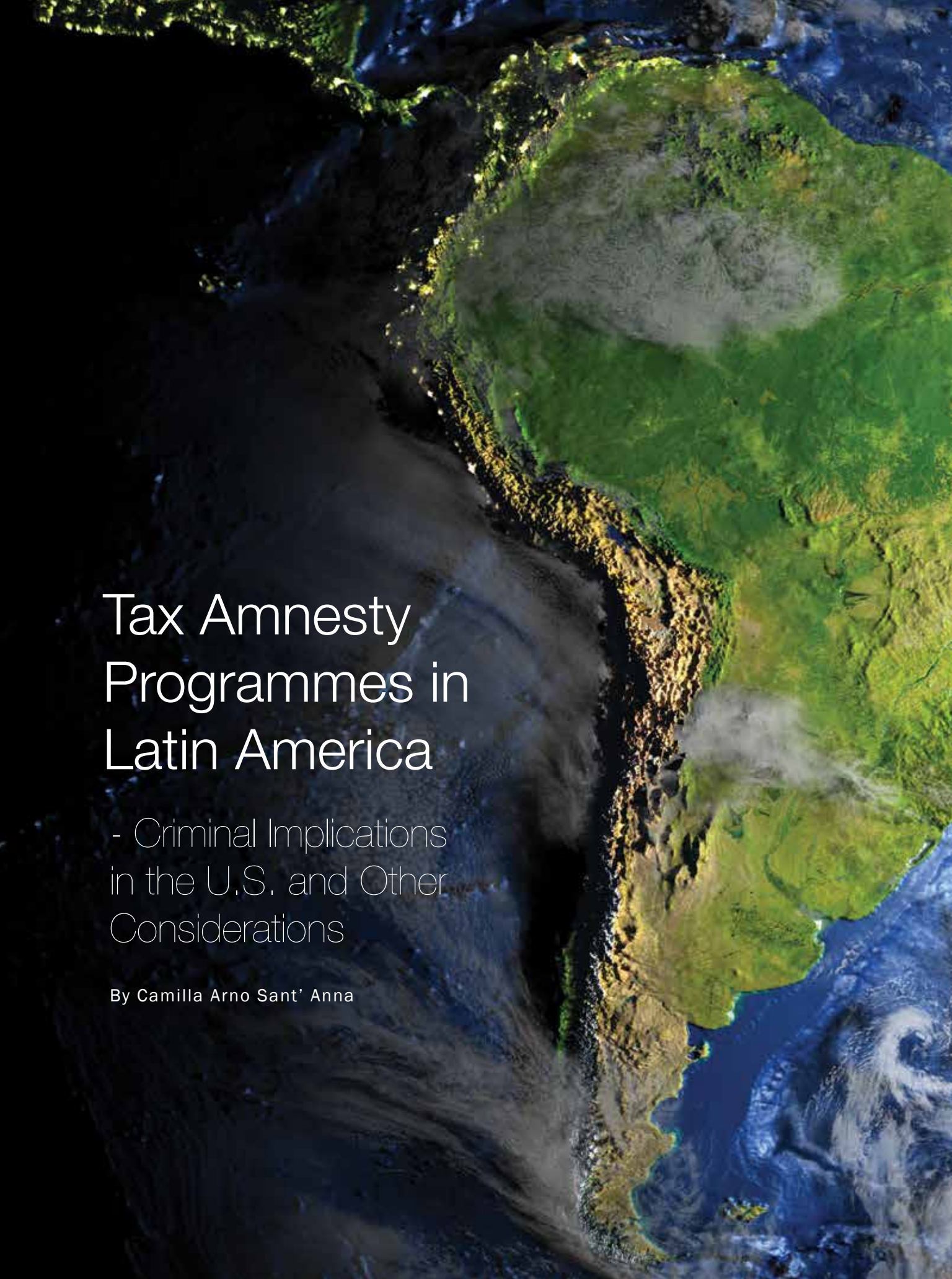
Katie Booth: I think that one of the things that we haven't explored yet in this conversation, which I believe is very important to this issue of being client-centric, is this whole question of governance. Governance is essential to the sustainability of one's legacy and I think that if the Bahamas wants to further differentiate itself in the market and demonstrate its client-centric approach then offering advisory services specifically in the area of governance is another way in which we can stand out from the crowd.

A lot of people throw this word around and so you can meet lots of people who claim to be governance advisors in the stricter sense. But then, they always are drawn back to this legal tax and assets structuring and the fiduciary-asset structuring, the legal ownership of the assets, the taxation of the assets, the reporting, et cetera. Yes, that is integral to legal governance but the governance I am talking about here is looking at the human capital within the family, looking at the interpersonal relationships, understanding the vision of the patriarch or matriarch and how the rest of the family subscribe to that vision, or perhaps don't subscribe to it, but how they can still have a voice in the context of the succession plan.

And I often find it's like putting pieces of tracing paper over the family's arrangements and then tracing whether there is consensus on these issues and also determining whether there is no consensus, or a lack of vision, or a potential for dispute, or a potential for a breakdown in interpersonal relationships. Therefore, when you look at a succession plan, I think we need to take a much more holistic approach because I think a lot of advisors promise a family a dynastic plan, and then they take a one-dimensional approach to the advice that they give with respect to that plan. And in my experience – and I've been around for awhile now unfortunately – the key to being a successful legacy family is governance in the holistic sense, not just in the legal sense.

Andrew Law: I think we all agree that in the world that we live in today, parents, grandparents are much more likely to be proactive with their children regarding the family wealth. Gone are the days when it was sort of all hidden and no one else knew about it. Families have realized that if they don't educate children to value the philosophy of the family, value where the money came from, value why we still have that privately-owned business and we didn't take it public, value all of these things that are going on, then obviously it's to be expected that, one, children might become quite surprised when they learn these facts, and two, they might even go off and do something which is perhaps not the culture of the family that they come from.

And so we find that today people are much more proactive. Many believe that it's a very good idea to have your children working in some aspect of the family business. That could be the family office or in some parts of the business itself, but generally people that are much more proactive. And so they also start much earlier educating and involving their children. There's no way that there is a role for artificial intelligence and that when you are essentially forming the next generation. This is a deeply human affair, and also every family is different. There are also moments and periods when you can address issues and moments when you can't address issues. The Bahamas has quite a good history of dealing with wealthy people and as a result of that, I think that the practitioners in the Bahamas, they know when is the right moment to address a complicated topic or whether it's a good idea to bring in a specialist advisor on that complicated topic. I would say that the culture of the Bahamas' financial services industry actually lends itself quite well to this, which is why we 're seeing that we're becoming quite successful at it. ⁘



Tax Amnesty Programmes in Latin America

- Criminal Implications in the U.S. and Other Considerations

By Camilla Arno Sant' Anna

Many tax practitioners in Latin America have dedicated a significant portion of their time in 2015 and 2016 advising clients with respect to voluntary disclosure programmes. As some of the core issues regarding the regimes have been resolved and some of the programmes have come to a close, it is now time to turn our focus to what happens next and what are the implications in other jurisdictions (especially in the U.S.) of adhering to such programmes.

In general terms, voluntary disclosure programmes are opportunities offered by tax administrations to allow previously noncompliant taxpayers to come forward and regularize their tax affairs under specified terms, declaring income and wealth that have been concealed in the past.
Voluntary disclosure programmes are encouraged by the Organization for Economic Co-operation and Development - OECD. Its Update on Voluntary Disclosure Programmes: A pathway to tax compliance, published on August 7, 2015, states that the "limited time left until the automatic exchange of information under the Standard becomes a reality in a large number of countries will, in many instances, be the last window of opportunity for noncompliant taxpayers to voluntarily disclose assets - held in and income derived from, offshore accounts".

In Latin America, Chile, Argentina, Brazil, Colombia and Honduras have enacted laws in the past few years creating voluntary disclosure programmes which provide amnesty to a variety of tax-related criminal offenses in exchange for full disclosure of the foreign assets and payment of a (sometimes, as is the case of Brazil, hefty) fine. Other countries, such as Peru, have also expressed interest in passing similar legislation.

With a history of immigration, informality, and political and economic uncertainty, it was not uncommon for Latin American wealthy families to keep a portion (many times a significant one) of their wealth abroad and out of the reach of local governments.

The increase in regulation and exchange of information treatises in the past years made it impractical and sometimes impossible to keep these amounts concealed from the tax authorities Banks now have sophisticated compliance requirements and are not willing to take any unnecessary risks, which has resulted in extreme situations where clients were even politely "invited" to remove their money from certain financial institutions.

Argentina, Colombia and Mexico have committed to make their first exchange of information under the Common Reporting Standards (CRS) in 2017. Brazil, Chile, Costa Rica and Uruguay are due to start reporting in 2018. According to the OECD, "the new OECD Standard on Transparency and Automatic Exchange of Information together with the conventional operation of FATCA under IGA 1 and 2 models, sharply increase the risk that taxpayers with offshore undeclared assets and income be detected in a foreseeable future. As a result, taxpayers will face severe consequences, including the payment of taxes not covered by the statute of limitations, interest, fines and criminal prosecution, all of which represent a heavy and concrete threat for keeping themselves non-compliant".

Even though the tax amnesty programmes generated much controversy in the countries where they were implemented, they represent an unprecedented opportunity for taxpayers.
Voluntary disclosure programmes in Latin America

The programmes enacted across Latin America are similar in content: all of them are aimed at mandatory registration of offshore funds not previously disclosed to the government. It is important to note that the programmes do not call for mandatory repatriation, i.e., the funds do not need to be transferred into the country.

Most of the programmes were created as exceptional, one-time opportunities. Nevertheless, in light of their success some jurisdictions are already contemplating a second round of the regimes. At the time this article was written, Brazil's government was discussing a very controversial re-opening of its amnesty programme, which could allow politicians and their families to adhere to the regime.

From a tax perspective, the amnesty programmes grant the benefit of reducing the tax burden (when compared with total amounts due and penalties that would be applied over the years). In addition, adhesion to the programmes also

generates impact on a criminal sphere as full compliance with the programmes generally provides a guarantee against liability for certain crimes.

In Brazil, for example, general amnesty for criminal purposes is given for crimes related to tax evasion, such as exchange transactions in order to promote tax evasion; money laundering or concealment of assets, rights or values (when related to tax evasion); forgery of documents and use of forgery documentation to evade; false or misleading representation in the preparation or filing of tax returns and social security contribution evasion.

To adhere to the programmes, however, the taxpayer is required to present (or be prepared to show upon request) the origin and traceability of the resources, as well as proof of ownership. It is also necessary to include (with few exceptions) all of the taxpayer's assets in the declaration – generally if other hidden assets are later discovered the taxpayer loses the benefits of the regime and is subject to civil and criminal prosecution.

Admission to the programmes requires the payment of a fine or special tax, which varies from country to country. Chile's programme established an 8% special tax, while Brazil charged almost 30% in fees and taxes for adhesion to its programme.

The amnesty programmes are also beneficial to the governments. The Brazilian government estimated in November 1, 2016 (a day after the deadline for filing the declarations under its programme) that it had collected $15.8 billion in taxes and fines. Argentina's programme is part of the government's effort to raise 47 billion pesos (approximately $3.4 billion) to pay legal sentences awarded to pensioners, and another 75 billion pesos a year to pay higher pensions in the future.

There was, of course, much controversy and uncertainty surrounding each programme. With a history of legal instability in Latin America, the population of each country had to overcome its distrust in the government. It was also important to ensure that the voluntary disclosure programmes and initiatives formed part of a larger compliance strategy, otherwise the taxpayers who adhered to the regimes would be in clear disadvantage in comparison to non-compliant citizens. Finally, there was the issue of currency exchange effect. With volatile currencies, the taxpayer could be subject to unexpected increases in taxes not only at the time of adhesion to the programmes but also over the years to come.
Despite the outstanding questions and uncertainties, adhesion to the voluntary disclosure programmes can be beneficial to the taxpayer, so practitioners and financial institutions have generally been encouraging their clients to participate.

Implications of adhering to a voluntary disclosure programme
When adhering to any amnesty programme, however, one must consider its impact in other jurisdictions.

First, in a scenario where concealment, rather than optimization, was the number one priority, the structures set up abroad may no longer be ideal and, in certain cases, may even be conflicting with the taxpayer's current obligations and taxes due.

The taxpayer who adheres to the amnesty programme is subject to reporting requirements in its country of citizenship and will now be liable for taxes over the declared assets. Another issue that must not be overlooked is compliance with the laws of the jurisdictions holding the assets and of those where the taxpayer has personal obligations due to his or her citizenship or resident status. Special care should be taken when said jurisdiction is the U.S. Careful thought should be given to the elimination or reorganization of the foreign structures set up to hold the (now) declared assets.
Criminal implications in the U.S.

The U.S. did not ratify the Convention on Mutual Administrative Assistance in Tax Matters, but has executed bilateral agreements with Latin American countries with similar purposes. The tax information exchange agreement (TIEA) with Brazil was enacted on May 16, 2013 and led to the automatic exchange of information beginning in 2015. Chile has a Model 2 IGA executed with the US since March of 2014. Argentina is not yet a signatory to any information

exchange with the U.S., but local practitioners believe that the country will soon follow its neighbours' steps.

This ultimately means that the U.S. Internal Service Revenue (IRS) can obtain access to the information disclosed to the countries' revenue services with respect to U.S. taxpayers, and U.S. taxpayers who fail to comply with their tax obligations in the U.S. can be more easily identified.

Therefore, U.S. taxpayers must carefully consider the tax and criminal implications in the U.S. when adhering to the local tax amnesty programmes.

As it is broadly known, the U.S. is one of the only countries that bases taxation on citizenship, rather than residence. Therefore, a US citizen who is a resident of a Latin American country and taxpayer there can also be a U.S. taxpayer. This also applies to holders of Green Cards and non-residents who have exceeded the number of days for the substantial presence test.

Failure to file a tax return in the US and failure to pay the amounts due may subject a person to criminal charges. The chances of prosecution cannot be accurately estimated but certain groups, including high income professionals, are prime targets for IRS prosecution. It would not be a surprise if the IRS decided to turn its focus on U.S. assets that were included in Latin American amnesty programmes.

Possible criminal charges related to tax matters include tax evasion (26 U.S.C. IRC § 7201), filing a false return (26 U.S.C.IRC § 7206(1)) and failure to file an income tax return (26 U.S.C.IRC § 7203). Wilfully failing to file an FBAR and wilfully filing a false FBAR are both violations that are subject to criminal penalties under 31 U.S.C. § 5322. Additional possible criminal charges include conspiracy to defraud the government with respect to claims (18 U.S.C. § 286) and conspiracy to commit offense or to defraud the United States (18 U.S.C. § 371).

A person convicted of the crimes above can be subject to prison terms of up to ten years and fines of up to $250,000.

U.S. taxpayers who wish to become compliant with their tax obligations in the U.S. can also take advantage of an amnesty programme. Since 2012 the U.S. IRS began an open-ended Offshore Voluntary Disclosure Program (OVDP) to offer taxpayers with undisclosed income from offshore accounts another opportunity to get current with their tax returns.

The voluntary disclosure enables the taxpayer to become compliant, avoid substantial civil penalties, and generally eliminates the risk of criminal prosecution for all issues relating to tax noncompliance and failing to file FBARs. Making a voluntary disclosure also provides the opportunity to calculate, with a reasonable degree of certainty, the total cost of resolving all offshore tax issues.

It is important to note that a voluntary disclosure will not automatically guarantee immunity from prosecution. However, a voluntary disclosure may result in prosecution not being recommended. Prosecution is generally waived for voluntary disclosures that relate exclusively to tax compliance and do not involve illegal source incomes.

Regarding the source of income, voluntary disclosure is not available for taxpayers with illegal source income. As it is the case with the amnesty programmes in Latin America, the disclosure under the OVDP must be truthful, timely, and complete. The taxpayer must cooperate in determining his or her correct tax liability and must make a good faith effort to pay in full any tax, interest, and penalties determined applicable. If any omissions after filing are determined to be wilful in nature normal criminal penalties could apply.

In light of the above, any person who can be considered a U.S. taxpayer (by citizenship, as a holder of a green card or by residency) should take into consideration their obligations with the U.S. IRS before taking part in any tax amnesty programme (in Latin America or elsewhere); and, if the case presents itself, a practitioner should be engaged to assess the possible risks and alternatives for ensuring that all obligations are up to date, including participation in the OVDP. ::

Camilla Arno Sant' Amor

Senior Counsel, Norton Rose Fulbright

Camilla Arno Sant'Anna is a Senior Counsel at Norton Rose Fulbright who focuses her practice on international trusts and estates matters, advising clients on all aspects of international estate planning and estate administration.

Camilla, who is based in Brazil, also advises fiduciaries on estate and trust administration and represents trust beneficiaries. Prior to joining the firm's Trust and Estates practice in New York, Camilla worked in the Washington, D.C. office's Project Finance team, where she represented international clients in debt and equity transactions. Camilla also worked for several years in Brazil as an in-house lawyer for a leading global financial institution in its project finance department. After concluding an LL.M. with honors and receiving a certificate in business administration from Northwestern University, she joined the Inter-American Investment Corporation, a member of the IDB Group, working in transactions in Latin America and the Caribbean.

Camilla is a native Portuguese speaker and speaks English and Spanish fluently.

The Battle of Good Intentions: Charities versus the Common Reporting Standard

By Gina M. Pereira

Transparency regimes are sweeping up the wealth management sector in a tidal wave of regulation. Anti-tax avoidance schemes mandating automatic exchange of information are elevating cross-border disclosure to a new level. Historically, charities have been spared from these reporting regimes and international financial centres offered an attractive alternative for charitable vehicles, particularly in cases where tax planning is not a priority but privacy and flexibility are important. With the introduction of the OECD's Common Reporting Standard (CRS) automatic exchange of information (AEOI), however, the value proposition of international financial centres as a home for charities may be compromised.

In 2010, the US enacted the laws commonly known as FATCA, requiring withholding of certain US connected payments made to foreign financial institutions unless such financial institutions agreed to perform specified due diligence procedures and report US person account holders to the US tax authorities. Following suit, the CRS was developed in response to a G20 request. CRS calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis. It is designed to ensure that certain information on foreign individuals is reported back to the tax authority of the country in which those individuals are resident. While charities are exempted from FATCA, the OECD did not extend charities a similar blanket exemption from the CRS regime.

Wanted: Tax Abuses

Charities enjoy high levels of public trust and confidence, making them vulnerable to exploitation. Unsurprisingly,

countries that offer the greatest tax incentives for charitable giving are the most highly regulated. Various domestic forms of regulatory interventions are designed to counter fiscal abuse through charitable vehicles. Mandatory registration commonly found in onshore jurisdictions, together with annual reporting requirements, the details of which are often publicly accessible, impede confidentiality. Reporting and registration requirements may identify the founder or settlor, purpose, starting assets, and trustee or board membership of a charitable entity, details that are often publicly available.
By and large, however, outside of the UK, North America and Western Europe, fiscal incentives for charitable giving are less attractive and in many cases, outright negligible. Further still, cross border giving generally does not offer fiscal relief. Nevertheless, it appears that the OECD felt that the risk of fiscal abuse through charities was sufficient to decide not to extend a similar exemption as was done under FATCA, making it the first cross-border automatic exchange of information applicable to charities operating internationally.

Is Your Charity Caught by CRS?

If a charity is based in a CRS signatory country, it will fall into one of two main categories for reporting. A charity will be either a "Financial Institution" or a "Nonfinancial Entity" (NFE). A charity that is an NFE will not have its own reporting requirements under the CRS. The definition of a Financial Institution under the CRS is very broad. A charity will be deemed a Financial Institution where it is managed by another Financial Institution (including where the charity is a trust and has a corporate trustee, or holds assets which are managed by a professional investment adviser with discretionary authority) and more than 50% of the charity's gross income (in the relevant calendar year) derives from investing in financial assets (as opposed to fundraising).

Endowed charities are most likely to be caught by the definition of a Financial Institution as well as those charities that receive a large proportion of their income from investments. If a charity is a Financial Institution, it will need to confirm if it maintains financial accounts that are reportable. The regime mandates that Financial Institutions must identify their Account Holders, defined as the person(s) listed or identified as the holder(s) of the financial accounts (being their debt and equity interests).

A charitable trust will be treated as a trust for the purposes of the CRS AEOI regime. A settlor and grantee beneficiaries hold an equity interest in a trust. A debt interest in a trust includes all loans made to a charitable trust and other forms of indebtedness. Once a charitable trust has identified its debt and equity interest holders, it will have to carry out due diligence on them to identify whether any of them are reportable persons. The charitable trust will have to report the debt or equity holder if tax resident in a CRS Participating Jurisdiction.

Charities that are incorporated are treated as other corporate bodies. For these entities, the debt and equity interests are different from trusts. Shareholders and all other persons with an interest in the profits or capital of the company hold an equity interest in a corporation. Debt interests in a corporation include all loans made to charitable companies and other forms of indebtedness (and whether interest is attached to the debt). Once a charity has identified its debt and equity interest holders, it will have to carry out due diligence on them to identify whether any of them are reportable persons. The charity will have to report any debt or equity holder who is tax resident in a CRS Participating Jurisdiction.

Implications for the Charitable Sector

From a practical perspective, what will the impact of CRS mean for charities?

Firstly, compliance with the regime will increase administration and burden already taxed resources for affected charities, resulting in higher overhead. Consequently, charities may decide to redirect their focus domestically as opposed to continuing international work and submitting to the regime.

Secondly, exchange of grantees personal details may put them at risk for human rights abuses. Charities assisting vulnerable groups in foreign signatory countries (e.g. freedom of speech advocates, LGBT, or minority religious groups) are concerned about potential human rights abuses and thus find themselves

"While many philanthropists enjoy public recognition of their generosity, there are those who prefer to remain anonymous. Motivation for privacy and discretion may stem from religious beliefs, cultural mores, or the virtue of humility. Additionally, wealthy philanthropists from developing nations may not wish to draw additional attention to themselves and their wealth for security reasons"

in a moral bind about exchanging data that could be tantamount to a breach of human rights, particularly where there are existing concerns around human rights abuses in specific signatory states. Lastly, donor privacy may be undermined diluting the value proposition for international financial centres as a home for their charitable structure. While many philanthropists enjoy public recognition of their generosity, there are those who prefer to remain anonymous. Motivation for privacy and discretion may stem from religious beliefs, cultural mores, or the virtue of humility. Additionally, wealthy philanthropists from developing nations may not wish to draw additional attention to themselves and their wealth for security reasons - they may be concerned about kidnapping attempts if they publicise their wealth or fear persecution if they support controversial causes. More practically, donors often wish to avoid a barrage of fund-raising solicitations and choose to donate anonymously for that reason alone.

Latitude for Recourse? A Look at the UK Response

The UK charities sector has been working diligently with the HMRC through working group meetings in an effort to clarify open questions and address sector concerns. The HMRC have responded to some of the sector concerns in the following manner:

Defining Account Holders

As discussed above, for charitable trusts, Account Holders will include anyone with an equity interest (e.g. settlors and beneficiaries) and anyone who has made a loan to the trust will have a debt interest. Practically speaking, this means that affected charitable trusts and unincorporated associations will have to gather information on each and every grantee and report those who are tax resident in a CRS Participating Jurisdiction.

While the picture is bleak for charitable trusts, incorporated charities seemingly have hope. While initially not drawing a distinction between treatment of trusts and corporate charities, HMRC confirmed that for charities set up as companies, the debt and equity interests are different from those of trusts and similar structures. In this context companies include all types of bodies corporate, including companies limited by guarantee, companies incorporated under Royal Charter, CIOs and Scottish charitable incorporated organisations. For charities set up as companies, the recipients of charitable grants will not be equity interest holders unless they have an interest in the profits or capital of the company. Unlike trusts, the mere receipt of a grant will not make a grantee an equity interest holder. Moreover, an incorporated charity does not have a reportable settlor. Ergo, charities formed as companies limited by guarantee with no debts will have no reportable Account Holders and thus the privacy of the foreign tax resident donor and donee are not compromised under this particular regime.

Mitigating Risk of Human Rights Abuses

HMRC Guidance on Charities and potential Human Rights abuses published at the beginning of 2017 expressly acknowledges there may be cases where the threat to individuals as a result of their information being exchanged may warrant information being redacted from the transmission. In such cases, charities may apply to the HRMC for the information to be redacted from exchange and where the HMRC agrees that the exchange of such information may result in a threat to someone's human rights, the HMRC will redact that information from the information that is exchanged.

Restructuring Existing Charities

New charities may choose to incorporate and existing charities to restructure, being mindful of not triggering the anti-avoidance provisions under the regime. HMRC Guidance indicates that restructuring would not fall foul of the anti-avoidance rule where the change is part a review of the charity's overall operational structure, and not made for the purposes of avoiding reporting. Further, it would not be surprising if existing charities effectively disqualified themselves as a Financial Institution by ensuring that income earned from investments did not exceed 50% or by changing investment policies so that investments are not managed by another Financial Institution under a discretionary mandate.

The Future for Charities & International Financial Centres

It is uncertain whether other countries will follow the UK lead or seek additional opportunities to address the concerns of the implications of the regime on the charities sector. International financial centres would stand to benefit from examining the impact of CRS on the charities sector in their jurisdiction and explore opportunities to mitigate the risk of the regime diminishing their value proposition as an alternative to establishing a charity onshore.

Gina M. Pereira
Founder & CEO Philanthropy LLC.

Gina M. Pereira is the Founder and CEO of Dana Philanthropy LLC. She has extensive experience working in the charities sector and as a Trusts & Estates lawyer servicing private clients from Asia, the Middle East, Europe and the Americas. Previously based out of Zurich, New York, Toronto, Bermuda, The Bahamas, and Brazil, Ms Pereira is currently based in Los Angeles, California.

Dana Philanthropy is a donor advisory firm with offices in Bermuda, Los Angeles and Toronto that specialises in cross-border planning. Dana Philanthropy offers comprehensive strategic advisory services to international private clients and corporations throughout all stages of the giving lifecycle, including: strategy development, structuring, due diligence, negotiation and implementation of donations, monitoring, and review.

An author and regular contributor to esteemed journals and guest speaker at international conferences, Ms. Pereira strives to raise the profile of and to inform advisors of best practices and developments in strategic philanthropy. Bridging the gap between philanthropy and for-profit investment, Ms Pereira advocates for sustainable economic development by promoting philanthropic support of social enterprises.

Canada's Voluntary Disclosure Program & **The Bahamas Advantage**

By Stephen Soloman

Canadians have long maintained both a physical and financial presence in the Bahamas. With the Bahamas recent enactment of the domestic legislation required to implement the Common Reporting Standard ("CRS"), it is important that the Bahamas financial services sector understand the new reality faced by Canadian investors. This will facilitate the development and adoption of an appropriate approach to Canadian investors which emphasizes on not only retaining already-existing clients but also on attracting new ones.

The new reality faced by most Canadian investors is that getting caught with undeclared foreign financial assets is inevitable. Canada's federal tax authority, the Canada Revenue Agency ("CRA"), is now receiving information from many different sources (both domestic and foreign) for the purpose of catching tax cheats and forcing compliance. The CRA has also created audit and information sharing programs which make it very difficult for Canadians with undeclared foreign assets to maintain secure levels of anonymity and discretion. These matters are often a source of tremendous stress and anxiety for Canadians who fear getting caught yet are uninformed as to the reasonable options available to them.

Fortunately for Canadians, the CRA has an extremely forgiving Voluntary Disclosure Program ("VDP") which offers tremendous advantages and amnesty to its participants. Upon entering the VDP, Canadian taxpayers are granted immediate immunity (in both civil and criminal matters) and traditionally experience instant relief and peace of mind knowing that they are in the process of becoming fully tax compliant.

The CRA even allows a Canadian taxpayer to first enter the VDP on an anonymous basis during which time the taxpayer is granted the aforementioned immunity. This often allows the taxpayer and his representatives to obtain historic bank records and to determine what the approximate tax cost of the voluntary disclosure will be prior to having to disclose the taxpayer's name to the CRA. The anonymity period endures a minimum of 90 days and allows the taxpayer to get more familiar with the voluntary disclosure process and overcome the fears often associated with the disclosure of such sensitive

information. Should a taxpayer change his or her mind during the anonymity period, they can close their voluntary disclosure file without consequence.

In order to properly evaluate the Canadian VDP's appeal, one must compare the cost of a voluntary disclosure with the cost of getting caught. As of now, the Canadian VDP provides full assurance that there will be no criminal or penal prosecution for tax evasion. In addition, all civil tax penalties are waived and substantial relief on interest is granted. This results in the average voluntary disclosure costing between 15% and 30% of the foreign portfolio's value, depending on the taxpayer's province of residence, marginal income tax rate, investment performance and several other factors.

In comparison, should a taxpayer get caught with undisclosed financial assets outside of Canada, the penal fines, civil penalties and interest charges often result in tax assessments exceeding the value of the foreign portfolio! Accordingly, a tax audit will cost a Canadian taxpayer on average between 80% and 120% of the foreign portfolio's value.

In light of the cost of a voluntary disclosure when compared to the cost (and inevitability) of getting caught, it is understandable why so many Canadians have chosen to file voluntary disclosures. Although the 15%-30% average cost of a voluntary disclosure is appealing when compared to the highest marginal income tax rate in Canada of approximately 53%, most Canadians participate in the VDP because of the undeniable inevitability of getting caught.

The CRA is implementing several programs towards catching Canadians with undeclared foreign assets. For example, the CRA has instituted a whistleblower hotline which pays 15% of all taxes collected to the whistleblower. In addition, the CRA has created an Offshore Compliance Division which processes information received from various sources (ie. foreign governments through international tax treaties, the Canada Border Services Agency, FINTRAC) in order to identify Canadians with undeclared foreign accounts. In addition, the CRA will soon be receiving substantial information as OECD countries begin implementing the CRS. As a result of the foregoing, most Canadians conclude that the risk and cost of getting caught are far too great.

It is important to note that the filing of a voluntary disclosure with the CRA does not require Canadians to repatriate their funds back to Canada. The Bahamas financial services sector should therefore focus on client retention as it strategizes on how to service Canadian clients during these times of change.

In this regard, the Bahamas financial services sector can learn from the mistakes made by its European counterparts who adopted an approach towards Canadian investors which left many feeling abandoned and betrayed.

The adoption and implementation of the CRS in Europe resulted in some Canadians being forced to close their accounts and switch financial institutions or jurisdictions. In other instances, Canadians were given an ultimatum whereby they would either have to sign a form solemnly declaring that they were tax compliant in their country of residence or have their accounts closed. This was done in direct violation of bank secrecy laws which existed at the time thus creating feelings of distrust and betrayal among Canadian investors. The European banks ceased servicing their Canadian clients and did not assist or guide them towards possible solutions. Rather, they provided deadlines and ultimatums during a time when Canadians needed understanding and support. Consequently, the vast majority of Canadians who previously held financial assets in Europe chose to file voluntary disclosures and repatriate their funds back to Canada or another jurisdiction.

In comparison, the Bahamas is implementing the CRS in a manner which is consistent with Bahamian law. Accordingly, Canadians are not likely to develop the same distrust and resentment as they did in Europe since the Bahamas is not "changing the rules". The Bahamas is already experiencing a very different reaction when compared to many European countries as post-voluntary disclosure Canadians continue to maintain financial assets in the Bahamas rather than repatriate assets back to Canada. In this context, it is important for the Bahamas financial services sector to service and support Canadian investors through the Bahamas' implementation of the CRS. Canadian investors prefer to be guided and informed rather than abandoned and forsaken.

Despite the stark differences between the Bahamian and European approaches to implementing the CRS, there are other factors which facilitate the retention of post-voluntary disclosure Canadian investors in the Bahamas. These factors aptly form the "Bahamas Advantage" which is a concept that partly explains why Canadians have an openness to

maintaining and even relocating financial assets to the Bahamas in comparison to other jurisdictions.

The Bahamas is conveniently located for residents of Eastern Canada (3.5 hours by plane) of which many vacation and maintain properties in Florida. Contrary to popular European and Asian banking jurisdictions, the Bahamas is also a member of the Commonwealth and can be accessed in a reasonable amount of time, at a minimal cost and without the need for a travel visa. In addition, the Bahamas shares a time zone with Eastern Canada, has English as its official language and has a desirable climate which makes it a favorable vacation destination for Canadians. Lastly, the Bahamas has historically experienced impressive political and economic stability which ranks the Bahamas among the top countries in the Americas. All of these attributes comprise the "Bahamas Advantage" and explain why Canadians are additionally open to maintaining tax compliant financial assets in the Bahamas.

As the Bahamas implements the CRS, the Bahamas financial services sector should adopt an approach to Canadians which focuses on client retention through continued service and support. In addition, the "Bahamas Advantage" should form an integral part of any strategy designed to attract new Canadians previously invested in other jurisdictions. It is known that the Bahamas Financial Services Board has been hosting Landfall events in countries such as Brazil and Canada for this exact purpose. This kind of outreach and promoting of the "Bahamas Advantage" will undoubtedly show potential foreign investors that the Bahamas is not only an appealing place to invest but also a quality provider of financial services.

In summary, the Bahamas financial services sector is on the verge of experiencing a revolution as a result of the implementation of the CRS. The impact of the CRS on the Bahamas financial services sector does not need to be as damaging as it was in Europe where Canadian investors fled and never looked back. A service-oriented approach with an emphasis on providing information and support will help the Bahamas financial services sector retain and attract Canadian investors. ⁘

Stephen Solomon
Tax lawyer & partner at De Grandpré Chait

Stephen Solomon is a tax lawyer and partner at De Grandpré Chait in Montreal, Canada.

Specializing in tax litigation and tax compliance, Stephen has spoken at numerous conferences around the world on topics ranging from tax audits to voluntary disclosures.

Being a published author and a renowned leader in his field, Stephen has assisted Canadian taxpayers in disclosing over $1.5 billion of foreign assets through the Canadian Voluntary Disclosure Program.

He continues to be a tremendous advocate of tax compliance both in Canada and abroad.

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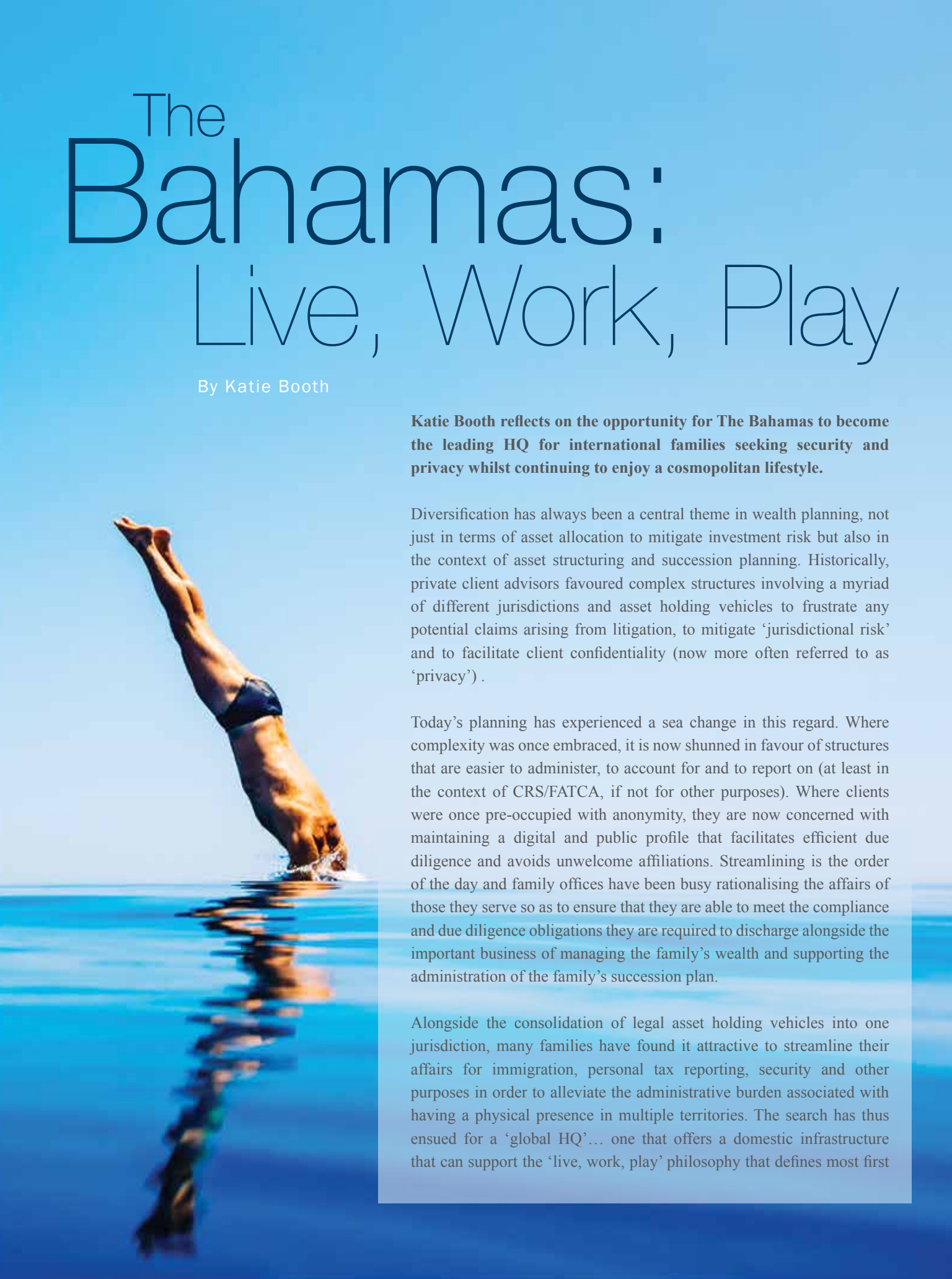
The Bahamas: Live, Work, Play

By Katie Booth



Katie Booth reflects on the opportunity for The Bahamas to become the leading HQ for international families seeking security and privacy whilst continuing to enjoy a cosmopolitan lifestyle.

Diversification has always been a central theme in wealth planning, not just in terms of asset allocation to mitigate investment risk but also in the context of asset structuring and succession planning. Historically, private client advisors favoured complex structures involving a myriad of different jurisdictions and asset holding vehicles to frustrate any potential claims arising from litigation, to mitigate 'jurisdictional risk' and to facilitate client confidentiality (now more often referred to as 'privacy') .

Today's planning has experienced a sea change in this regard. Where complexity was once embraced, it is now shunned in favour of structures that are easier to administer, to account for and to report on (at least in the context of CRS/FATCA, if not for other purposes). Where clients were once pre-occupied with anonymity, they are now concerned with maintaining a digital and public profile that facilitates efficient due diligence and avoids unwelcome affiliations. Streamlining is the order of the day and family offices have been busy rationalising the affairs of those they serve so as to ensure that they are able to meet the compliance and due diligence obligations they are required to discharge alongside the important business of managing the family's wealth and supporting the administration of the family's succession plan.

Alongside the consolidation of legal asset holding vehicles into one jurisdiction, many families have found it attractive to streamline their affairs for immigration, personal tax reporting, security and other purposes in order to alleviate the administrative burden associated with having a physical presence in multiple territories. The search has thus ensued for a 'global HQ'… one that offers a domestic infrastructure that can support the 'live, work, play' philosophy that defines most first

generation entrepreneurs. This has become their Holy Grail and it is a trend that The Bahamas is positioned to benefit greatly from as the country continues to evolve as a centre not just for tourism and financial services but as a place to live and from which to conduct one's global investment and business activities.

It is not uncommon for very wealthy families to have a stronghold….somewhere they can gather the various branches of the family together; a place that offers security, privacy, an international lifestyle in an intimate environment. Key components must include a reliable transport and telecommunications infrastructure, an education system that offers choices in terms of curriculum and a legislative framework that is tried and tested with a court system capable of interpreting, enforcing and giving directions on the domestic legislative landscape with certainty and clarity. The Bahamas already boasts these key components and whilst there is always room for improvement, it is fair to say that given its size and geographic location, The Bahamas is now punching above its weight. This is a result of significant improvement in the quality of its real estate product, transport infrastructure and a new responsive government focused on doing business, creating employment and stimulating smart foreign investment.

For family offices the focus will continue to be on moving out of jurisdictions where they are exposed to tax risks arising from management and control and permanent establishment rules into jurisdictions that offer greater flexibility as regards the exercise of managerial oversight and fiduciary administration. The search is for centres that offer administrative support across a number of disciplines including fund administration and accounting and the ability to subcontract certain functions to specialist service providers located in the same jurisdiction as the family office. Operating from a single jurisdiction also makes it far easier to manage and monitor legislative and regulatory developments.

Balance is becoming a key feature in terms of how a family office operates and what it takes responsibility for and what it chooses to delegate to third parties.
The historic conflict of interest that existed where large financial institutions attempted to be a one stop shop for family offices has resulted in family offices choosing to be more independent and capable of managing the CIO function themselves whilst delegating many of the more administrative activities (such as accounting) to third parties. Some family offices have morphed into small merchant banks where the majority of the activities revolve around managing a diverse portfolio of direct investments.

Trustee and other functions are frequently performed by trusted advisors who have a close relationship with the family and manage captive vehicles that use family office executives as advisors to sit on the Trustee Board or associated trust investment committee or even on a 'family bank'.

Another trend is the adoption of captive insurance as families seek to self-insure for business and property risk as well as using private placement life insurance as a tax efficient investment wrapper. All of these activities can be facilitated from The Bahamas in a tax neutral environment. If key family members are also inclined to relocate for residence purposes then reporting under many of the new global initiatives becomes a far simpler exercise.

Once the investment objectives of the family are under control, attention often turns to the creation of intelligent vehicles that complement the legal asset structuring and facilitate the family's dynastic vision. These vehicles often enshrined in a comprehensive family constitution include a family council, a family investment committee and sometimes the abovementioned 'family bank' governed by its own organisational documents and funded with the family's own capital to facilitate the entrepreneurial pursuits of beneficiaries seeking to themselves become wealth creators. Once again the emphasis is on balance; that ultimate ambition to use the family wealth as a platform for empowerment, productivity and commercial creativity versus the wealth becoming either a burden or worse still a disincentive such that the next generation become wholly dependent upon it.

A big theme in many of the current discussions is 'legacy'…. what do we want to be known for as a family? What will our legacy be in terms of our business activities, our interpersonal relationships (familial and otherwise) and our reputation? How do we create a value structure that all members of the family not only subscribe to but aspire to? These are issues that extend beyond the scope of this article but they are subjects that arise time and time again and, in the evolution of the single family office, these are subjects that monopolise the dialogue as first generation entrepreneurs seek to educate and inspire the next generation. A resulting trend is family offices that have personnel dedicated to the creation and administration of governance vehicles that actually make practical sense and

will realistically survive from one generation to another….. dynamic systems that evolve with the family.

The Bahamas response

The Bahamas is repositioning itself in response to these trends. The ambition is to become a global HQ for families who wish to be able to have proper oversight of and managerial responsibility for their business and personal assets whilst enjoying a balanced lifestyle which prioritises health and family life. With an increasingly diverse real estate product offering that is of an international standard, amenities and sporting facilities that cater to a wide range of interests, educational facilities for young families that cover the broad array of curricular choices that international families wish to make and importantly a social framework and culture that is rich in diversity with an energetic flamboyance. Any-one who has lived and worked in The Bahamas will attest to the fact that the archipelago, which has always boasted extraordinary natural beauty, can now lay claim to the above infrastructure.
Of great importance is the current attention that is being paid to addressing historic bureaucracy such that undertaking business in The Bahamas becomes easier with more streamlined and efficient policies and procedures. The emphasis must be on ensuring that the immigration process and the business licensing and regulatory environment make it easier and more attractive to do business in The Bahamas and to relocate here. The reputation of The Bahamas as a centre for trust administration has remained consistent with many families seeking to adopt Bahamas law as the governing law of their trust arrangements even when they are administered elsewhere. There is a recognition that The Bahamas' trust statutes are modern, comprehensive and clear in their framework and scope which has fostered a thriving trust industry that continues to grow notwithstanding the wider pressures that have been brought to bear on international financial centres.
There is a manifest appetite amongst the government and private sector to take all the trends I have outlined above into careful consideration and to foster a progressive jurisdiction where international families choose to live, work and play and most importantly from which the Bahamian economy will grow and prosper. ⁘

Katie Booth

Katie Booth Ltd

Over the last 20 years Katie Booth has managed the consolidation, preservation and succession of the assets of some of the world's wealthiest entrepreneurs.
Katie is a qualified British solicitor and practised as a private client lawyer with Kingsley Napley in London and Graham Thompson in Nassau, Bahamas. She went on to become a senior director at MeesPierson, NM Rothschild and Butterfield Bank and in the latter role established Butterfield International Private Office in Mayfair. She established her own private client consultancy in London in July 2011 which she now operates from The Bahamas. Katie has been appointed to act as Protector, Private Trust Company Director or family governance advisor on an independent and personal basis for clients from a variety of different geographies and backgrounds. She provides practical and strategic advice on asset structuring and succession arrangements, leveraging her exceptional experience in this field. In structuring her clients' personal and business assets, Katie has ensured not only the mitigation of taxation and the protection of such assets from the vagaries of litigation but she has facilitated the seamless succession of wealth from one generation to the next. Ranked Citywealth Woman of the Year in 2009, Expert Advisor in Spears Wealth Management Index and member of the Institutional Trust Company Team of the Year at the 2010 STEP Awards, her reputation in the private client advisory community is both established and celebrated.

Katie lives at Albany on the island of New Providence in The Bahamas with her husband and three daughters. She founded the Bahamas branch of the Society of Trust and Estate Practitioners (STEP) in the early 1990s, sat on the Global STEP Council for many years and was instrumental in setting up and running the STEP Caribbean Conference programme.

What Makes The Bahamas The Clear Choice?

Tanya McCartney

Any country heavily engaged in financial services bears the responsibility and a commitment to the international community of which it is intricately involved, the financial institutions operating within its borders, the clients which it serves and its citizens which rely on the sustainability of the industry for continued economic development. The Bahamas is such a country. The Bahamas has always sought to provide superior financial products and services and a world class client experience. It has proven itself to be nimble and responsive to global changes – always mindful of the need to adhere to international standards with respect to compliance, cooperation and transparency. The Bahamas is committed to be a responsible global player. This is complemented by the fact that the Bahamas is not only somewhere that offers bespoke private wealth management, it is also a beautiful place to live and work in.

Three vital features distinguish The Bahamas as The Clear Choice for financial services: Expertise, Innovation and Location. Everything that The Bahamas offers is defined by these attributes. Everything that comprises The Bahamas value proposition and continued success as a leading international financial services centre is guided by these distinguishing factors.

We asked senior financial service representatives to comment on the importance of each of these attributes, which will be explored in this edition of Gateway.

CRS Update

By Tanya McCartney

The Bahamas is fully committed to effectively implementing the Common Reporting Standard ("CRS")/Automatic Exchange of Information. In furtherance of this, on June 20th, 2017 The Competent Authority advised all financial institutions (FIs) as follows:

1. The Government of the Bahamas has taken a policy decision to implement CRS by way of the Multilateral Convention on the Mutual Administrative Assistance in Tax Matters ("Multilateral Convention") on a non-reciprocal basis.

2. The Bahamas will implement CRS using the "wider approach" which means that FIs will need to collect and retain the CRS information for all account holders. This approach requires FIs to collect and retain the information, ready to report, in relation to all non-residents. The CRS information will not be transmitted to The Competent Authority until FIs are notified to do so by the Competent Authority.

FIs will therefore carry out due diligence procedures in relation to financial accounts even if the account holder (and any controlling person of the account holder) is a tax resident of an overseas jurisdiction that is not a reportable jurisdiction. However, FIs are only required to submit the mandatory information regarding reportable accounts to The Competent Authority when requested to do so.

Key Dates Under CRS

The following are key effective dates for the implementation of the CRS in The Commonwealth of The Bahamas:

1. Pre-existing Accounts are those in existence as at 30 June, 2017.

2. New Accounts requiring a self-certification by the customer are those opened on or after 1 July, 2017. For New Accounts a self-certification containing both the TIN(s) (where issued by the jurisdiction(s) in question), and date of birth (in the case of an individual) are required to be obtained.

3. The review of Pre-existing Lower Value Individual, and Entity Accounts must be completed by 31 July 2019. These accounts would be reported and exchanged in 2019.

4. The review of Pre-existing High-Value Individual Accounts must have been completed by 31 December 2017.

5. Financial Institutions must complete their initial registration by 30 June 2018 or, if an entity becomes a Financial Institution after 30 April 2018, registration must be completed by with the Competent authority at the next available registration date after the entity became a Financial Institution.

6. Financial Institutions must complete their reporting to the Competent Authority by 31 July 2018 for the reporting period from 1 July 2017 to 31 December 2017.

7. Financial Institutions must complete their reporting to the Competent Authority by 31 July 2019 for the reporting period January 2018 to 31 December 2018 and by 31 July of each year thereafter for the reporting period of January to December.

8. First exchanges of information by the Competent Authority to partner jurisdictions will occur on 30 September 2018 and at 30 September of each year thereafter.

9. A Financial Institution is not required to perform review procedures on any accounts that were closed before July 1, 2017.

In the case of an account closure, the Reporting Financial Institution must only report that the account was closed (i.e. not the balance).

Bahamas Has Strong Regulatory Regime

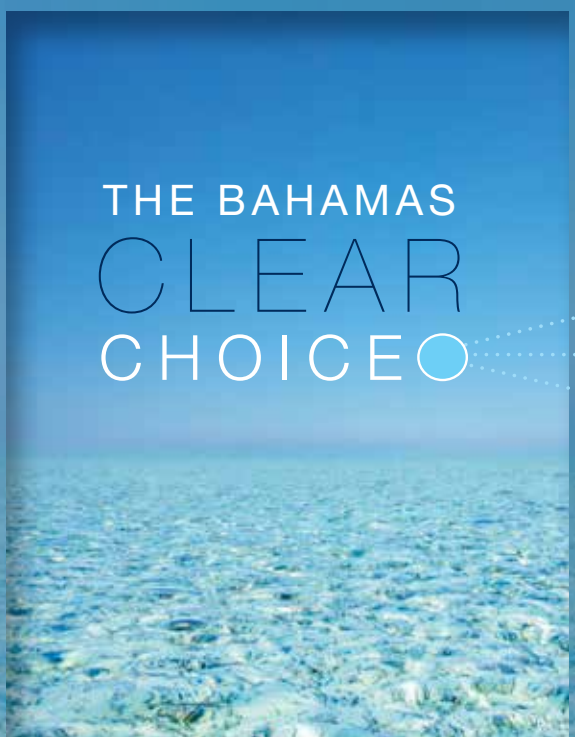
The strong regulatory regime that characterises the financial services sector ensures that the integrity of The Bahamas as an international financial centre is maintained. As a sovereign nation for more than 40 years, successive governments have consistently demonstrated the country's commitment to international best practices, cooperation in the administration of justice, international tax transparency, anti-money laundering and the countering of financial terrorism initiatives. Bahamian regulators are well regarded and active partners with international peer groups and agencies. There is collaboration between government and private sector to ensure that the Bahamas remains a well regulated international financial centre. In order to meet international standards for transparency and tax cooperation, The Bahamas has entered into 33 Tax Information Exchange Agreements (TIEAs). On March 20, 2010, The Bahamas achieved the G20 standard on Transparency and Cooperation in Tax Matters. This standard was first promulgated by the Organisation for Economic Cooperation and Development ("OECD") in the 1990s. The integrity of the jurisdiction is evidenced by the following:

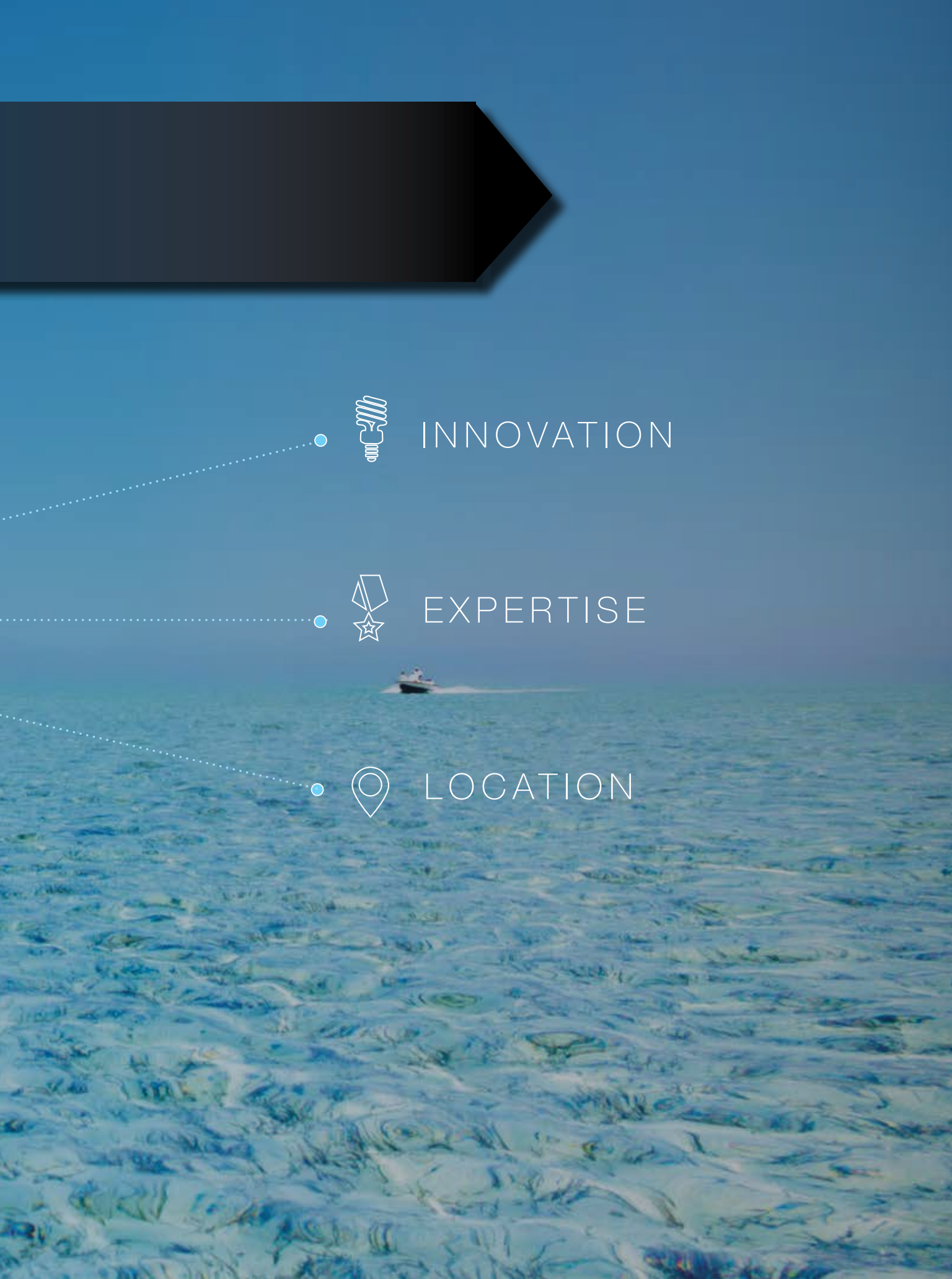
(a) A Strong Anti-money laundering, counter financing of terrorism Regime;
(b) Tax Transparency and Cooperation
(c) US Foreign Accounts Tax Compliance Act implemented (FATCA Compliance); and
(d) Commitment to Automatic Exchange of Information/The Common Reporting Standard ::

Tanya McCartney
CEO & Executive Director, Bahamas Financial Services Board (BFSB)

Tanya McCartney is an attorney and chartered banker who currently serves as CEO and Executive Director at the Bahamas Financial Services Board. The Bahamas Financial Services Board (BFSB), launched in April 1998, represents an innovative commitment by the financial services industry and the Government of The Bahamas to promote a greater awareness of The Bahamas' strengths as an international financial centre. The Board is a multidisciplinary body that embraces active contribution from individuals within government, banking, trust and investment advisory services, insurance and investment fund administration as well as interested legal, accounting and management professionals. Miss McCartney previously worked as Assistant General Counsel in the hospitality sector and also served as Managing Director of Royal Bank of Canada (RBC), RBC FINCO for six years commencing in 2008. She joined RBC in 2006 as Regional Manager for Compliance for the Bahamas and the Caribbean with responsibility for the Caribbean (Bahamas, Cayman Islands, Barbados and the Eastern Caribbean countries). Tanya started out in the legal profession in 1997 as Assistant Counsel in the Office of the Attorney General working in civil litigation and criminal prosecution and then moved into the financial services industry in 1999 as legal counsel and compliance officer for a local private bank. Subsequently she has served in various senior positions with a number of international banking institutions in The Bahamas. She holds a Bachelor of Laws degree from the University of Reading (United Kingdom), A Master of Laws degree from the London School of Economics and Political Science (London, U.K.), an MBA in Leadership from The College of the Bahamas as well as a Chartered Banker MBA from the University of Bangor in Wales (United Kingdom). She is also a Certified Compliance and Anti-Money Laundering Specialist.

The Bahamas Value Proposition




INNOVATION
EXPERTISE
LOCATION

INNOVATION

Innovation Thrives in The Bahamas

By Wendy Warren

The Bahamas is a chain of idyllic islands 50miles off of the coast of the United States of America and boasts of decades in financial services, one of the most competitive industries in the world. The country's history of stability and democracy, location and the existence of the fundamental market requirements including regulation and a skilled talent force, have featured heavily in its progress to date. The sustained competitiveness of the jurisdiction may be attributed to agility in the face of constant change manifested through innovation

The role that innovation has played in the country's development and the facilities that exist to incubate ideas for progress in financial services – whether they be big and small in impact – explain in part the value proposition of the country on an international stage and its resilience to unrelenting change. This intangible asset must be understood and reinforced.

Market responsiveness has long been a part of The Bahamas' DNA as a forward thinking IFC, and has been the basis of legislation creating innovative, client-centric products and services in a modern, compliant regulatory regime. Such innovation can be seen in the country's evolving and often ground-breaking trust legislation. It led The Bahamas to become the first common law jurisdiction to introduce foundations. It sparked the Bahamas Executive Entity and has thrust The Bahamas into the conversation of structures for the investment funds industry with the introduction of SMART Funds and the Investment Condominium (ICON) fund. And with this resilience it should come as no surprise that the country's insurance business is re-awakening.
The innovation experienced in the sector is fuelled by a progressive investment climate that seeks to place sustainability on equal footing with market requirements. This balance is more readily accomplished with the strength of the regulatory regime and a clear focus on wealth preservation and growth of long standing clients and partners.

The nation's ability to innovate has always found its footing in in the collaboration between the public and private sectors. From the time that the legendary Bahamian realtor Harold Christie determined in the 1950's that he would go beyond the borders of the country to invite families from around the world to consider The Bahamas, he did so with the assurance of a government that would welcome this development. And consider The Bahamas they did! This inviting environment is not confined to New Providence. . The Grand Bahama Port Authority - founded in 1955 under The Hawsbill Creek Agreement - provides for the oversight of one of the world's early free trade zones. This zone now serves as home to one of the world's largest container ports – "the transshipment hub of the Americas".

This public-private sector cooperation has provided the platform for many legislative developments, facilitated by the work of the Bahamas Financial Services Board. A keen interest to reach target markets beyond the borders of the country has seen collaborative efforts in areas of product development in relation to investment structures and general wealth management. This is evidenced by innovations such as:
- Settlor Reserved Power Trusts, a breakthrough in the 1990s has now matured into Directed Trusts in 2011
- First major common law wealth management centre to introduce foundations in 2004 now the only centre to provide for the unique Executive Entity in 2011.
- Landmark introduction of bespoke regulated Specific Mandate Alternative Regulatory Test (SMART) Funds in 2004 has given further focus on Governance through the Investment Condominium (ICON) Fund in 2014
- The transformation of the restricted trust license to a regulated private trust company in 2009
- The carefully considered provisions for arbitration of trust matters in 2011 to a healthy and growing pool of trained arbitrators in the country.

The foregoing shines the spotlight on The Bahamas' willingness to go beyond the traditional to explore the evolving needs of clients and creating solutions that meet bespoke requirements . There are no expectations for a one size fits all approach, rather the environment supports high quality global clients with individual needs. These clients and their advisors have demonstrated a loyalty to The Bahamas and its people, a loyalty that has been fully considered by successive governments by incorporating new legal concepts into the legislative arena in the country; and a loyalty that drives the country to provide a well- regulated and clearly defined processes with the much required data protection protocols.

Innovation is the anathema of standing still and the result of striving for excellence and relevance. These are themes that must prevail as the country transforms further in providing a platform for clients who themselves are transforming in response to global instability and insecurity alongside increased transparency and scrutiny.

The spirit of innovation which characterizes The Bahamas has required that we evolve to fully contemplate the family office, particularly those staffed by family members. Families want to ensure that their operations are fully integrated and compliant with relevant requirements. In this regard, reputation management demands clarity of rules, clear protocols through which to secure approval and licensing appropriate to their activities. This is well on its way. Experience with the Bahamas Investment Authority has been most encouraging as efforts have been made to provide a fast track for this iteration of foreign direct in investment that does not require any access to the national incentives or concessions. Regulations provide an array of options for family offices that wish to go beyond approval by the Government to operate in areas that are within the regulatory regime. From administration of corporate structures of the family to discretionary management of family assets, the range of licenses granted by the Securities Commission of The Bahamas have increased evidencing a responsive to this deepening of the wealth management landscape.

Innovation requires legal security. Whether it is the developer in the fintech space or cutting edge medical breakthroughs, The Bahamas is now turning its attention to rounding out its Intellectual Property (IP) regime. The availability of a finely tuned IP regime will greatly supplement the recently passed STEM cell legislation, the industrial plant ready free trade zone in Freeport, Grand Bahama and a willingness of the government to see the importation of requisite skills to launch of new industries.

The public and private sector is committed to creating an environment where financial services can continue to grow and thrive. The Bahamas has what it takes to truly be an international business centre. ⁘

Wendy Warren
Partner, Caystone Solutions Ltd

Ms. Wendy C. Warren is a founding partner of Caystone Solutions Ltd. ("Caystone"), a regulated Financial and Corporate Services provider in The Bahamas. Caystone provides fiduciary and administrative services to Family Offices and niche professionals, such as asset managers.

Prior to establishing Caystone in January 2012, Ms. Warren was the CEO and Executive Director of the Bahamas Financial Services Board ("BFSB") and led BFSB's efforts in the development and marketing of the financial services industry in The Bahamas. Before joining the BFSB, Ms. Warren co-founded an investment fund administration firm and has held several executive positions in the fund administration, fiduciary and accounting fields.
Ms. Warren obtained a Bachelor of Arts in Accounting from the University of Waterloo in Canada. She also holds the Chartered Accountant designation from the Institute of Chartered Accountants.

EXPERTISE

The Growth of any Developing Country is Measured by the Extent to which it invests in Its Human Capital

By Kim Bodie

For the past forty-two years, the Bahamas' two main industries have been tourism and financial services. The financial services industry employs just over 9,000 persons who serve in positions across the spectrum of the industry. The industry offers a wide range of career opportunities for young graduates, who desire a viable career in the industry.

Despite the challenging times in which we live, and the competitiveness of markets across the globe, building the talent pool in the sector is a priority for those who legislate, for the Bahamas Financial Services Board, industry professional associations, for employers, employees and for all other private/public stakeholders.

What Important Role Does the Bahamas Institute of Financial Services Play in Human Capital Development? From its inception in 1974, the founders of the institute, led by the late Timothy Baswell Donaldson, first Governor of The Central Bank of The Bahamas designed a programme of study specifically tailored to address the training demands of a robust financial services sector. The uniqueness of the programme allowed for industry stakeholders to have an input in the programme's curriculum development and to ensure quality assurance. To achieve this objective, BIFS sought the assistance of the College of the Bahamas to design and deliver the curriculum.

Forty-two years later, both institutions have evolved and play a major role in sourcing the pool of skilled personnel operating at all levels of the financial services industry. One of the unique features of BIFS' mandate is the relationship it has with member financial institutions, which comprise all the large domestic and offshore providers of financial services. Employers support employees if they wish to pursue a course of study with BIFS.

Having satisfied the education and training needs of domestic banks with the structured diploma programme, in the early 1980s, the Institute shifted its focus to provide training more concentrated in the field of wealth management and other specialized areas of financial services. This change in the focus of financial services education keeps the Bahamas on the cutting edge of offering knowledge-based training relevant to industry. To facilitate this initiative, experts were engaged from the United Kingdom to deliver courses in Trust Administration and Asset Management.

Employees were also encouraged to pursue the prestigious, internationally recognized qualification, the Associate of the Chartered Institute of Bankers (ACIB Diploma) London. This programme was launched in 1981 and to date; there are 28 Bahamians who are holders of this professional designation. It is professional designations such as this, along with currently offered programmes in Compliance, Risk Management, Wealth Management and Professional Ethics which add value to the large pool of highly skilled professionals operating in the financial services sector.

Upgrading the Standards of Education and Professional Development :

Quality assurance in all programmes delivered by BIFS is critical to meeting industry and global standards.
One of the major developments in recent years was the introduction of a specialized Chartered Banker MBA promoted by BIFS in partnership with the University of Bangor (London), The Manchester Business School in collaboration with the Chartered Institute of Bankers Scotland. This MBA is unique because of its dual accreditation from Bangor Business School and the Chartered Banker Institute. It also delivers practical and contemporary content which aids executives and managers in making sense of the holistic nature of financial management.
Since its launch in 2011, we have twenty-three graduates and a current enrolment of some fifty students.

The Institute has a responsibility to raise the profile of the financial services sector by ensuring that the education and training opportunities offered to employees are relevant to the industry and that its delivery, both in content and practices, is comparable to any other programme offered by our global competitors.

The Measure of BIFS' Success over 42 Years and its Impact on Building Talent in the Sector

The Bahamas Institute of Financial Services continues to be responsive to the education and training demands of the sector. The large pool of graduates who are holders of the BIFS Associate diploma are a testimony of the Institute's contribution to a well-educated workforce. Many of these graduates return to BIFS for continuing professional development. Some have returned to give back services by sharing their knowledge, expertise and experience with new persons entering the sector.

It is this type of mentoring that creates an ongoing succession of skilled employees functioning in the sector. In 2003, BIFS changed its name from the "Bahamas Institute of
Bankers" to "the Bahamas Institute of Financial Services."

Changing BIFS' name was a move by BIFS to reflect a global perspective and shift in financial services from traditional banking to a broader inclusion of financial services providers. Hence, BIFS' programme also expanded to include specialty areas of financial services to embrace global trends and best practices in the delivery of products and services.

In the first quarter of 2017, BIFS will announce its plans to further re-brand, restructure and re-position itself to offer education and training opportunities that will match any other local and international institute. The chart below underscores the tremendous contribution and success of the Bahamas Institute of Financial Services, which has, for 42 years helped to build the highly trained workforce, which now works side-by side with their expatriate colleagues, delivering first class service to clients both locally and globally.

I wish to end this article by taking a quote from one of BIFS' international partners, Mr. Simon Thompson who said, "The need for 'qualified bankers' has never been greater. Customers, regulators and employers demand skilled banking professionals committed to high ethical, professional and technical standards to help us build sustainable banking institutions." Hence our mission statement: "To promote quality training and education programmes for the financial services sector, to be innovative and responsive to the expanding needs of the business and financial community, and to develop creative synergy to foster and enhance sustained growth within the industry."

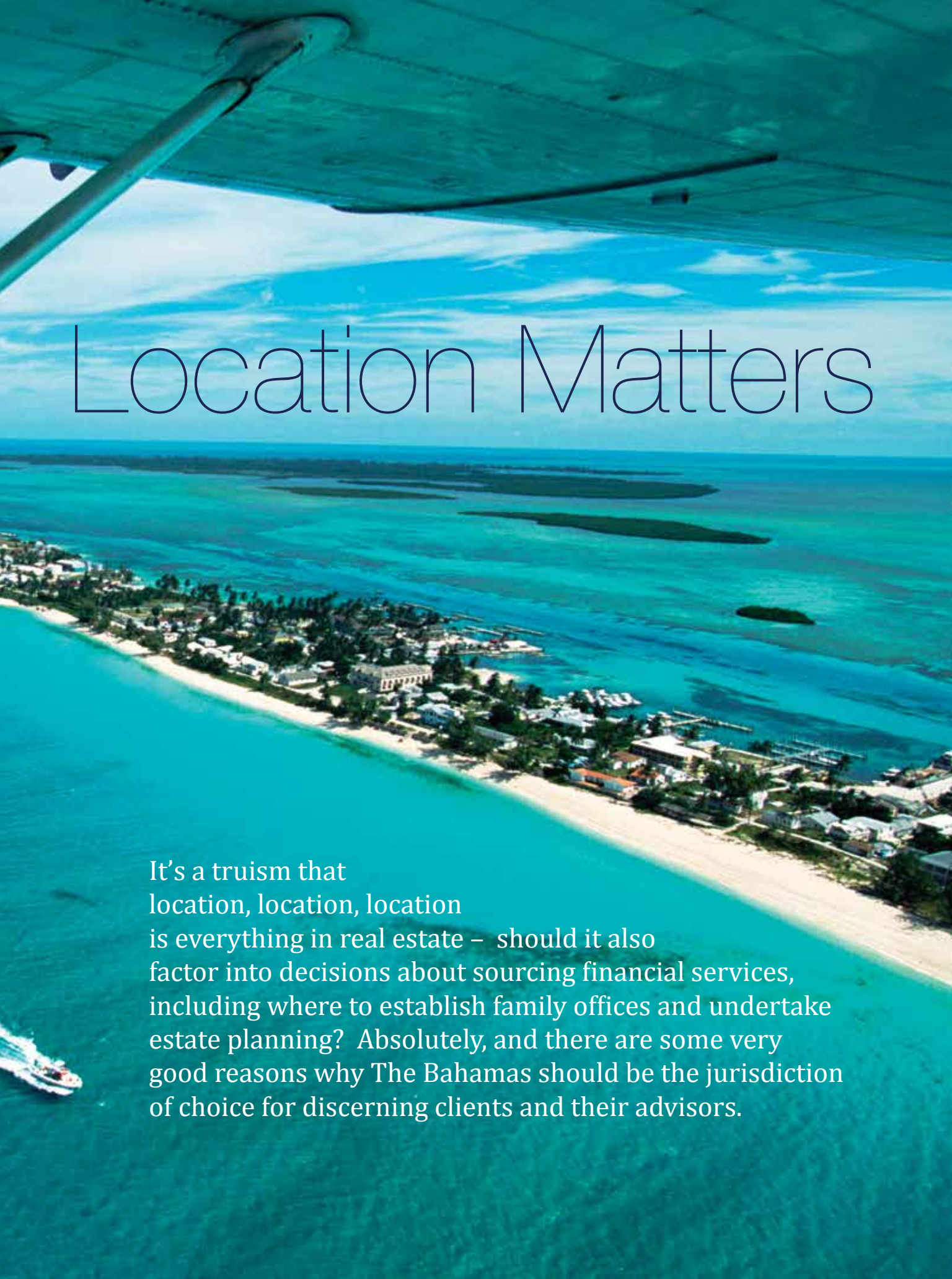
Programme	No.	Programme	No.
G12 Financial Services Certificate	133	Company Law Practice & Administration Stage I & II	70
Fundamentals of Financial Services	33	Employment Law & Practice Stage I	22
Banking Certificate	178	International Diploma in Compliance & Anti-Money Laundering	266
ABIFS	804	Certified International Risk Manager	73
Financial Services Diploma	6	Certified Credit Professional	34
Trustee Diploma	161	Certified Financial Planner	90
ACIB (London Institute)	28	Certification in Taxation	19
Mandarin Chinese	11	Supervision Essentials Certificate	97
Cyber Security	8	Project Management	31
Hedge Fund Administration	8	Microsoft Excel for Bankers	9
ACCA Qualifications	12	Chartered Banker MBA	23

Kim Bodie

Executive Director, BIFS

Mrs. Kim W. Bodie is a native of Nassau, Bahamas and a graduate of Hawksbill High School, Freeport Grand Bahama. She studied Teacher Education, (Home Economics) and Secretarial Studies/Management at The College of the Bahamas and Professional Management at the Bachelor degree level at Nova South Eastern University. She joined the Institute in October 1980 as Secretary to the Registrar. In 1986, she was promoted to Executive Administrator, and to Executive Director in 2003. Mrs. Bodie also serves as Secretary to Executive Council.Mrs. Bodie has co-ordinated and spearheaded a number of major initiatives, which has contributed to the growth of the Institute and the variety of education and training programmes offered to employees in the financial services sector. Her vision and passion for the growth of the Institute has led her to coordinate the expansion of BIFS physical offices and training facilities to its present location, Union Court, Shirley and Elizabeth Ave. This move coincides with BIFS strategic mandate to increase training programmes in accordance with industry skills building needs. She was recognized by the Executive Council of the Institute on August 29, 2010, for thirty (30) years of outstanding service. Mrs. Bodie has been actively involved in other professional associations where she served as Secretary and co-chair of the Conference Committee of the Bahamas Human Resources Development Association (BHRDA). She is a member of the Caribbean Association of Banking and Finance Institutes (CABFI) and Working Group member of The Bahamas Financial Services Board (BFSB). She also serves as a member of C.R. Walker Senior High School Board. She is an active member of the 'Conference of World Banking Institutes' and member of the Global Banking Education Standards Board (GBESTB). She received the certificate of 'Fellow' of The Chartered Institute of Bankers in Scotland in November 2010. She has been given the opportunity by the Executive Council of The Institute to attend and participate at the conference of World Network of Banking and Finance

LOCATION



Location Matters

It's a truism that
location, location, location
is everything in real estate – should it also
factor into decisions about sourcing financial services,
including where to establish family offices and undertake
estate planning? Absolutely, and there are some very
good reasons why The Bahamas should be the jurisdiction
of choice for discerning clients and their advisors.

PROXIMITY

As the pace of change accelerates, the ability to maintain hands on access to businesses, personnel and opportunities is critical. Sharing a time zone with New York, Toronto and Miami makes it easy to do business in and with The Bahamas. Its close proximity to major onshore financial centres, with direct flights not only to those three cities but also to London, Atlanta, Calgary, Dallas and Panama City, facilitate movement by air to and from The Bahamas.

Those with a bit more time on their hands can readily reach The Bahamas by boat, with the nearest port of entry only sixty miles from the Florida coast. Yachting through turquoise waters, with well situated marinas and ample dockage throughout the island archipelago, is lovely way to round out a business trip, or create a business opportunity.

PHYSICAL PRESENCE

As multinational families and businesses come under closer scrutiny from domestic taxing authorities, the establishment of a substantial physical presence in a specific jurisdiction becomes increasingly attractive, and important. Use of The Bahamas as a hub for family offices, investment advisory services and oversight of regional and transnational operations has much to recommend it. Over the last decade, substantive government investment has resulted in significant improvements to transportation and communications infrastructure; private development of state of the art workplaces as well as a broad range of residential options give both families and their advisors ample choice when considering and selecting office and living spaces.

RESIDENCE

Non-Bahamians are readily able to purchase property, both residential and commercial, which provides a further incentive to consider The Bahamas as part of a long-range plan. Specifically, the acquisition of most residential property may be undertaken without prior government approval, although the acquisition must be registered with the Bahamas Investment Authority (the "BIA"), the committee which serves as the administrative arm of the National Economic Council of The Bahamas; it has been designated the "one-stop shop" to assist with simplifying inbound foreign direct investments in The Bahamas.

Commercial property may also be acquired by non-Bahamians, with the prior approval of the BIA.

Persons who own second homes in The Bahamas – as well as their spouses and minor children - are eligible to obtain a residence card, renewable annually, which is used to enter and remain in The Bahamas. The purchase of a home valued at US$500,000 or more establishes eligibility for permanent residency, and, if coupled with approved investment in a business or development project which creates employment and business opportunities for Bahamians, permanent residency status may be granted with the right to work (in one's own business or otherwise, depending on the scope and scale of the investment/project). Accelerated consideration is available in suitable circumstances.

PERSONNEL

The availability of human capital is a critical element to the successful establishment of a home or business, and The Bahamas is well situated in this regard. Accomplished professionals in finance, banking, investments, law, accounting, and – on a broader scale – architecture, aviation, maritime and engineering make it possible to implement business plans and establish domestic operations with local assistance. The recent expansion of the College of The Bahamas into the University of The Bahamas helps to ensure that there will be subsequent generations of knowledgeable, skilled staff. However, it's also well recognized that international families and businesses also have essential employees coming from outside The Bahamas, and inbound investment proposals regularly include requests for work permits.

QUALITY OF LIFE

There are, of course, the obvious benefits to living in The Bahamas: pink and white sandy beaches, crystal clear waters and a (mostly) balmy tropical climate, and it's easy to see the short term attraction they create. Consequently, there's a plethora of leisure activities centered on the outdoors: boating, fishing, golfing, biking, kayaking, paddleboarding, snorkeling and diving are readily available, often within moments of one's front door. Indoors, cinemas, art galleries

and musical societies are on offer. Dining options abound, from sophisticated to simple, eclectic to traditional, as well as coffee houses, wine and juice bars.

But something more is useful for the long haul, and there are indeed additional features to consider when assessing the local lifestyle. A wide range of housing is available, from apartments to condominiums and houses, both standalone and within gated communities. There are well-regarded private schools, several of which take students through the International Baccalaureate level, and a broad range of extracurricular activities such as football, sailing, swimming and music/arts programs.

And, of course, bright lights and big cities aren't far away, and winter sports as well can be readily accessed for a complete change of pace.

COMPLIANCE

The Bahamas continues to make significant strides in its compliance with norms and standards set by the international community: in August 2015, The Bahamas' Foreign Account Tax Compliance Agreement Act with the United States (as to FATCA) came into force, and the Automatic Exchange of Financial Account Information Act (as to CRS) came into force in January 2017. The strong history of public-private partnership in the Bahamian financial sector has made it possible to work interdependently on the development of disclosure legislation as well as legislation which supports the clients' needs. The financial services industry, its regulators and the government continue to move forward with well-judged, balanced industry-specific initiatives. Notable in this regard are recent amendments which further modernized the Trustee Act as well as the on-going development of legislation which will address not only international best practices and standards for investment funds but also create new and improved vehicles and norms of operation.

CONCLUSION

Viewed as a whole, The Bahamas offers a highly attractive value proposition for clients seeking residency for themselves, as well as the opportunity to establish the mind and management of family offices, investment advisory services and transnational oversight operations in a well-regarded, sophisticated jurisdiction that affords the essential elements for launching and maintaining successful businesses without sacrificing a relaxing yet fulfilling personal life. ::

Linda Beidler-D'Aguilar
Partner, Glinton, Sweeting, O'Brien

Linda Beidler-D'Aguilar joined Glinton Sweeting O'Brien as a partner in July 2015. In her practice she specializes in the structuring and creation of investment funds for both institutional and private clients. She advises individuals, family offices, entities and institutions on corporate structuring, transactional matters and secured lending; she also provides advice on regulatory matters, securities law (including public and private offerings) and general commercial matters. Linda graduated from Georgetown University School of Foreign Service with a Bachelor of Science in Foreign Service. After obtaining her law degree from the Georgetown University Law Center she was called to the bar in the State of Illinois. She was an associate at top tier firms in Chicago and Washington, D.C. before she relocated to the Bahamas in 1991. Linda worked at two major trust companies in the Bahamas, then served as in-house counsel for Bacardi & Company Limited from 1995 to 2003, following which she returned to private practice. She served as a Director of the Bahamas Financial Services Board from 2010 through 2014, and remains actively engaged with various BFSB working groups.

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