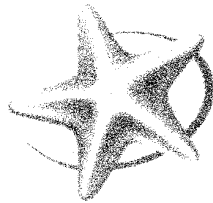


REMARKS
BY
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B A H A M A S
FINANCIAL SERVICES BOARD



‘Caribbean Up-Date’

The Offshore Institute
Caribbean Regional Conference
Nassau, Bahamas
June 5th, 2000

Ladies and gentlemen, I am honored to be here today to provide some commentary, on current developments on our industry in the region, by way of a “Caribbean Update”.

Let me begin by again, on behalf of the Bahamas Financial Services Board, welcoming you here to the Bahamas for what will certainly be three days of timely and intense coverage on a wide range of issues of importance to the International Financial Services Industry.

Let me also commend Prof. David Bickform for his well reasoned and balanced presentation of the issues which we face both as international and onshore jurisdictions. His 9-point recommendation on the way forward is compelling and persuasive. The challenge for us all is how do we persuade those who are best positioned to drive this process.

What I hope to accomplish today is threefold;

- ◆ To provide you with a quick overview of the Bahamas’ response to issues such as the

OECD initiative, the new U.S. [IRS] Withholding Tax QI Procedure, last week's pronouncements by the Financial Stability Forum, and other initiative which challenge our industry.

- ◆ To provide you with some background on the business and legislative climate in The Bahamas today.

- ◆ To provide you with some comment on the anticipated impact of current initiatives by international agencies and their reports, and future implications for the international financial services industry

In an official capacity, The Bahamian Government addressed the issue of “harmful taxation” last August in a statement delivered to the OECD in Paris. Our arguments are much the same in response to the latest pronouncements

by the Financial Stability Forum. Arguments must of course be coupled with a plan of action.

Within the statement, delivered by the Honorable William Allen, Minister of Finance and Planning the following key points were made;

- ◆ The criteria for identifying and determining which countries OECD considers “harmful tax havens” are uneven and The Bahamas does not accept the criteria for these determinations.

[Transparency // Clarity of Motive // Mixed Signals] **** The Guernsey Experience****

- ◆ The Bahamas has no interest in facilitating, aiding or abetting unlawful acts; nor will it be knowingly associated with such actions.
- ◆ The Bahamas has no desire to accommodate persons or businesses seeking to hide or shelter money derived from corruption, drug

trafficking or the proceeds of other criminal activities.

- ◆ The Bahamas has never had, throughout its entire history, a tax on income and capital and does not hold the view that such taxes are inherently a natural component of an appropriate tax regime.
- ◆ The Bahamas does not accept that on the basis of its historic and established tax structure alone, The Bahamas ought to be categorized as “harmful tax haven”. The tax structure is consumption based and falls on both domestic and international sectors of the economy amounting to roughly 20% of GDP at the present time.
- ◆ Over a period of several centuries the country evolved a system of taxation appropriate to the Bahamian situation, a view still fundamentally that of the Bahamian electorate.

- ◆ Development and delivery of a broad range of international financial services, rather than promotion of tax avoidance, are the source of the success of The Bahamas as an international business centre.

- ◆ Only when a center is not clearly taking appropriate action to eliminate and eradicate conditions that facilitate criminality can its integrity be called to question.

- ◆ Clearly both onshore and international financial centers may be used for illegitimate purposes. But as the recent history with the Bank of New York has shown, this fact alone is not sufficient to put the legitimacy of an entire center in doubt.

In summary, the response of The Government of The Bahamas to the OECD was:

- ◆ The Bahamas is a competitive, but not a “harmful tax” jurisdiction;
- ◆ Its competitive success as an international financial centre is not a result of manipulating its tax regime;
- ◆ The regulatory and supervisory oversight of the financial services sector in The Bahamas is equal to that of developed OECD countries;
- ◆ The Government of The Bahamas will continue to participate in any transparent international process which seeks to achieve international, evenly administered agreement, aimed at dealing with the issues of concern to OECD / G-8 countries.

It is also important to note that an addendum was added to the report because reference had been made to the desire of some jurisdictions to access confidential private banking accounts in the pursuance of investigations of crime within their jurisdictions.

From a Bahamian perspective that question must be addressed in two parts;

- ◆ Assistance in criminal cases
- ◆ Assistance in tax cases

We make a distinction because, in the absence of an income tax based regime, payment of same is not a legal requirement in The Bahamas.

As to the first point, The Bahamas supports the overwhelmingly compelling reasons for States to cooperate to the maximum extent possible in criminal cases, involving, for example: fraud, theft, embezzlement, money laundering, drug trafficking, corruption and other serious criminal activity. In such cases cooperation should be automatic.

This is regarded as a national & international responsibility, which The Bahamas discharges with vigor, diligence and regularity.

The right to privacy of banking transactions and records has always existed in our jurisdiction

under Common Law. In 1965 it was made part of Statute Laws. However, the right to privacy in bank matters is not absolute, and where there are allegations of criminality, a Judge of the High Court may grant access to information on bank accounts to the proper authority.

In matters regarding tax cases, two points are key:

It is a principal of international law that, absent a treaty obligation between countries, one country will not entertain an action for the enforcement either directly or indirectly of the tax revenue law of a foreign country.

This precedent was established and many times reaffirmed in English Law. In the English House of Lords, after one such case, Viscount Simons stated in the House:

“It is perfectly elemental that a foreign government cannot come here – nor will the courts of other countries allow our government to go there – and sue a person found in that

jurisdiction for taxes levied and for which he is declared to be liable by that country to which he belongs”

Non-payment of income taxes is not a crime in The Bahamas. The country is therefore unwilling and legally unable to provide assistance in an income tax case, unless the case involves an activity, which is a crime in The Bahamas.

The Bahamas is well regulated. Its Central Bank has an on-going training program in anti-money laundering techniques, introduced in 1996 to coincide with the passage of the Money Laundering (Proceeds of Crime) Act.

Its Government is establishing a Financial Intelligence Unit, with work now in the practical stages.

In summary, The Bahamas has the reputation, the capacity and the legislation in place to continue as leading providers of international financial services.

As practitioners we understand that the offshore financial services industry has a tremendous impact on the global economy – offshore jurisdictions reportedly account for more than half of the world’s legitimate financial activity and that is expected to exceed 75% within the next decade.

In support of this statement, I would like to read you a quote on the current state of offshore financial centers that I recently came across from a noted US Consulting firm:

“Less than two decades ago, the offshore industry was perceived as the domain of only multinationals and high net worth individuals. Offshore jurisdictions were considered to be centers of somewhat unregulated financial activity, operating at the fringes of tax legislation.

This false perception to some extent has been dispelled today – estimates are that 60% of the world’s money supply (approximately 6 trillion) each year flows through or is held offshore.

Laws relating to international business centers are complex with sophisticated legislation in connection with trusts, taxation and corporate structure.

The regulations in monitoring such offshore business are strict and the professionals working within it are of the highest caliber.”

So, this leads us to an answer to the question of future implications of international reports on offshore jurisdictions.

In my view, the future implications are mostly positive....

- ◆ There will be a positive outcome for international centers in that we will become even more diligent at looking in our own

backyard. Transparency, accountability and due diligence are key.

- ◆ We will continue to refine and develop legislation, which strengthens our financial services practices – hopefully this will have been the case in all jurisdictions.
- ◆ The transparent and balanced recommendations, which result from The Reports, should serve to weed out the questionable jurisdictions – raising the bar, eliminates the bottom tier.
- ◆ Continued effective dialogue could be achieved between jurisdictions – programs such as the United Nations Global Program Against Money Laundering and The Caribbean Financial Action Task Force hold possibilities for effective future action.
- ◆ A key future implication could be the formation of international best practice standards geared to amending regulations in jurisdictions where legislation is weak in key

areas. This would provide a level and fair playing field for all practitioners.

A reasonable prognosis for the future is that, as always, the strong will survive and the weak will not, and that strength will still be defined primarily in terms of excellence of regulatory structures, quality of delivery of client services, and competitive response to the evolving requirements of a truly global marketplace.

The offshore world as we know it will not disappear. It will evolve. It will continue to flourish as it has for the past 60 years in The Bahamas.

My challenge, however, to the authors of future reports that they invite us to the table and encourage an environment which welcomes meaningful, early dialogue and comment on the issues that are of great importance to all of us.

Thank you for your time and attention.