



Is 'Offshore' Really That Bad?

— and, if not, does the international finance industry in Gibraltar face a bright future?

words | Ian Le Breton

I've come to the conclusion that, despite my bluster and non-stop talking, I am really quite sensitive deep down. After all, what is a chap to think when he is confronted by a steady stream of news stories — mainly but not exclusively in the British and Spanish printed media — berating the offshore finance industry and, by extension, all of us who work in the sector?

When a lady asked my partner at a dinner not so long ago what it was that I did for a living, the reply "offshore — companies, trusts and all that" was greeted, apparently, with derision. "Oh you mean dodgy, darling" was the instant response. "Charming", I thought when the story was relayed to me some time afterwards. "Darling yourself!"

But the stories persist. Try and find a sympathetic note in any newspaper article on the subject and you're likely to be looking for

a long time. Just over a year ago, one of the UK's leading papers screamed "The Monaco Problem" across its front page. Closer inspection revealed that the "problem" concerned certain people wealthy enough to have made their home in the enclave and — shock horror — now avoid paying UK income tax as a result.

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One of them — in the spirit of *Reservoir Dogs*, let's call him Mr Green — runs a high street retail empire employing many thousands the "story" continued.

But despite all the insinuation, the article did not say that any of these people had actually done anything wrong. Nor did it mention that its own publisher operates a total of 136 subsidiaries in nations identified as "international tax havens". Pot, kettle?

It's time to fight back. In reality, the only thing dodgy about me is my dress sense — and I admit that can be very dodgy. The reason I don't do "dress down Fridays" is because I have no idea what a 50-year-old should dress down into! As one of my colleagues said when I was recently sporting a new leather jacket from Morocco: "Since when did you become fashionable?" Strangely, he still works at Sovereign.

It will therefore come as no surprise that I am



stridently opposed to this “dodgy” term when it comes to offshore — or as many now prefer to call it “international” — finance centre business. Let me set out a few pointers as to why I think this, specifically relating to our centre here in Gibraltar although one could consider several other jurisdictions in the same light.

It may seem strange to begin my defence with an admission. As in many walks of life, from time to time rotten apples will appear in the barrel — and Gibraltar is no different. It is simply a fact of life. In my view rotten apples are best dealt with swiftly and transparently, *not by trying to sweep them under the carpet*. And although the process can be painful and unpleasant, it is the way that such problems are resolved that sets one jurisdiction aside from another.

The finance centre here is regulated by the Gibraltar Financial Services Commission, led ably for the last ten years by Marcus Killick who stepped down in February. Any regrets he may have had at leaving a job after a decade surely being tempered by the shiny new OBE awarded him in the recent New Year Honours List. In thanking him for his long stewardship over the past decade and wishing him all the very best for the future, I also welcome warmly his successor, Samantha Barrass, who joins at a most interesting time for the industry.

As well as the vital role of regulating the local sector effectively, while enabling those firms and individuals to continue to make their substantial contribution to the local economy, the new incumbent’s in-tray will also no doubt be swamped by the tsunami of new regulations that accompany the shift to global tax transparency, the implications of the US FATCA rules and parallel legislation from Europe.

So if we accept then that we are all jolly serious people and that we — and the firms for whom we toil — are here to stay, it is essential that our local international finance industry sets out its stall properly. By this I mean it is important how we as an industry firstly identify and then more importantly promote ourselves to the outside world. It is only by getting this right that we can ensure our industry can

realistically look forward to a sustainable future.

Regular readers will know that from time to time I set out services and products that our industry promotes and develops here in Gibraltar. The overriding principle is that everything we do must be fully compliant and transparent. That is not to say that clients cannot expect complete confidentiality when organising their financial affairs. That is right and proper and has been a part of the “bond”

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between clients and their advisers since time immemorial. But this is not the same thing as secrecy at all.

In this case, I practice what I preach. In my day job, if for whatever reason I am not totally happy that the proposed structure on the table in front of me — whether it involves a company or trust, a pension plan or perhaps the registration of a super yacht or executive jet — is going to pass all the tests to ensure compliance and transparency, I will proffer the following advice to potential clients or their adviser.

“Of course,” I say, “You are entitled to 100% confidentiality when coming in to my office to discuss your affairs but you must understand that both you and I may have a legal duty to report certain elements of a transaction or structure to the relevant authorities. And even if there is no legal duty to report, we would want to be certain that the structure would

be fully compliant if it had to be reported in future.” It is interesting to note the reaction on some peoples’ faces.

So why do I have such confidence in the future of our industry locally? There are several reasons. In these monthly columns, I have discussed a number of potential situations where the use of one or more “offshore” companies, trusts or similar structures might assist in realising practical objectives — whether they be tax advantages, asset protection or facilitating cross border business.

Take Gibraltar companies as just one example. These can be used to provide enhanced asset protection both in very straightforward arrangements or as part of a wider, more complex structure that may involve several other jurisdictions as well. Other companies may appear to offer similar advantages but Gibraltar’s reputation for good regulation and corporate governance, coupled with a wide choice of experienced multi-lingual professionals and a solid legal system, may be sufficient reason to prefer this jurisdiction over its competitors.

Combine these with the benign corporate tax regime, the absence of VAT and Gibraltar’s membership of the EU and you have what is, in my humble view, a highly compelling package. Gibraltar certainly punches above its weight in the international market as our sector proves time and time again.

So in order to answer the critics in the British and Spanish press, we should ask a few telling questions. Does Gibraltar have the legislation in place and more importantly the will to impose regulation and is it used effectively to ensure the industry remains compliant? Yes. Do we have the product range to service an increasingly sophisticated and international market place? Absolutely. Do we employ experienced, multi-lingual staff who can attend to clients’ needs? Without a doubt. Has Gibraltar proved that she can adapt to changing demands from bodies like the OECD and IMF or international partners like the EU or the USA? Once again, a resounding yes.

So to the final big question. Does Gibraltar’s international finance industry have a bright future? Despite — or maybe partly because of — the challenges we have faced and met in recent years, those firms who have adapted and kept pace with the changing international scene are, I think, in an excellent place. Despite the negative press articles we should be proud of what we have achieved and, unless they’re referring to my dress sense, we should not miss an opportunity to re-educate anyone who calls us “dodgy”. ■



Ian Le Breton
is Managing Director
of Sovereign Trust
(Gibraltar) Limited.

Tel: +350 200 76173
Email: ilebreton@
SovereignGroup.com