

Financial services: Low-profile, high worth

Print

By Jeremy Grant

Published: March 12 2007 14:07 | Last updated: March 12 2007 14:07

Arrive at the tiny port in Road Town, capital of the British Virgin Islands, and you would be hard pressed to spot any sign that the territory has propelled itself to the forefront of offshore finance in the past two decades.

There are no high-rise buildings, no bankers or lawyers in suits and no brass plates advertising any recognisable names in global finance.

But dotted across town are the offices of specialist offshore lawyers, accountants and trust company administrators that have been part of the BVI's transformation into the world's pre-eminent centre for offshore company incorporations, more than 750,000 of them to date.

"When you've got 60,000 companies being formed a year, you get quite good at it," says John Greenwood, director at Baker Tilly, the largest accounting firm in the BVI.

Such success has been the result of the enactment of some of the most flexible offshore legislation in the world; implementation of a carefully-calibrated set of regulations; laws based on the English legal system; and a level of political stability that partly stems from the BVI remaining under the British flag.

It has also been helped by geopolitics. In 1981, the Reagan administration feared that investors might exploit a double taxation agreement between the US and Britain that included British overseas territories. It revoked double taxation with the BVI and other tax-efficient "micro-states".

The effect was to reduce the attraction of BVI companies managed and controlled in the BVI that were able to take advantage of the treaty provisions.

Among the more exotic users of BVI vehicles in the 1970s were performers such as the Rolling Stones, who would use them to reduce the tax liabilities on their royalties while on tour in the US.

Lawyers from Harney Westwood & Riegels, the BVI's attorney general and others reacted by drafting the International Business Companies Act of 1984. It was the first piece of legislation to establish the BVI's tax-free company regime, and found favour with many investors who had been using the treaty.

The development had limited success until 1989, when the US invaded Panama to oust General Manuel Noriega.

Panama was one of the largest providers of offshore financial services in the world, but the invasion prompted the business to flee. The BVI was one of the main beneficiaries.

A further boost came from the handover of Hong Kong to China in 1997, when nervous investors decided to move their assets to offshore jurisdictions. With its familiar English legal system, the BVI again benefited.

Today, BVI companies are used as holding companies for multinational corporations, debt issuance vehicles, and joint-ventures. BVI vehicles account for about 45 per cent of inward investment into China, and are so popular that they are usually referred to in Asia simply as "BVIs".

Today, the BVI is moving into a new phase, towards value-added services such as mutual fund and hedge fund registration, captive insurance and trusts – collectively known as "investment

business”.

Long-term growth is unlikely to come from bread-and-butter company registrations. While large in volume terms, the business is commoditised; a company registration is sold for a one-time fee of \$350.

Pressure to diversify has come from increased competition. For example, the Cayman Islands has emerged as the largest register of offshore hedge funds.

Humphry Leue, chief operating officer of the International Finance Centre, which promotes the BVI's financial sector, says: “Not so long ago, offshore jurisdictions could be counted on two hands. Now there are other emerging jurisdictions, so we have to keep our message alive.”

This has taken place against a backdrop of pressure from the European Union and Organisation for Economic Co-operation and Development to improve transparency at about 35 offshore jurisdictions.

In 2002, the BVI agreed with the OECD to end unequal treatment of local and offshore companies for tax purposes and to end the use of bearer shares, which hide the identity of beneficial owners. It also promised to require companies, trusts and other BVI legal entities to keep regular accounts.

The moves averted any inclusion of the BVI on a list of “uncooperative tax havens” and was accompanied by a law significantly updating the IBC act. This propelled the BVI on to the radar screen of sophisticated investors who wanted not only tax neutrality, but a regime that offered complex yet flexible deal structuring.

Diversification has been gathering momentum in recent years. Since the passage in 1996 of a mutual fund act – which provided a simple system of licensing for entities aimed at providing management or administration services to investment funds – the BVI has attracted about 2,600 hedge funds. This places it second after the Cayman Islands, with about 8,500.

The BVI is the third largest offshore centre for captive insurance, after Bermuda and the Cayman Islands. Captives are owned by a non-insurance company and insure or reinsure the risks of its parent or affiliated companies.

However challenges remain if the pace is to be sustained. One is a shortage of qualified local staff; much professional level work remains in the hands of the 3,000 expatriates on the islands. If the industry is to diversify further, the need for qualified personnel will become more acute.

Recently, representatives from the financial services industry have been visiting schools to try to interest pupils in careers in the sector. The regulator, the Financial Services Commission, has published a text book on the subject that can be included in the high school curriculum.

Ralph O'Neal, chief minister from 1995-2003 and current opposition leader, warns: “If we are to keep our place as a premier financial jurisdiction, we are going to have to depend on expert people coming in while we train our people.

“It's not going to be done in a year or two, it's going to take time. I accept the fact that expats are needed”.

Another challenge is regulation. The BVI has made a virtue out of marketing itself as among the best-regulated offshore jurisdictions. The FSC is comfortable turning away business that does not pass muster after due diligence tests. It is joining the International Organisation of Securities Commissions, which groups the world's leading regulators.

Yet with competition stiffening, tighter regulation must not discourage business. Consultation and collaboration with the private sector is required on a new level.

Kieron O'Rourke, partner at Harney, says: “There is a feeling among some in the private sector that the success of the jurisdiction as a corporate domicile means not enough emphasis is placed on the value-added sectors. As such sectors gradually become more sophisticated, enhanced public/private sector co-operation is required.”

The issue is reflected in discussion of the Securities and Investment Business Act, designed to amalgamate mutual fund legislation, which will govern the whole of the investment business.

A measure under consideration is a “whistleblower” clause that envisages the appointment of a representative at trust companies who would be responsible for alerting the regulator to anything improper.

Lawyers accept the idea of tighter regulation as a way of preserving the “BVI brand”. But they caution against a whistleblowing provision that might make the BVI uncompetitive.

Robert Briant, at Conyers Dill & Pearman, says: “Caution has to be used to ensure that any whistleblowing provision attracts business to the BVI by allowing managers to better protect investors than other jurisdictions.”

[Copyright](#) The Financial Times Limited 2007

"FT" and "Financial Times" are trademarks of the Financial Times. [Privacy policy](#) | [Terms](#)
© Copyright [The Financial Times Ltd](#) 2007.