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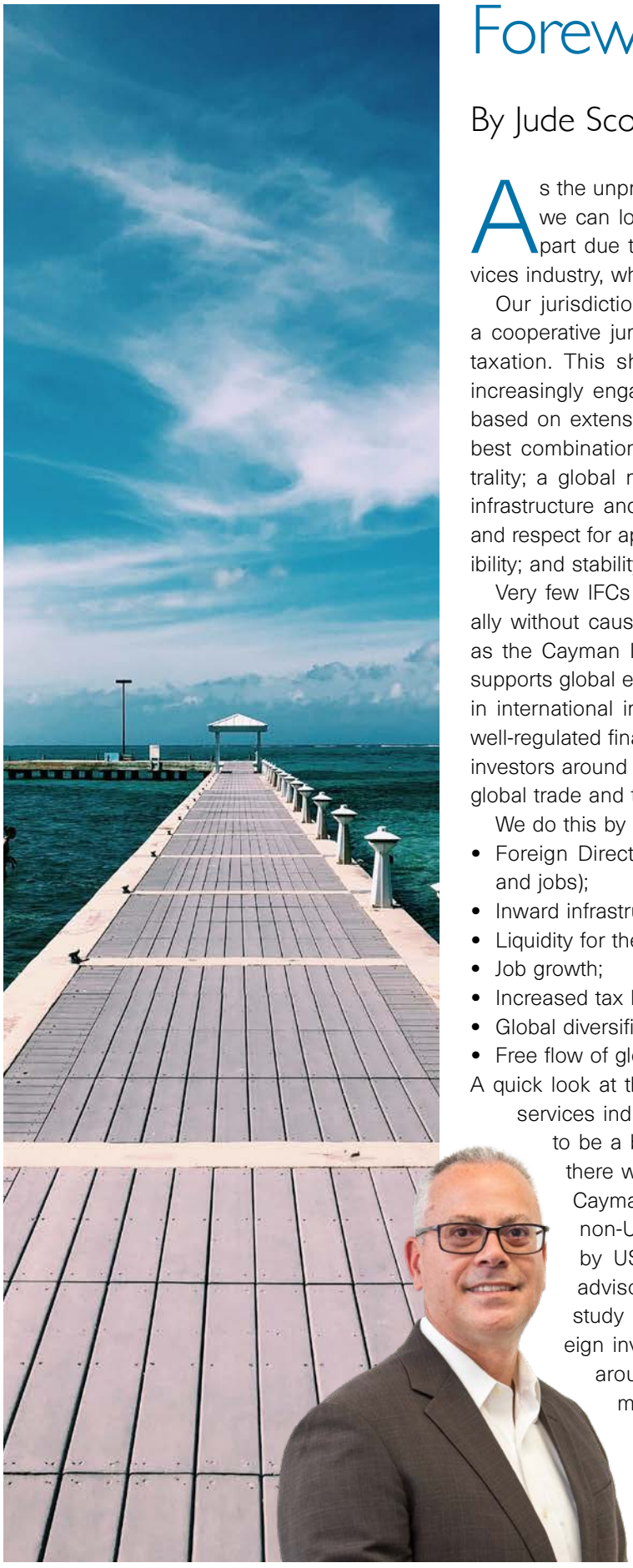


Published by: Global Fund Media, 8 St James's Square, London SW1Y 4JU, UK

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Foreword

By Jude Scott, CEO, Cayman Finance

As the unprecedented year that has been 2020 draws to a close, we can look to the year ahead with some optimism. That's in part due to the resilience of the Cayman Islands financial services industry, which continues to meet evolving global best practices.

Our jurisdiction has been recognised by the European Union as a cooperative jurisdiction on all criteria for tax transparency and fair taxation. This should provide some comfort to investors who are increasingly engaged in a flight to quality, relocating their resources based on extensive assessments of which financial centres offer the best combination of the following qualifications: efficiency and neutrality; a global network and diverse industry; an experienced legal infrastructure and neutral tax environment; high regulatory standards and respect for appropriate privacy; world class professionals and credibility; and stability.

Very few IFCs meet these qualifications of providing benefits globally without causing harm to other countries, and none do it as well as the Cayman Islands. It provides a tax neutral hub that efficiently supports global economic growth and recovery. Through its pivotal role in international investing and financing, supported by its robust and well-regulated financial services industry, the Cayman Islands can help investors around the world as they prepare for the evolving changes in global trade and the global economy.

We do this by enabling:

- Foreign Direct Investment (essential to save or grow businesses and jobs);
- Inward infrastructure investing and financing;
- Liquidity for their economies;
- Job growth;
- Increased tax base;
- Global diversified investments for pensioners;
- Free flow of global trade, capital, investing, financing, and services.

A quick look at the numbers shows confirms that the global financial services industry considers investing in Cayman-domiciled funds to be a best practice. At the end of the third quarter of 2020, there were over 24,000 investment funds registered with the Cayman Islands Monetary Authority. In fact, 70 percent of non-US domiciled alternative investment funds managed by US Securities and Exchange Commission-registered advisors are domiciled in the Cayman Islands. A recent study performed by Capital Economics estimates that foreign investment mediated through the Cayman Islands was around USD4.5 trillion and supports in the region of 5 million jobs globally.

With so much instability around the world, the Cayman Islands financial services industry offers investors exceptional stability – and will continue to do so throughout 2021 and beyond. ■

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Reflection after the tumult

By A. Paris

In what has been a rollercoaster year from all perspectives, 2020 saw the Cayman Islands being first placed on the European Union blacklist in February, followed by its removal from said list in October, after it made improvements to its tax framework.

The jurisdiction, best known as a domicile of choice for hedge funds and alternative investments, has introduced a spectacular 19 new pieces of legislation in its steadfast endeavour to strengthen oversight and ensure the Cayman Islands industry is aligned with global standards.

Elemental to Cayman's removal from the EU blacklist was the enhancement of its framework on collective investment funds. The jurisdiction also introduced new economic substance rules in 2019 and passed new legislation in January 2020 to further enhance its regime for private funds.

"Following consultation in which both the Cayman Islands and the EU Commission gained better appreciation for our respective regimes, the Cayman Islands made certain enhancements to our funds framework. The most prominent changes include that all Cayman Islands-based investment funds are now required to be registered, valued independently, and have their accounts audited annually by a recognised auditor.

"Funds are also now required to have their cash flows monitored by an independent third party, and to make additional arrangements for safekeeping fund assets," outlines Tara Rivers, Minister of Financial Services and Home Affairs in the Cayman Islands Government, in a sponsored article.

In a statement reacting to the repeal of the blacklisting, Jude Scott, CEO of Cayman Finance, says: "The EU's recognition of the Cayman Islands as cooperative on both transparency and fair taxation is an important validation of Cayman's commitment to a responsible policy of tax neutrality that poses no harm to other countries.

"The EU now joins many other respected international entities like the OECD in identifying the Cayman Islands as a transparent jurisdiction without harmful tax regimes. We greatly appreciate the Cayman Islands Government's cooperation and working relationship with the EU over many years that helped produce this outcome."

Ronan Guilfoyle, AIMA Cayman Chairman, also comments: "This action by the EU acknowledges that the regimes established by the Cayman Islands for fund regulation and the wider economic substance requirement, as well as those for the exchange of tax and financial information, anti-money laundering and related measures are fully in line with international standards."

The removal from the EU blacklist came as a relief after Nordic pension funds publicly shunned new investments in Cayman-based entities earlier in the year. Some

MEPs in Europe remain unconvinced, calling on the EU to change the system used to draw up the list of tax havens, deeming the current method 'confusing and ineffective'. In a press release detailing the resolution prepared by the Subcommittee on Tax Matters and adopted by the Economic and Monetary Affairs Committee, the MEPs say the criteria to judge if a country's tax system is fair or not needs to be widened. They also declare that removal from the blacklist should not be the result of only "token tweaks" and that the list has to be formalised through a legally binding instrument. "The fact that the Cayman Islands has just been removed from the blacklist, while running a 0% tax rate policy, is proof enough of this," MEPs claim.

Rivers responds to this in her article, writing: "The Cayman Islands imposes no corporate and income taxes, nor do we have any double tax treaties which facilitate the choice of tax domicile and the minimisation of taxes owed and payable by the use of stated versus effective rates. We do, however, levy taxes on a consumption basis, similar to the EU's VAT tax system, and our taxes equate to about 25% of our GDP. Therefore, the Cayman Islands is not "tax free" nor a "zero tax jurisdiction," and our system of taxation raises roughly the equivalent as those of many OECD countries.

"Cayman considers these discussions as central to our decades-long commitment to participating in initiatives that foster mutual understanding and strengthen international regulatory standards. We look forward to collaborating with our counterparts in the EU and its Member States on global taxation reforms that are currently being developed at the OECD level."

Following this period of re-dress and swathes of new rules, several industry players say it is now time for the sector to re-group and ensure the new regulations are implemented in a robust manner.

Impact opportunity

Beyond tax considerations, an aspect of good governance which is rising in importance is sustainability. Institutional investors the world over are now focusing on environmental, social and governance (ESG) factors when investing and so are the investment management players active in the Cayman Islands.

A report by the Cayman Islands practice of KPMG, released in February 2020 found institutional investors are driving the ESG agenda. "Until fairly recently, these investors have been mostly focused on uncorrelated absolute returns. They now want their investments to target double bottom-line benefits: do well financially by doing good socially and environmentally, while promoting high standards of governance and avoiding reputational risk....Thus, the traditional risk–return equation is being rewritten to include ESG factors. This, in the belief that it is now becoming material to investment returns, as our societies tackle environmental



and social challenges such as climate change, water scarcity and loss of biodiversity," the report outlines.

According to Patrick Henry, US Investment Management practice leader at Deloitte and Jim Eckenrode,Managing director at the firm's Centre for Financial Services, the opportunity for hedge funds in particular lies in the impact investing space.

"The lack of a clear hedge fund leader in impact investing suggests there may be open space for early movers to gain a competitive advantage. The biggest value proposition for this strategy is that a growing class of investors wants to see these types of products within their suite of investment options.

"The value-add to managers is not only about interest in a specific fund, but also about how this creates opportunity to bring in new clients and deepen relationships with existing clients. Competition is fierce and any opportunity to show responsiveness to investor demands while being first in an untapped market is key," they advise.

In May 2020, the UN PRI (Principles for Responsible Investment) published a technical guide for ESG incorporation in hedge funds. "With respect to client demand, although ESG funds have been growing in the long-only market for some years, institutional investors are becoming increasingly interested how hedge fund managers are applying ESG factors in their portfolios. With regards to how regulatory environments may differ between funds and strategies and an analysis of materiality, the PRI has created various materials to support asset owners and hedge fund managers in broadening their understanding," the guide declares.

Given the Cayman Islands remains one of the most popular domiciles for hedge funds, the jurisdiction can expect to see a broader application of this guidance across its shores. ■



Full steam ahead for the leading international funds domicile

Interview with Christian Victory, Sailaja Alla, Jennifer Parsons & Peter Colegate

Despite an unprecedented number of new regulations being introduced into the Cayman Islands over the past 18 months, the jurisdiction has shown itself to be remarkably resilient, with the Islands' funds industry in particular rising to the challenge and demonstrating its adaptability and flexibility.

In this article, leading offshore legal services firm Appleby, discusses some of the key regulatory changes in Cayman and explains how it has pivoted its own service offerings to respond to these challenges and to ensure the firm continues to meet client demands.

In 2020 the Cayman Islands introduced several regulatory developments, including the Private Funds Act, changes to the Mutual Funds Act, anti-money laundering enhancements and economic substance regime updates.

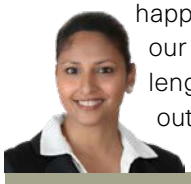


Christian Victory
Partner, Funds & Investment Services, Appleby

Christian Victory is a Partner in the Corporate team. He specialises in advising on all matters relating to Cayman Islands alternative investment vehicles, private equity, funds and investment services in addition to regulatory and compliance matters. Christian is ranked as a 'next generation partner' in Legal 500 2020 and is the current Secretary of AIMA Cayman 2020-2022.

Sailaja Alla, a partner within the funds team at Appleby comments: "What our clients needed most was help navigating the new requirements imposed by these various regimes. As the jurisdictional needs of our clients have increased, we have leveraged our existing relationships and formed new ones to ensure that we continue to put the best solutions forward for clients."

Christian Victory, also a partner in Appleby's funds team, notes, "Given the depth and breadth of legislation brought in over the last 12 to 18 months, I think the coming year will be about adjusting to the new normal. Many of the new requirements, however, codified what was already happening in practice across the majority of our fund clients. Notwithstanding the challenges faced – and overcome, the overall outcome has been overwhelmingly positive



Sailaja Alla
Partner, Funds & Investment Services, Appleby

Sailaja Alla is a partner within the Corporate Group in Cayman. Sailaja has extensive experience in advising clients on all aspects of the formation, operation, restructuring and termination of all types of Cayman Islands investment funds. She also advises on Cayman regulatory and licensing issues in relation to these funds. Sailaja also has experience in a wide range of general corporate matters.

for Cayman. If anything, it has fostered a better relationship with the EU and reputation for Cayman internationally. Hopefully, we can continue to maintain that success, even though there will always be the possibility of headwinds and challenges on the horizon."

"We continue to see investment funds consistently outperforming other alternative investment products. Further, we've seen no slowdown in terms of fund activity, formations, restructuring and so on, which is all very encouraging. We have also set up specialty practices which would not have traditionally been part of the funds team. Our objectives have been adapted to better respond to market opportunities, to provide broader and deeper expertise and to ensure a solutions-orientated approach for our clients. Appleby's funds and regulatory teams have also expanded."

Jennifer Parsons, who heads Appleby's regulatory practice, notes, "Cayman regulators met the challenges of the past year head on, extending filing deadlines and introducing more flexible documentation arrangements, where possible. Appleby's regulatory team also sought to keep clients well informed through our Offshore Business Update, our quarterly regulatory newsletter and topical e-Alerts."

Tech talk

Another regulatory development during 2020 was the introduction of the Virtual Asset Service Providers (VASP) Act, which creates a framework for entities carrying out virtual asset services in or from the Cayman Islands. The first phase of this new law came into effect in October 2020.

Peter Colegate, who co-heads Appleby's Global Technology and Innovation Group, notes that "recent years have seen the Cayman Islands take a number of legal and regulatory steps to make the Islands a jurisdiction that will allow innovation to thrive. That flexibility means that Cayman is well placed to take advantage of the current shift towards securitising common assets and decentralised finance (De-Fi) products."

Cayman's ambition to become a global technology hub is also supported by a Special Economic Zone within the Islands which allows technology companies particular advantages, including fast-tracked work permit applications for relocating employees to Cayman.



Jennifer Parsons
Counsel, Appleby

Jennifer is Counsel within the Corporate Group at Appleby. She specialises in providing regulatory advice to clients within the banking, investment fund and fund administration, insurance and securities sectors. Jennifer also has extensive experience advising hedge funds, hybrid funds and private equity funds, top tier investment managers, administrators and other fund service providers on all aspects of fund formation, ongoing regulation and compliance, restructuring and termination.

To respond to the offshore requirements of the big tech firms and the growing number of tech entrepreneurs, Appleby was the first offshore firm to establish a dedicated technology practice.

"Increasingly, tech clients want lawyers who can speak their language. That's become a key competitive advantage for the firm in the last two to three years," adds Colegate.

The Cayman Islands continues to adhere to the highest international standards of anti-money laundering and counter-terrorist financing set by the Financial Action Task Force (FATF). In 2019 the jurisdiction also introduced its Data Protection Act to ensure that businesses and investors have the confidence that their personal data will be protected while in Cayman.

Post-pandemic path

Looking ahead, the change in administration in the US and its path out of the pandemic are macroeconomic factors that the Cayman Islands' financial services industry will be keeping a close eye on. Parsons comments: "Given a large number of our clients are US based, we need to consider what will happen with Covid recovery in that jurisdiction and whether the Biden administration will usher in regulatory change."

Parsons adds, "We certainly do know that further Cayman changes are afoot for 2021, including the second phase of VASP regulation and exempted limited partnerships being brought into scope of the economic substance regime."

Victory concludes, "Whilst we expect there to be continued focus on the areas of anti-money laundering and data protection, we understand Cayman's regulators are also considering ways to broaden and update the spectrum of products available in the jurisdiction, to meet market demand. The Cayman Islands will always seek to meet and exceed global standards, so we're happy to embrace new requirements; provided those requirements are applied equally and in a fair and transparent manner. We remain positive on the outlook and are very much looking forward to 2021 being another successful year." ■



Peter Colegate
Counsel, Appleby

Peter Colegate is Counsel in the Corporate Group and co-head of Appleby's Global Technology and Innovation Group. His practice is focused on privacy, data protection and strategic corporate-commercial and regulatory work in the technology and innovation sectors. A privacy and data protection specialist, Peter is a member of the International Association of Privacy Professionals and sits on the Cayman Islands Government's Working Group on Data Protection. He is a member of the Financial Services Legislative Committee Fintech Sub-Committee, the Cayman Finance Fintech Innovation Lab, the Cayman Islands Blockchain Association and the Fintech Professionals Association. In 2020, Legal 500 ranked Peter as a 'Rising Star' noting him as a "subject matter expert, responsive and detail-oriented" for Regulatory and Compliance.

Bright future for private funds

Interview with Richard Gordon & Kendra Foster

The number of private funds being established in the Cayman Islands has continued to rise. This sector proved to be resilient and flexible as it swiftly adapted to a new regulatory regime and turned the additional oversight into an advantage.

"The growth of private funds is a function of the Cayman Islands' well-respected legislative and regulatory framework, tax neutral status and local knowledge base," outlines Richard Gordon, "In addition, the enhanced private funds regulatory regime seems to be having a positive effect. It is providing investors with greater comfort by implementing supervisory oversight and increasing transparency into the operations of these entities, thereby assisting in fuelling their growth."

Within the context of a fast-moving global regulatory environment, managers are facing increasing investor demands for transparency and information. Access to quality information, report generation and client portals are therefore taking on greater importance.

Consequently, having access to a sophisticated and flexible administration platform which can deal with capital call volumes and valuation challenges is also becoming a priority. Gordon explains: "In view of this, many managers are choosing to either invest heavily in greater IT capability or to outsource their middle office functions entirely and concentrate on their core capability."

The progress of private funds has been outpacing traditional hedge products for a number of years. This is likely to persist for years to come, given the increasing acceptance of private funds as a recognised asset class.



Kendra Foster notes: "Ocorian has recognised the growing role of private funds for some time. We have been increasingly positioning ourselves to be able to fully meet our clients' needs throughout the fund life cycle.

"Examples of this are the business affiliation with Ocorian Law, our investment in flexible and sophisticated fund administration platforms, and increased fiduciary capability designed to provide the gold standard in corporate governance."

As a jurisdiction, the Cayman Islands' geography, regulatory regime and readily available private funds' specialists make it uniquely placed among managers looking for a single point of contact.

With approximately 70% of non-US domiciled alternative investment funds managed by US SEC registered advisors domiciled in the Cayman Islands, the jurisdiction is very much at the centre of global private assets trends when it comes to fund formation and growth.

"Managers come to the Cayman Islands looking for a seamless service and a reasonable value proposition, which, ideally, is in their time zone. They also want a flexible and focused regulatory framework that is appropriate for the nature, size, and complexity of the structure," comments Foster.

Further, the unique advantage of Cayman's new private funds regulatory regime is the ability to market before registration. This therefore enables managers to gauge investor interest before having to incur regulatory fees and other set-up costs.

Growing need for outsourced administration

The transition from an unregulated to an appropriately balanced regulatory framework has meant significant changes for clients who previously carried out administration in-house or implemented compliance policies using their equivalent home country standards, as opposed to those of the Cayman Islands. Due to the new requirements, firms such as these are now looking to hire dedicated administrators to assist them with these obligations.

"In addition, managers are looking to more actively engage with their trusted Cayman Islands advisors to get direction or assist with the many new queries and obligations," remarks Foster, "In a number of cases, the increased regulatory oversight led to the number of private funds controllers expanding from one to two. While considering the composition of the boards and committees controlling private funds, it is now more important than ever to ensure such bodies are thoughtfully organised. The need for more guidance is often addressed by engaging non-executive directors resident in the Cayman Islands who can provide key insights in a cost-effective manner."

Gordon points out, "Ocorian's response has been multi-faceted; developing solutions organically where possible and making targeted acquisitions where it enhanced the value proposition". In recent years, Ocorian has formed the aforementioned Ocorian Law to meet the one-stop-shop needs of clients. The firm has also added and made acquisitions to build further fund administration capability and built a client facing AML officers solution. Most recently, Ocorian acquired Newgate Compliance, a UK-based compliance consultancy offering a modern, systemised solution to the traditional compliance function.

When it comes to new regulation, there are no new pieces of major legislation currently on the horizon which would affect private funds directly. However, CIMA has recently released rules and guidance, including but not limited to, guidance on segregation of assets, calculation of asset values and marketing materials.

"We anticipate that further rules and guidance are likely to follow as a result of data and information submitted to and analysed by CIMA," Foster notes, "In particular, it is likely that corporate governance could become a focus as the jurisdiction looks to raise standards to close the gap with those best practices in effect in the open-ended sector."



The outlook for the sector remains strong especially since the pandemic caused very little disruption to these trends in the Cayman Islands. "In fact, this time has served to demonstrate the resilience and professionalism of the sector including government, the regulators and the local legal and financial service providers," Gordon concludes, "The robust technological infrastructure implemented allowed for private fund registrations and initial formation to continue online throughout the pandemic." ■

Richard Gordon
Managing Director – Cayman, Ocorian

Richard is the Managing Director of Ocorian's Cayman office. He is responsible for the operations and client service teams of the Cayman office which specialise in provision of trustee, director and administration services to Cayman funds, CLO's, corporate SPV's and private clients. Richard has over fifteen years' experience in the funds and capital markets sectors providing corporate governance and administration solutions to a variety of entities and clients around the world.

Kendra Foster
Managing Partner – Cayman, Ocorian

Kendra is the Managing Partner of the legal arm of Ocorian's Cayman office and specialises in regulatory, licensing, risk management and information disclosure matters. With over 15 years of experience in the Cayman Islands financial services industry, Kendra is proficient in financial services, investment funds, and general corporate commercial practice areas and also routinely advises on anti-money laundering, counter-terrorism financing, counter-proliferation financing and sanctions.



A growing need for customisation

Interview with Leanne Golding

As the hedge fund industry continues to grow and mature, managers are considering options beyond the traditional hedge fund structure. To this end, the managers and their service providers must be flexible and nimble to create custom solutions for the benefit of all parties involved.

"We're seeing many different fund vehicles come to market and as a service provider, you need to be able to adjust your service offering and your approach to match those changes," comments Leanne Golding, Director of HTC Fiduciary Services ("Harbour") in the Cayman Islands.

Expanding into new areas can be challenging. One of the areas where Harbour has seen growth is in requests to add independent oversight on structures which are not a traditional corporate entity. Golding explains: "Traditionally, the offshore hedge fund structured as a limited company would have an independent board, but today we see a wider variety of legal structures being used – including limited partnerships and limited liability companies in both Cayman and Delaware. As institutional investors invest in these structures, they want to see the level of independent oversight they are used to, regardless of what legal form it takes."

Harbour is ready to meet this challenge. "Being able to go beyond the standard board structure and using the skills we've gathered through our governance experience to expand into advisory board structures for limited partnerships have proven to be a valuable service to our clients," Golding stresses.

Another area which calls to investors' growing desire for customisation is around co-investments. Although not all managers offer it to all their clients, many are embedding these options in side-letters, offering them to certain strategic investors.

Golding comments: "We're very supportive of customised offerings. Investors, especially the large institutional allocators don't want cookie-cutter investments. We see them asking for customised opportunities. For example, certain strategic investors may like the flagship strategy of a manager but want to adjust the leverage slightly or maybe need to carve out certain aspects to meet their internal ESG requirements."

"From our perspective, we find most managers are happy to accommodate these requests. However, when such an option is included in a side letter, we need to make sure the terms the manager is agreeing to are achievable –in terms of reporting and various other regulatory aspects. Investors sometimes have very specific requirements and the manager needs to be nimble to attract that capital. So, we need to review the agreements, evaluate them and offer our insight on what may work and what will not."

In her view, co-investments are bound to increase as managers find opportunities amid growing volatility: "It is going to become more of the norm to have those offerings available to a larger portion of a manager's investor base. Some managers definitely benefited from the dislocation and disruption we've seen this year. It depends on the market but there are a lot of opportunities out there as well as large amounts of capital waiting in the wings to be deployed within those kinds of strategic investments."

Increased regulatory requirements

In its role as a service provider, Harbour is supporting clients to manage their ever-growing regulatory requirements, such as additional CRS reporting and the need for AML officers.

Since 2018, all funds conducting business in the Cayman Islands are required to appoint an Anti-Money Laundering Compliance Officer, a Money Laundering Reporting Officer and a Deputy Money Laundering Reporting Officer.

Golding says: "When we saw the requirement come in, we understood the rationale behind it. Since then, I've seen the value those AML officers provide and the oversight they undertake of the AML programme for each of those funds. Having a service provider who can provide suitably qualified officers and that have a good relationship with other providers who can do that for you is of valuable support to fund managers."

When it comes to the additional CRS reporting requirement that was recently introduced, Golding notes it's a considerably lengthy filing which can be onerous for a manager to undertake directly: "This needs to be filed by 31 March 2021. It's definitely something all our clients need to be on top of. As directors we're making inquiries to ensure our clients are aware of these requirements and to see whether they need any assistance in that regard."

Expanding board support

Another area where the firm has seen expanding value is in providing board support. Golding details: "There is a definite trend towards having what we commonly refer to as a split board. Here you have independent directors from various different firms coming together to provide a diverse board for a particular investment fund. With a split board, we found it's very beneficial to have a designated party acting as the company secretary and providing formal board support to all of the directors. When you have individuals split across time zones, offices and locations, the governance programme benefits from having someone coordinating the board materials and taking minutes that provide a valuable and accurate summary of the meeting."

She explains that with large institutional sized managers this role is sometimes taken on by the legal department, but emerging managers may not have the extra internal resources to fulfil these tasks. This is why outsourcing to firms like Harbour has become more commonplace. Golding advises: "Beyond the immediate tasks, it is also really important to have a designated person to follow up on action points in between meetings. This way anything that has to be resolved before the next board meeting can be settled."

In terms of broader industry development, Golding outlines: "There are many more moving pieces when it comes to finding the right mix of service providers to have an efficient running of your business. This mix will enable a manager to take advantage of the opportunities available.

"People are now very comfortable with most forms of outsourcing. Finding the right outsourced service providers to help carry some of the administrative load allows the manager to focus on what they do best." ■



Leanne Golding
Director, The Harbour Trust Co Ltd

Leanne Golding is a Director of HTC Fiduciary Services Limited and an officer of The Harbour Trust Co Ltd (together, doing business as "Harbour"), and is responsible for providing fiduciary services to Harbour's fund clients, including serving as an independent director for such funds. Leanne previously worked for Goldman Sachs Administration Services (GSAS), where she was Vice President, Global Investor Services managing the Investor Services team in three jurisdictions. She joined the Harbour team in 2009.



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Harbour has a longstanding and well-established presence in the fund industry both in the Cayman Islands and around the globe. Our true strength however is in the tailored solutions we offer clients, drawing on our expertise, independence and strength of commitment.

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The world's leading domicile

By Jude Scott

In August 1864, 900 miles almost due North of the Cayman Islands, US Navy Rear Admiral David Farragut faced a pivotal moment. Leading a squadron charged with attacking Confederate forces in Mobile Bay, Alabama, Farragut's flotilla encountered tethered mines known then as "torpedoes" which ultimately threatened his mission and his men. Acting decisively to navigate around the threat and pursue his objective, Farragut uttered the phrase that has now passed into military lore: "Damn the torpedoes! Full steam ahead!"

Leaders in every walk of life will meet challenges that could distract their focus, diminish their capabilities or derail pursuit of their goals. Successful leaders are the ones who can traverse those obstacles, regain their course and press forward with as much energy as possible. The Cayman Islands has confronted recent challenges to its position as the world's leading investment fund jurisdiction but thanks to our system's strong fundamentals and transparent engagement in standard-setting our financial services industry is pushing ahead with offering unparalleled value for our clients.

The most significant recent test for the Cayman Islands was the Economic and Financial Affairs Council of the European Union's (ECOFIN) establishment of a list of non-cooperative jurisdictions for tax purposes – a tax blacklist. First established in 2017, the tax blacklist was intended to include those jurisdictions outside the EU that failed to meet EU criteria for tax good governance, such as transparency and fair taxation. As the domicile of choice for more than 70% of the world's international investment funds, it was no surprise that the EU would choose to evaluate Cayman against that criteria.



The Cayman Islands was among the nearly 100 jurisdictions assessed by ECOFIN's Code of Conduct Group (COCG) and initially was considered cooperative on transparency and fair taxation. Throughout the EU's process, the Cayman Islands Government – with complete support from the Cayman Islands financial services industry – fully and transparently engaged with the COCG and ECOFIN. Cayman did not become the world's leading investment funds jurisdiction by accident: we have painstakingly built a sound, flexible and fair legal and regulatory regime and are committed to working with bodies like the EU to show how it conforms to high standards for tax good governance. Thanks to that engagement, and some initial legislative actions, ECOFIN chose not to add Cayman to the blacklist in 2018 but did flag a concern about enhanced economic substance rules for Cayman's funds industry.

Cayman's engagement with the EU to address concerns about economic substance expanded throughout 2019, during which time the Cayman Islands Government passed an additional series of legislative measures to enhance its economic substance regime. The EU required additional changes to be complete by late January 2020, and while those changes were passed by the Legislative Assembly on time the enactment of the legislation took effect shortly after the EU deadline and was a factor in ECOFIN adding Cayman to its blacklist.

While being blacklisted was a set back for Cayman, it strengthened our resolve to address EU concerns while also defending the fundamentals of our legal and regulatory system. Additional legislative changes by Cayman's Legislative Assembly, combined with focused engagement by the Cayman Islands Government in coordination with our financial services industry ultimately achieved the objective: in October, ECOFIN announced that it considered Cayman to be a



cooperative jurisdiction on all criteria for tax transparency and fair taxation.

The EU's confirmation that the Cayman Islands is not a tax haven and is cooperative on principles of good tax governance is a very welcomed development. The EU more closely scrutinised Cayman's legal and regulatory framework than perhaps any other entity had before and was not incentivised to conclude that Cayman was cooperative. Yet in doing so, it has sent a powerful signal that Cayman's reputation within the global financial services industry as a fundamentally sound system that meets or exceeds global standards is well-founded.

The EU's assessment is consistent with comparable assessments by other international standard-setting bodies. The OECD also evaluates jurisdictions for their adherence to the international standards on transparency and exchange of information – a true global standard. For its most recent evaluation of the Cayman Islands against that standard, the OECD gave our jurisdiction the second highest possible rating, which is the same rating given to G20 countries like Germany, the UK, Australia and Canada.

The various ratings and evaluations can seem like esoteric exercises that are somewhat removed from the work done in the global financial services industry every day. Practitioners in the global investment funds industry have made their own assessments and express their conclusions by where they place their investments, which has overwhelmingly been directed at Cayman-domiciled funds. But conclusions like those drawn by the EU and OECD are important because they strengthen global confidence in the stability and durability of Cayman's legal and regulatory regime and offer large institutional investors like pension funds a "seal of approval" for their Cayman-domiciled investments.

Invigorated by results of the EU's assessment, the Cayman Islands financial services industry is moving forward with doing what we do better than anyone else: bringing innovation to the market and providing our clients and their investors with unparalleled value. Cayman already offers investors a variety of efficient and effective funds vehicles and we have added to that in recent years with the development of the Cayman Islands, LLC and will consider new improvements in years to come.

At the same time, as a tax neutral hub efficiently supporting global economic growth and recovery, Cayman continues to provide institutional investors with access to a world's worth of investment opportunities from a single jurisdiction. That access is supported by a pure tax neutral regime that offers investors a transparent means to eliminate the risk of double taxation on their global investments with lower administrative compliance costs than double tax treaty regimes.

Leaders will always face challenges as they pursue excellence. The Cayman Islands remains focused on being the world's leading jurisdiction for investment funds, which will always invite scrutiny from international bodies. But what keeps us on top with investors is also what helps us pass analysis by standard-setters: a culture of compliance and a sound legal and regulatory framework that pairs best practices with the best standards. ■

Jude Scott
CEO, Cayman Finance

Jude is an internationally respected speaker on financial services and has been featured in international media on a number of occasions. He has extensive experience within the Cayman Islands financial services industry, having served on various Cayman Islands Government and private sector committees. He has served as the CEO of Cayman Finance since 2014.

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Cayman Finance is the association of the financial services industry of the Cayman Islands, a premier global financial hub efficiently connecting law abiding users and providers of investment capital and financing around the world.

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The organisation's mission is to protect, promote, develop and grow the Cayman Islands financial services industry through cooperation and engagement with political leaders, regulators, organisations and media.

Contact: Cayman Finance | enquiries@caymanfinance.ky | +1 345 469 6200

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Contact: Cassandra Powell | cpowell@harbour.ky | +1 345 949 4272

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