Banking, mutual funds, trusts, insurance, court cases, legal notices, formations, liquidations, regulations, politics.....and scandals

Offshore Alert

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Bermuda Premier Saul quits - country in shock

Bermuda was in shock last week following the sudden resignation of David Saul as Premier after just 19 months in office.

Saul caught everyone by surprise by giving only a week's notice that he was stepping down as leader and announcing that he was also quitting as an MP a few days after that.

His resignation initially caused concern among international businessmen, who feared a leadership battle could affect the economy.

They have already faced two and a half years of political turmoil that was caused by former Premier Sir John Swan's mis-guided attempt to take Bermuda independent from the United Kingdom, which triggered a bitter split within the UBP.

However, the anticipated leadership battle failed to materialize and 41-year-old Pamela Gordon was elected unopposed to become Bermuda's first woman Premier and its youngest.

Saul, who announced his resignation on March 19, will step down as leader on March 27 and quit as an MP at the end of the month. His reign as Premier is the second shortest on record.

Saul acknowledged that recent opinion polls carried out by his party indicated that, if there was a General Election tomorrow, the UBP would face a tough fight to get re-elected. The polls are also believed to have indicated that Saul - often accused of arrogance - trailed the leader of the opposition Progressive Labour Party, Jennifer Smith, by a "substantial margin" in individual popularity.

Saul said he made his decision to resign nine months ago and decided to go now because he

(Continued on page 2)

Cayman suspends budget and tax increases following revolt

Faced with a public revolt of unprecedented proportions, the National Team government of the Cayman Islands has suspended parliamentary debate on its proposed budget and new revenue measures introduced last week to finance it that hit tourism and offshore investment with massive increased taxes.

To pay for the new US$317 million budget - a 25 per cent increase on the previous year - Finance Minister George McCarthy doubled the annual fees for major banks, introduced massive "impact fees" on new developments, increased some customs duties by up to 500 per cent and introduced a series of other measures that had Cayman islanders in uproar.

Approximately 1,000 locals protested by attending the largest public meeting ever held in the 35,000-populated country, prompting the government to suspend its entire budget and its massive tax increases and announce that it was forming an "economic council" in conjunction with the private sector to come up with more acceptable ways to raise revenue.

Many speakers said the new fees and customs duties would be the end of Cayman's tourism industry that is already considered expensive by vacationers.

The new tax measures affected all sectors of the economy.

(Continued on page 2)

Inside this edition of Offshore Alert

Pindling also goes

Sir Lynden Pindling is stepping down as leader of the opposition Progressive Liberal Party after 32 years, including 25 as Prime Minister, after his party's comprehensive defeat in the Bahamas General Election on March 14.

Pindling was one of only six PLP MPs to retain their seats as Hubert Ingraham's Free National Movement party won a record 34 of the 40 seats available. The PLP will meet soon to elect a replacement. Favourite is Philip Galanis, a partner with accounting firm Ernst & Young. Other front-runners are Perry Christie and Bernard Nottage.

Many Bahamians blame the PLP's dismal performance on the party's failure to make race an issue, a lack of leadership, the pre-election murder of a government minister which Pindling was blamed for inciting, Pindling's public embracing of gang members and a Commission of Inquiry's finding earlier this year that Pindling had taken kickbacks for awarding hotel contracts.

Pindling was the only PLP candidate to win one of the 16 seats on offer in the Family Islands, which is a collective name for all of the islands outside New Providence, which houses the Bahamas capital of Nassau, and Grand Bahama, whose main town is Freeport.

The other five seats won by the PLP in the General Election came in the poor region of New Providence known as Over-the-Hill.

Following his victory, Ingraham had publically called for Pindling - who destroyed the international business sector when he was Prime Minister from 1967 to 1992 - to retire from politics.

The Bahamas Parliament will reconvene on April 9. Ingraham has increased his number of ministers by three to 14.

Ingraham introduced at least 14 pieces of legislation to boost the offshore financial sector during his first term and did much to persuade foreigners driven away by Pindling to reinvest in the economy, particularly in tourism.

(Continued from page 1)

Saul - plagued by decision to "pay off" former Premier with hamburger franchise

had achieved his main aims of uniting the party, improving the economy, making government more efficient and helping Finance Minister Grant Gibbons deliver a "good budget".

"I am, therefore, satisfied that now is the right time to step down," Saul told a press conference. "I do so in the knowledge that the General Election is 18 months off and this will give my successor time to pick up the pieces where I left off as leader and to then lead our team to victory in the polls."

Saul took office after former Premier Sir John Swan stepped down after 13 years as leader following the referendum on independence, which voters rejected by a ratio of three to one. Coincidentally, days before Saul's resignation announcement, Swan also announced that he would step down as an MP, which he intends to do over Easter.

Saul's entire leadership was dogged by his Cabinet's decision to grant Swan permission to set up a McDonald's restaurant on the island in conflict with a publicly stated and long-held government policy of not allowing fast food franchises on the island.

The move was seen as a political pay off for Swan who, according to sources in Bermuda, had threatened to bring down the government if he did not get his way. However, there was so much outcry that dissident government MPs pushed through a bill outlawing fast food franchises and to thwart Swan's plans to open a McDonald's.

Saul said that, throughout his adult life, he had set himself time limits to achieve certain objectives and that, when he had achieved them, he moved on.

He would not say what he will do next but some people are tipping him for a top position in the Bank of Butterfield, which has a current vacancy for a chief executive officer and another vacancy scheduled for later in the year when Sir David Gibbons retires as chairman.

Saul, a former Finance Minister, has played a large part in steering Bermuda's international business sector into its most successful period ever over the last four years.

International businessmen can only wait and see what the leadership changes does to the UBP, which is in real danger os losing power to the opposition PLP for the first time in the next General Election which must be held before October, 1998.

The PLP is considered an unknown quantity and, while most international businessmen believe the party would do nothing to intentionally harm the offshore sector, it is feared the party may not have the competence or experience to govern efficiently and may damage the sector unintentionally.

For example, the PLP is keen on Bermudianisation and may make it harder for foreign companies to obtain work permits for foreign nationals and may also force ill-qualified and inexperienced Bermudians into key civil service positions at the expense of more competent expatriates.

(Continued from page 1)

Cayman Class 'A' bank licence fee doubles to US$100,000

An annual Class A banking license, which permits holders to engage in both local and offshore banking, was increased from US$52,500 to US$100,000 under the new government fee structure. There are 81 of these licences in Cayman. At the same time, annual licenses for Class B banks, which can only engage in business originating outside Cayman, were raised from US$15,525 to US$18,750.

Restricted Class B banks, which are limited to conducting business with named and approved persons outside Cayman, saw their annual license fee raised from US$7,500 each year to US$12,500

In a move that would slow foreign investment in the territory, McCarthy had also introduced across-the-board "impact fees" on new developments. Impact fees have been used in North America as a revenue measure by which government offsets the impact of a new development on the infrastructure of an area, such as traffic on roads and demand for services such as water, electricity, schools, etc.

A fee of 7.5 per cent of the total market value of a development was introduced by government for new developments along Cayman's famed Seven Mile Beach tourist area, along with the upscale communities of Cayman Kai and Queen's Highway. A fee of five per cent on new projects was applied to all other areas of Cayman.

One local realtor reported that projects totalling more than US$100 million were cancelled or suspended after government first introduced the impact fees. The government has strongly hinted that this proposed tax will be shelved following public concerns.

Tourism was hit in other ways in the soon-to-be-revised budget, with departure taxes being raised from US$10 to US$12.50 per tourist. McCarthy called the additional US$2.50 an "environmental protection fee" that would be collected by the Civil Aviation Authority.

While the increase may not seem like much, Cayman attracted a record 1.14 million tourists in 1996 and 1997 is already ahead of last year's pace for visitor arrivals so the increase can be expected to raise about $3 million in additional revenue. A vast array of other fees and duties were increased to pay for the budget. New customs duties pushed the price of top quality scotch such as Johnnie Walker Black Label to US$62.50 per bottle. Brand name drinks and cigarettes sell for US$8 and US$5 per pack, respectively, in some bars and restaurants.

The government, which began a vast array of capital expenditures in 1996, including a new US$20 million hospital, needs the additional funds to meet a 29 per cent increase in recurrent expenditure from the 1996 budget and pay the 51 per cent of the budget that goes for civil service salaries and pensions. The 51 per cent of budget for salaries is believed to be one of the highest in the western hemisphere, if not the world.

The National Team coalition of politicians has ruled from 1992 and won 10 of the 15 seats in the November, 1996, General Election.

Mexico's taxman attacks offshore sector

The Mexican government has amended its tax laws to try to curb the massive outflow of capital being lost to the world's tax havens.

The new measures mean that Mexican companies and individuals are now liable for taxes on income earned offshore as soon as it is incurred, not when it is distributed, as was the case before.

Income tax for individuals in Mexico runs as high as 35 per cent and, for corporations, profit tax is calculated at a flat-rate of 34 per cent of net income.

To make matters worse for taxpayers, they are now liable for taxes on gross income from their offshore investments unless they surrender full financial details to the Mexican authorities, in which case they will be taxed only on net income.

Another significant move is the introduction of a prison term of between three months and three years for anyone who is caught not reporting their full holdings to the Mexican tax authorities.

Offshore jurisdictions trying to develop their intellectual property business will also not be encouraged to learn that the amendment contains measures intended to deter the traditional practice of Mexican corporations setting up offshore entities to own trademarks and then paying inflated, tax-deductible royalties to the offshore entity for use of the trademark.

These payments are now deemed to be made not on an "arm's length" basis and, in order to claim tax relief, companies must provide evidence that payments were made at a "fair market" value.

Mexico has published a list of about 60 "low-tax jurisdictions" that are affected by the amendment, which became law on January 1, 1997. Countries on the list include Bermuda, the Bahamas, the Cayman Islands, Barbados, Antigua, Belize, Jamaica, the Turks & Caicos Islands, Anguilla, Aruba, Hong Kong and the Channel Islands. Virtually every recognized low-tax jurisdiction is on the list.

It remains to be seen what impact the law will have on low-tax domiciles, which have attracted a significant amount of business from Mexico and Latin America, in general, over the last few years.

Bermuda, for example, has seen a steady increase in the number of Mexican companies setting up self-insurance vehicles.

Insurance firm Johnson & Higgins has been active in Latin America trying to persuade more corporations to form captives.

Roger Gillett, senior vp with J&H in Bermuda, said he expected the tax amendment to slow down new business in the short-term.

But he said there were more attractive reasons for forming captives than simply tax advantages to justify confidence that there will be little or no long-term damage.

"There are many reasons to form captives, one of which is tax," said Gillett. "When there's a positive tax environment, it's an easy decision but, when there isn't, it requires more detailed thought.

"The CFC (Control of Foreign Corporations) legislation in the States has been in place for many years and yet, despite this, most of the captives being formed are being formed by US corporations.

"The new Mexican law appears to have similar intentions to the CFC and, similarly, I see no reason why it should have any significant impact over the long-term."

Ricardo Rendon, international tax partner of Mancera Ernst & Young in Mexico City, said the Mexican government was trying to achieve two principal goals with the amendment.

Firstly, the government wanted to discourage capital from leaving Mexico to go offshore and, secondly, in cases where capital was already offshore, the government wanted income from the capital to be taxed as soon as it was earned, instead of when it was distributed.

"In the past, before this legislation, you only had to report or recognize your offshore income when the dividends were paid," he said. "Now, you have to report the income earned by these offshore entities on a current basis.

"The worst thing is that you need to report or recognize your gross income for tax purposes unless you make available to the Mexican authorities all the books and records relating to these offshore investments. If you do make these records available, you will be taxed on a net income basis."

Rendon said the authorities had become concerned at the levels of foreign capital leaving Mexico, which was mostly being sent out by individuals - rather than corporations - who were trying to protect their funds from monetary devaluation and other risks.

Switzerland gets its man - at last

Swiss national Peter Kruger, wanted in Switzerland on charges of filing a false bankruptcy of US$270 million, has given up his long fight against extradition from the Cayman Islands and has said he will voluntarily return to his homeland in the "very near future".

Kruger, who had initially decided to fight this latest attempt to extradite him after his success in a previous battle last year, has decided to throw in the towel. He said he will be returning with his wife, Barbara, to face charges filed by the Swiss government but he did not set a date for his return.

The Cayman government has given him time to "wind up my affairs" before departing, said Kruger. His wife was not named in the most recent extradition request that was filed in Cayman on February 21, 1997. Kruger was originally arrested on an extradition warrant to Switzerland in Feb. 1996 but, after a lengthy court battle, the warrant was dismissed on a technicality in Nov. 1996.

The Swiss government, along with Cayman authorities, refiled the extradition warrant citing a new European convention regarding extradition as the legal basis to return Kruger to face charges.

He was initially held without bail following his re-arrest on February 21 but, earlier this month, a Cayman judge granted Kruger bail of US$100,000 in cash, US$250,000 in local guarantees and US$62,500 in the form of a cash bond.

The Swiss government has claimed that Kruger filed a false bankruptcy in the Canton of Bern in 1991 for 324 million Swiss francs, about US$272 million at that time.

Kruger's real estate empire collapsed during the 1991 worldwide recession and a number of Swiss banks, including Credit Suisse and Swiss Bank and Trust, were left with millions of dollars in uncollectable loans made with Kruger.

The latest extradition warrant alleges that Kruger kept secret his US$30 million in assets in the Cayman Islands, in addition to land and businesses in France, Canada and Florida.

Kruger has denied the charges but records in the Cayman Islands show he and his wife own two beachfront condominiums each worth US$1.5 million, a golf course condominium valued at US$600,000, a plush beachfront home in the exclusive Cayman Kai section of Grand Cayman valued at US$1 million and an ocean-going yacht worth well over US$100,000.

In addition, Kruger has other business interests and companies with assets reportedly in excess of US$20 million.Those assets, along with the Kruger's property, however, have been frozen by a court order in Cayman pending the outcome of a civil suit filed by former business partner Andreas Laager. Laager has alleged that Kruger defrauded him in their business dealings in Switzerland.

Kruger went to Cayman in 1988 and obtained permanent residency in 1991.

Bermuda makes it tougher on creditors

Bermuda's lawyers, a firm of whom recently charged a client $400 for obtaining a $5 copy of someone's will, have surpassed themselves in the area self-preservation through the passage of amendments to The Companies Act 1981.

Following the introduction of The Companies Amendment Act 1996, it has become more difficult, if not impossible, for creditors of failed Bermuda-registered companies to sue those who are largely responsible for the failures.

Concerns have been raised in Bermuda about the dangers to the island's reputation caused by the amendments, which appear to have been designed primarily to give officers, directors and auditors of companies legal immunity from acts of gross negligence and everything else short of outright dishonesty.

The changes have been criticised as a classic example of lawyers, who take in massive fees by collectively sitting on the boards of thousands of foreign and local companies, writing a law to look after their own interests at the expense of foreign businessmen who buy products and professional services on the island.

"I know of no other respectable jurisdiction which has a law that so protects officers, directors and auditors against failing to be responsible and diligent and just generally doing their job properly for which they get paid handsome fees," said one source, who did not want to be named for fear of repercussions.

Two amendments have attracted particular criticism among non-lawyers and non-auditors in Bermuda.

The first amendment changed the law so that "no action shall lie against an auditor in the performance of any function as an auditor" except if it is brought by "the company who engaged the auditor to perform such function" or "any other person expressly authorized by the auditor to rely on his work".

This amendment would seem to prevent insurance or reinsurance buyers, for example, from suing the auditors of an insurer or reinsurer who signed off on the insurance provider's financials even if the financials painted a false picture of the company's economic position.

Using a company failure as an example, under the new law, creditors of reinsurer North American Fidelity & Guarantee, which collapsed owing millions of dollars after operating in Bermuda for a year while falsely claiming to have assets of $100 million, would not have been able to sue, if they so wished, the auditors of NAFG for failing to spot that the company had no assets.

However, the concern over this law change is insignificant compared with the amendment that has really got some businessmen in Bermuda shaking their heads in exasperation. It concerns a legal provision dealing with the "exemption, indemnification and liability" of officers, directors and auditors.

In the past, company bye-laws that indemnified officers and auditors in respect of "any wilful negligence, wilful default, fraud or dishonesty of which he may be guilty of" would be void under The Companies Act 1981.

However, the words "wilful negligence" and "wilful default" have been removed so that company officers now appear to have a free rein to write legally-binding bye-laws protecting themselves and their auditors from gross negligence and all manner of other incompetent actions short of blatant dishonesty and criminality.

Baron's Law Dictionary defines "wilful negligence" as an intentional act of an unreasonable character in disregard of a risk known, or so obvious that it must have been known, and so great as to make it highly probable that harm would follow. The act is usually accompanied by a conscious indifference to the consequences amounting almost to willingness that they shall follow."

Not content with drawing up these allegedly one-sided amendments, some lawyers have already put into action Phase Two of their self-preservation plan by then going ahead and recommending to their clients that they adopt them in their bye-laws. At least one management firm affiliated with a law firm has reportedly been advising its clients to change its bye-laws accordingly, said a Bermuda business source.

One businessman in Bermuda said: "Everyone recognizes that officers and directors need to be protected against unreasonable lawsuits but there is a feeling among some in the community that these changes simply go too far in the level of protection they afford. Officers must realize that they get paid fees for providing a reasonably competent level of service. These fees are not their God-given right. They have to earn them."

Until a few years ago, at least two Bermuda resident directors were required to sit as directors of companies registered in Bermuda, even foreign-owned "paper" companies that had no physical presence on the island. This led to some lawyers being on the boards, often in a nominal capacity, of hundreds of companies that they helped incorporate.

That law was changed so that Bermuda-registered companies must now have at least one Bermuda resident director and a company secretary who is resident in Bermuda or a Bermuda resident representative, who is not technically a director.

Footnote: Some months ago, Bermuda Supreme Court fired a furious letter to one of Bermuda's big law firms after the firm charged one of its clients $400 for obtaining a copy of a will that was probated in Bermuda that any member of the public could have obtained from the court for a $5 fee.

Hotel investment in the Bahamas

Two Nassau hotels are in the process of being taken over, according to reports in the Nassau Tribune.

The 150-room, old Atlantis Hotel on West Bay Street (not too be confused with The Atlantis Hotel on Paradise Island) is being sold by local realtor John Morley to Florida-based Junkanoo Beach Hotel Ltd. and Holiday Inn. The hotel is scheduled to open in January, 1998 with about 117 rooms. The purchase price and renovations will come to over $2 million, according to the buyers.

The other sale involves the run-down Best Western British Colonial Hotel in the heart of the commercial district being acquired by RHK Capital Incorporated of Canada, according to the Tribune.

BVI appoints first registrar of mutual funds

The British Virgin Islands has appointed Kevin Mann as its first Registrar of Mutual Funds. He will assume the position on May 1, 1997 and oversee the BVI Financial Services Mutual Fund Department.

Mann will oversee the implementation of the 1996 Mutual Funds Act, which was introduced last June. One of his main functions will be to expand the current 1,000-plus mutual funds, worth over $55 billion, incorporated in the BVI.

He previously worked at the Department of Trade and Industry in the UK and was Higher Executive at HM Treasury (UK). He is currently Supervisor of Investment Management in the Isle of Man.

Cayman Round-Up

G. Neville Grant of Ontario has been named as Director of the new Cayman Islands Monetary Authority, which will oversee the island's lucrative offshore banking and insurance industry.

Grant, who has 25 years of experience in international finance, banking and financial supervision, will take up his post in May as the Authority becomes operational, said Cayman Finance Minister George McCarthy, who will have Cabinet responsibility for the Authority.

The Monetary Authority will have responsibility for supervising Cayman's 560 registered financial institutions, 330 offshore insurance companies, along with the local insurance industry and the new Cayman Islands stock exchange that opened on January 2 of this year.

In addition to service in the private sector in Canada with the Bank of Nova Scotia and the Bank of Montreal, he has six years of experience with the International Monetary Fund as a banking supervision advisor to such countries as Zambia, Jamaica, Hungary, Tanzania and Vanuatu.

Grant is currently in Vanuatu completing his IMF assignment with the government of that country.

He was the Canadian government's Department of Finance from 1976 to 1987 and, in 1982, became responsible for the examination of all Canadian banks for solvency.

The 560 registered financial institutions in the Cayman Islands have assets in excess of US$480 billion, helping to make the island the world's fifth largest financial centre, according to the IMF.

The first list of registered listing agents for the Cayman Islands Stock Exchange has been released by the exchange. All are Cayman-based accounting or legal firms or mutual fund administrators. But the first member brokers have still to be appointed.

The ten new listing agents are: Ansbacher Bank Ltd., Bank of Butterfield International (headquartered in Bermuda), Benbow Anderson & Co., CITCO Trust Company, Ian Boxall & Co., Hunter & Hunter, Maples & Calder, MeesPierson (Cayman) Ltd., Price Waterhouse and W. S. Walker & Co.

Issuers of mutual funds and other securities that want to be listed on the CSX when it begins trading must use a registered listing agent.

The listing agents are required to ensure that the funds listed comply with exchange rules including a "complete and accurate disclosure" to investors of the fund.

Acting CEO David Carrad said the rules of the CSX are specifically tailored for offshore mutual funds and "structured financing vehicles" in the initial operations of the exchange.

Eventually, other debt securities, selected secondary listings and domestic securities will also be listed and traded on the exchange, said Carrad.

Toronto Stock Exchange-listed Caribbean Utilities Company, the sole supplier of electrical power to the Cayman Islands, has announced that net earnings for the first three quarters of its fiscal year were up by 4.9 per cent from the previous year.

Net earnings for the first three quarters ended January 31, 1997, were US$7.4 million, compared with US$7.06 million.

CUC operates under a 25-year exclusive contract with the Cayman Islands government that guarantees the company a 15 per cent rate of return on investment. The company can arbitrarily raise its electrical rates each year to meet that guaranteed rate of return.

For 1996, the company generated just over US$60 million in sales and sales for the full fiscal year are expected to be near the US$65 million mark.

CUC's Class 'A' listed stock is currently trading at US$15 per share, up from US$9 per share in October, 1994, when it underwent a two-for-one split. Analysts expect another split in the near future if the stock climbs over US$17 per share, as expected.

In recent weeks, three separate foreign-based companies or entities have advertised in the local Cayman newspaper for Cayman participation in development projects with a total investment in the region of US$68 million.

One of the advertisements was for a water amusement park with "estimated total development costs" of US$23 million while the other two advertisements involve condominium projects.

An attorney for the law firm of Hunter & Hunter that is handling the offering cautioned that the proposal is in a "very early stage" and the entire project is "very, very theoretical". No land site has yet been identified and no plans have been submitted to the Planning Department for examination and scrutiny.

Cayman Islands Real Estate Brokers Association President Brian Wright said the advertisements are "just the beginning of a long process for a foreign company to set up operations in the Cayman Islands". "If someone (a foreign entity) wants to do a project, that's considered a business and, for a business, you need a licence," he said.

The licence is either with Caymanian participation (usually at a minimum of 60 per cent investment) or without Caymanian participation through a Companies Control licence.

The Control Licences are issued by Cayman's Immigration Board during closed door hearings and investigations.

If a Control License is granted, the company can then proceed with producing its plan for development and submitting that to the Planning Department and Central Planning Authority.

Wright noted there is no guarantee the company will get a local companies licence and no guarantee the project will ever be approved by Planning.

The Cayman Islands actively seeks out foreign investors for investment. The vast majority of the 4,500 beach-front condominium units on Grand Cayman are owned by foreign investors or companies, as are nearly all of the hotels.

There are no restrictions on foreign investors purchasing real estate in the Cayman Islands.

The International Business Communications Company will hold its 9th Annual Offshore Trust Services conference at the Westin Casuarina on Grand Cayman from April 30 to May 2, 1997.

The annual forum will deal with a number of issues related to offshore trust services, including the dynamics and applications of corporations and trusts; marketing trust services; the role of trust services in financial management; marketing issues from a global perspective; private purposes trusts; complying with new international anti-money and money laundering laws; managing a dispute or attack on a trust; Canadian and US laws now affecting trusts; drafting a trust and analyzing specific offshore trust issues by jurisdiction, among other topics.

Letters to the Editor

TCI - 'no money laundering'

Dear Sir

Re: Offshore Alert Issue #1

Reference is made to your newsletter received February 23rd, 1997.
The major portions of the letter appear to provide nothing more than a much-raking attack upon a few high profile individuals in Bermuda, Bahamas and Cayman and the rehash of legal troubles besetting them. That however is your prerogative and I take no exception to it. I do take exception to your gratuitous comments on the TCI.

I agree with the view that the major money laundering centers are in New York and London. When was there ever a hint of a minor let alone a major money laundering operation which was linked even peripherally to the TCI? The controls in place are, I believe, at least the equal of those in Bermuda and Cayman. In fact as you should know all three are British Dependent Territories and under the auspices of the FCO.

To suggest, as you have done, that companies based in the TCI are crooked until proven otherwise is totaly misleading and demonstrably and palpably false. I wonder if you or any one with whom you've ever spoken or corresponded has attempted to obtain a banking or insurance license in the TCI.

It is worth noting, I think, that all of the articles and references dealing with fraud and corruption emanate not from the TCI but from those well regulated centers Bermuda, Bahamas and Cayman. Maybe that should alert you to something or perhaps you should do some research as the title of your letter and your business suggest.

If the balance of your efforts bear no more resemblance to reality than those with respect to the TCI I suggest the existence of the letter will be brief and its demise swift, just and certain.

Dale Peters

TCI - 'problems behind them'

Dear Sir,
SUBJECT: Offshore Alert and its reference to the Turks & Caicos Islands

I refer to Issue 1 of Offshore Alert and in particular its reference on page 4 to "dubious domiciles like the Turks & Caicos Islands".

I assume from your publication's title, format, method of distribution and content that it is intended to be an up to the minute digest of recent happenings of current interest to those requiring information on businesses and businessmen operating in Bermuda, the Bahamas, the Cayman Islands and other Caribbean jurisdictions. Indeed you say as much on the final page.

I am therefore at a loss to understand your remark and those which immediately follow it. Whilst it cannot be denied that TCI has had more than its share of problems in the past, things have moved on and great efforts have been made by governments (both local and UK), practitioners and this office as the Regulatory Authority, to make TCI an ethical and reputable offshore jurisdiction. I would remind you that TCI, like Cayman, is a British Dependent Territory and Her Majesty's Government has a considerable influence over what type of business can be and what cannot be conducted here. For instance, you make play of the fact that Cayman will not permit a bank to open unless it is properly regulated in its own jurisdiction. The same rule now applies here in TCI.

I note that your publication includes various to alleged misbehaviour in other jurisdictions but nothing on TCI which would support your assertion.

If you are able to produce any hard evidence on current or recent cases to support your remarks I suggest you do so and I will do my best to ensure that they are fully investigated. If you are unable to do so, I suggest you publicly retract those remarks in your next issue.

Michael D. Constantine
Deputy Superintendent, Government of the Turks and Caicos Islands, Financial Services Commission.

Editor's note: It was only just over a decade ago that TCI's then Chief Minister Norman Saunders and two government officials were arrested in Miami and jailed for allowing South Caicos to be used as a staging area for illicit drugs.

After he was released, Saunders went back to the TCI and...er, got elected as an MP again such is the high standard that the 14,000 or so islanders hold their politicians to.

A lot of change can happen in ten years but events last year would indicate that the TCI has not acquired much in the way of morals since their country was disgraced.

That was when the TCI got rid of its British governor, Martin Bourke, after he was quoted in a financial publication as saying that the TCI suffered from rampant drug-trafficking, official corruption and incompetent police.

Since Bourke had no apparent reason for making up these allegations, it is logical to assume that there is some truth to them.

BVI - incorporating record numbers

The country that has benefitted greatly in the past from TCI's past problems is seeing furious growth in its offshore sector. Company incorporations in the British Virgin Islands are 20 per cent up over January and February than for the same period in 1996, said Director of Financial Services Robert Mathavious. The BVI incorporated 41,000 companies last year and is on target to break that with 10,000 firms incorporated in the first two months of this year. Over 210,000 IBCs companies are registered there.

The BVI has been busy law-wise: the Limited Partnership Act of 1996, which will facilitate the use of limited partnerships as investment vehicles in securities and mutual funds, became law on January 2, 1997, and the government is in the final stages of consultation on a new Proceeds of Criminal Conduct Bill.

Divided into seven parts, the Limited Partnership Act features two significant new aspects that the BVI says offers companies forming limited partnerships specific advantages: broad protection for limited partners for liability to parties for limited partner obligations and, secondly, privacy through anonymity of limited partners on the name of the partnership.

A new Code of Conduct, which sets out general guidance for the conduct of offshore practitioners, was ratified by the government and the Association of Registered Agents on Dec. 10, 1996.

Bermuda Round-Up

Mutual Fund growth

Net assets of Bermuda-registered collective schemes, which include mutual funds and unit trusts, came to $18.23 billion at December 31, 1996, up from $15.62 billion three months earlier, representing a 16.7 per cent increase, the government has announced. Net assets grew year by 36.1 per cent from $13.39 billion during the calendar year.

Finance Minister Grant Gibbons said that 183 schemes were incorporated in Bermuda in 1996 and, at the end of the year, there were 859 schemes registered on the island, representing an increase of 27.1 per cent on the year. The number of schemes increased by 15.3 per cent during the last quarter alone.

Telecomms competition begins

TeleBermuda International has opened for business in direct competition with Cable & Wireless, which had operated a long-distance telecommunications monopoly in Bermuda for many years. TBI is promising subscribers 15 per cent savings on all overseas telephone calls.

Cable & Wireless responded immediately by announcing it would lower its rates to key markets, according to The Royal Gazette daily newspaper.

"We will be introducing a range of new pricing and incentive initiatives in the near future," it quoted C&W manager John Tibbles as saying. "We would naturally hope that these benefits can be rapidly introduced through the approval process to the consumer with minimum delay. These initiatives will impact all major routes."

NOTE: A feature on the telecommunications industries in Bermuda, the Bahamas and the Cayman Islands will be carried in next month's edition of Offshore Alert. The feature will take a look at whether Cayman is likely to introduce competition and whether the Bahamas can improve its poor telecommunications service. Callback telephone providers will also be analysed.

Emlico on the move

Electric Mutual Liability Company, which sparked controversy when it moved from Massachusetts to Bermuda apparently so it could be liquidated in an environment more favourable to the company's owners, General Electric, and less favourable to its reinsurers, is returning to Massachusetts to be liquidated there.

Insurance fee changes

Bermuda's government has revealed details of the changes in insurance licence fees announced in the February 14 budget. Bermuda has sent a message to its competition for captive supremacy by reducing the annual and initial registration fees paid by captive insurers, while making up the balance by steep increases for large commercial insurers and reinsurers.

Class Four insurers, which must have minimum capital and surplus of $100 million and include the island's huge excess liability carriers and property catastrophe reinsurers, saw their annual licence fee go up from $1,155 to $15,000, while the initial registration fee increased from $2,315 to $15,000.

Annual licence fees for Class One insurers, which are single parent captives writing only the risks of their owners and affiliates, and Class Two insurers, such as group or association captives and captives writing up to 20 per cent of net written premium from non-related business, came down to $800 from $1,155, with initial registration fees dropping from $2,315 to $1,500.

Class Three companies, which comprise finite risk reinsurers, some other commercial reinsurers and captives writing more than 20 per cent of unrelated business, have been hit with modest rises and must now pay $2,500 each for annual licences and initial registration, compared with $1,155 and $2,315, respectively.

Bermuda's influential Insurance Advisory Council, a forum for the private sector advising the government on matters relating to insurance, approved the measures before Finance Minister Grant Gibbons introduced them.

Gibbons said the excess liability carriers and property catastrophe reinsurers, who have been hit hardest by the increases, did not perceive them as being "unreasonable".

Latest on Bahamas mutual fund scandal

One of Ecuador's leading business families have denied allegations of fraud against them in relation to a Bahamas mutual fund and say they will fight a court action brought against them at the Bahamas Supreme Court.

Offshore Alert revealed in a special bulletin last week that Ecuador's Central Bank is suing brothers Leonidas, Luis and Jaime Ortega, as well as Ansbacher (Bahamas) Limited, which administered the Bahamas-registered Interamerican Asset Management Fund Limited.

The Central Bank claims the Ortegas used the mutual fund to defraud investors and the Central Bank out of about $160 million by falsely applying for emergency liquidity loans for a commercial bank they ran in Ecuador (Banco Continental, the country's fifth largest) and then laundering it through the Netherlands Antilles and the Bahamas into their own pockets.

The Central Bank seized control of Banco Continental last year and claims then to have uncovered the alleged fraud, which involves misleading the Central Bank into providing it with loans.

Ansbacher, against whom damages are being sought, has been accused of breaching Bahamian trust laws and of being negligent in its duties.

But the Ortegas' Miami-based lawyer, Carlos Loumiet, said the allegations would be contested. "The basis of fraud is deceit and there has been no deceit here," he said. He said his clients' banking operations hit trouble because of political and economic crises in Ecuador causing a loss of confidence in the economy.

Loumiet also claimed that Federal Reserve action to protect the security of the Pan American Bank in Miami, which is also controlled by the Ortegas, is merely a precautionary measure and is not indicative that the bank is in financial trouble.

He said the Federal Reserve's action did not contain any "fines or sanctions" against the bank and "leaves the management and board of directors in place". "With all the events that have been happening in Ecuador, it's hardly surprising that the State of Florida and the Federal Reserve were concerned to the degree that Pan American was affected," he said.

Bermuda Supreme Court

Plaintiff	Defendant	Date Filed	Amount Sought
The Minister of Finance	Jeremy Johnson	Feb. 18	$78,704
Edmund Gibbons Limited	Richards Francis & Francis	Feb. 19	$31,310
1. Gavin Wilson 2. William Craig	1. First Bermuda Securities Limited 2. FBS Nominees Limited 3. Lynda Milligan-Whyte 4. Joseph Taussig 5. Jeffrey Conyers	Feb. 19	$13,768,000
1. Paul Barrington Hubbard 2. John David Boden (as next friends of Betty Lorraine McMahon)	Julian Ernest Sinclair Hall	Feb. 21	$1,609,740
Alpha Omikron Limited	Robert H. Bradshaw	Feb. 25	GBP70,000
MRT Holdings Limited	Mignonne Parsons	Feb. 26	$223,598
Berliner Bank A. G.	John Karageorgis Silver Carriers S. A.	Feb. 28	
In the Matter of The Companies Act 1981 and In the Matter of Merlin International Insurance Company of Bermuda Limited		Mar. 6	
In the Matter of The Companies Act 1981 and In the Matter of BNIB Insurance Company Limited		Mar. 6	
In the Matter of Atkins Payne Limited and In the Matter of an application under section 261 of The Companies Act 1981		Mar. 7	
1. Kevin Stokes 2. Penny Stokes	The Trustees of the Rover Trust	Mar. 11	
In the Matter of The Companies Act 1981 and In the Matter of ISG Holdings Limited		Mar. 13	

Cayman Grand Court

Plaintiff	Defendant	Date Filed	Information
Kaen Prosper Investment Co. Ltd.	The Registrar of Companies		
CDW International Limited	In the Matter of the Companies Law		
Sutman International Inc. (in liquidation)	Registrar of Companies		
Peter Kruger	1. The Director of Northward Prison 2. The Government of Switzerland 3. The Attorney-General for the C. I.		Application for Habeas Corpus
Peter Kruger	1. The Director of Northward Prison 2. The Government of Switzerland 3. The Attorney-General for the C. I.		Application for Leave to apply for Judicial Review Judgment to quash a decision to apply for an extradition warrant, to quash the warrant and an application for damages