



# TRUST SERVICES, S.A.

*Professional Business Services to  
Firms, Institutions and Individuals.  
Small by Design. Built on Expertise.*

*30<sup>th</sup>  
Anniversary  
1981-2011*

## OFFSHORE PILOT QUARTERLY

**CorporateINTL**  
GLOBAL AWARDS  
WINNER 2014

*Navigating the hazardous reefs and shoals offshore since 1997*

December, 2017

Volume 20  
Number 4

### ***The Jar and the Worm***

The Cayman Islands, the Channel Islands, the Turks & Caicos Islands and Panama all have something in common. Although 3 are islands, whereas one is an isthmus, each (along with others) has suffered from slanted views and distortions of the truth over the years when it comes to their role in offshore banking and other financial services. I have witnessed this first-hand in each place during my career and I have concluded that, for some people, the prejudice runs too deep to ever change their minds. They are lost causes and suffer from, what I call, worm syndrome, because it reminds me of the attempt made by a gentleman of the cloth to convert an alcoholic. He dropped a worm in a jar of pure alcohol and both watched it disintegrate before their eyes. "What does that tell you about alcohol?" admonished the minister. "That you'll never get worms", came the reply.

Some people will never have their minds changed and you would be forgiven for thinking that I wrote that paragraph following the 2016 incendiary Panama Papers and, more recently, after Bermuda's Paradise Papers. But no, it was written precisely 20 years ago this month when the very first Offshore Pilot Quarterly was published. Prejudice, as all of us know, has a very long shelf life. And so does bias. I will be quoting other extracts from previous OPQs if only to reflect on how we've moved on – or not.

In December 1998 I wrote once again on the subject of prejudice when I referred to Andrew Edwards, the British Treasury official at the time

commissioned to review the laws, regulations and procedures governing financial services in the British Crown Dependencies, such as Jersey in the Channel Islands and the Isle of Man. Dependencies are distinct from British Overseas Territories, such as the Cayman Islands and the British Virgin Islands, in that they can have separate laws as they are not controlled by the British Government even if they remain the property of the Crown. British Overseas Territories, on the other hand, fall under the jurisdiction of the United Kingdom but do not form part of it; they do, however, have to follow British laws – although over the years one could be forgiven for thinking otherwise when one reads how some of their political leaders have threatened to defy decisions made by the British Government. As a former Caribbean regulator and Crown servant and who once had a similar remit to Mr. Edwards regarding the Turks and Caicos Islands, a British Overseas Territory, I recognise the important distinction, particularly in relation to the supervision of offshore financial services, even if some island politicians in those overseas territories do not.

Concerning Mr. Edwards, in 1998 I wrote thus: "There will be plenty to write about in 1999 as the future of offshore financial services continues to be examined by the leading industrial countries. Unfortunately, a lot of the bureaucrats reaching conclusions and making decisions are not members of The Order of the Hammer (see the Articles section of our website) and are inverse pyramids: top-heavy with technical ability, but thin on the



ground with experience. This can be a fatal imbalance. Besides the crux being transparency and the absence of it, what about his knowledge of the subject under review? Besides knowledge, and equally important, what about the inconsistencies found between countries in the West on that very question of transparency?”

Other comments which I made included Bermuda, now known for the Paradise Papers: “Mr. Edwards seems to have ignored the fact that many other jurisdictions – including America (Delaware and Nevada states are two) – do not require all companies to file public accounts. The fires of dissent have certainly been stoked but they are no match for those sovereign powers who are in a position to impose a scorched earth policy if they wish and then, from the ashes, re-write the rules. Bermuda, the oldest former British colony and the world’s third largest insurance market after London and New York, has also come under threat. There is a clear attempt by the European Union, the Organisation for Economic Co-operation and Development and the Group of Seven leading industrial countries to end the tax benefits of doing business in this North Atlantic tax haven. Britain is the sovereign power that is accountable (see the Article, “Hostile Exchange: The Pelicans and the Fishermen” on our website) for Bermuda’s offshore activities in the eyes of the Europeans and Americans”.

I went on to add that “Bermuda at one stage of its development was heavily involved in the salt trade. It still is, but in a different way. Today it helps others to salt away their assets. The leader of the United Bermuda Party, Pamela Gordon, has declared that the diminution of offshore financial advantages can “threaten our jobs, our banks and the economic well-being of every Bermudian. Our standard of living and our future prosperity are threatened by harmful economic regulations being proposed by the British Government, the U.S. Congress, the European Union and the OECD”. Pamela Gordon could be speaking for every offshore financial services centre that does not

enjoy the sovereign independence that centres such as Panama do”. We know that since those comments were made the cavalier regulatory approach towards offshore centres still threatens jobs today – not just in Bermuda – and that the threat has got bigger rather than smaller.

### ***Sinners Past and Present***

What changes have we seen? We know that Delaware has made improvements towards tighter controls, be they at a glacial pace, and that whilst it is true that Panama enjoys sovereignty which the UK’s offshore financial services islands do not, there is no denying that the weight of the drive against offshore centres has been felt by Panama’s local industry which has had to adjust its policies, some of them radically, as a result of pressure, in the main, from the OECD. What the conquering Athenians concluded about the trapped Melians in the Peloponnesian war, according to Thucydide’s writings, most certainly has a resonance today: “The strong do what they will and the weak suffer what they must”.

At least Bermuda’s name is absent from the catchphrase Paradise Papers. Unlike in Panama’s case, alliteration defeated the journalists, but perhaps the consolation is that “Paradise Papers” can apply, if necessary, to any Caribbean offshore island as well, deftly avoiding the challenge that alliteration brings. Perhaps it could even embrace the Mediterranean after recent disclosures of alleged nefarious financial jiggery-pokery in Malta, an island which has been referred to in this context by one leading business publication as a paradise. Even so, perhaps some islands in the Caribbean are a little nervous at the prospect of this, but regardless of the revelations coming out of Hamilton, we should not lose sight of the reality behind them: social commentary has moved on from tax, to moral, evasion, whether or not Queen Elizabeth has a legitimate offshore structure managed in Bermuda.

Martin Luther spoke of a different paradise when he ignited Europe’s Protestant Reformation. This



year celebrates the 500<sup>th</sup> anniversary of the German monk's defiant act of writing a list of 95 grievances, railing against the Catholic Church which by the 16<sup>th</sup> century was corrupt in the extreme. The Church at that time, for example, had injected capitalism into Catholicism by introducing indulgences. Roman Catholicism defines them as a remission of part or all of the temporal, and especially purgatorial, punishment for sins whose punishment and guilt has been pardoned. Catholics were invited to pay money to the Church in return for which sins could be forgiven and this meant that any time after death spent in Purgatory, an intermediate step on the path to heaven until he or she had undergone purification, could be shortened. The more one donated, however, the less the purgatorial sentence, and doubtless the rich could achieve a direct, uninterrupted journey to heaven without passing through Purgatory.

An infuriated Luther wrote that the Bible and not the clergy was the primary religious authority and that it was faith, not deeds, that was the prerequisite for salvation. This in turn led to the Protestant Reformation which struck the Catholic Church like a bolt of lightning, splintering Christianity and which had profound consequences throughout Europe and eventually all the western world. All because a German professor of theology, composer, priest and monk defied the pope.

A somewhat mightier, earthly, force, the OECD has, in effect, announced its grievances against twenty-first century practices in offshore centres, whether, it now seems, they are criminal or not. This Lutheran stand has support from a very large section of society who, like the OECD's member countries, are firmly against the unfair distribution of wealth, with offshore centres seen as major culprits. The traditional offshore centres, in other words, are now being attacked on moral grounds alone, as the mores – the essential customs and conventions of the world community – begin to

shift, just as they have always done throughout history.

If war with offshore centres has been declared and if the first casualty of it, as in all wars, is the truth, then hypocrisy is surely running a close second. Appleby, the Bermudan law firm at the centre of the Paradise Papers, may have earnestly affirmed that its clients, including royalty, have properly-structured-and-managed tax transparent vehicles but such protestations become a meaningless fact to many.

### ***Reflections for the New Year***

“Anyone who is putting money into tax havens in order to avoid taxation in Britain, and obviously investigations have to take place, should do two things – not just apologise for it but also recognise what it does to our society”. So spoke Jeremy Corbyn, the leader of the Labour Party in Britain; at least he didn't advocate burning recalcitrant taxpayers at the stake. Well, Mr. Corbyn you should do one thing yourself: ensure that your own house is in order.

Labour's headquarters' lease is paid to The West End of London Property Trust, a fund registered in Jersey in the Channel Islands. Jacob Rees-Mogg, a Conservative Party member of Parliament and formerly a fund manager, has said that the upper echelons of the Labour Party fundamentally misunderstand offshore trusts and which echoes those 1998 comments of mine in different circumstances. “They are in the awful position of being both hypocritical and not very bright”, the Conservative MP added. They are not alone. Thousands of private-equity and hedge funds are registered offshore because an unnecessary extra layer of taxation in a fund's country of domicile can be saved and not so that investors can escape tax owed in their home country. Consequently, most large pension schemes diversify and invest some of their money in these offshore vehicles to reduce costs and increase benefits for pension holders. But when misunderstanding creeps into journalism



as opposed to politics, and the audience is global, with dissemination of news very rapid, then the impact is far greater. With that in mind, and as a new year looms, I will leave you to reflect on an extract from an OPQ also written many years ago but which could have been written, like that first paragraph, just yesterday:

“The often opaque nature of the offshore financial services industry has made it a soft target, but even when publishers and their salaried acolytes, journalists, do not harbour preconceived views their breadth and depth of knowledge concerning offshore financial matters can be such that they do not need any bias for their reporting to be still flawed. In previous issues of the Offshore Pilot Quarterly I have discussed the paucity of knowledge and skill sometimes exhibited offshore by both practitioners and those who regulate them, but poor journalism plays its part as well. Ignorance and inaccuracy can become a toxic combination, the result of which can be a distorted and damaging picture. Sadly, there are many journalists today writing about offshore financial services who have scant knowledge of the subject

and so, like agents provocateurs from the past, such as Bernays and Hearst, they can cause mischief in tropical climes. To be fair, it should be said that many inexperienced journalists do make an attempt at research before putting either pen to paper or fingers to keyboard; even so, reviewing the information which is available still entails its proper interpretation and this, by definition, requires proper analysis. All well and good when the analysis is done by a seasoned financial journalist (a badge to be cautiously bestowed these days) with years of offshore exposure and whose knowledge has been gained gradually but thoroughly. Unfortunately, it seems that since tax harmonisation, financial transparency and money laundering have become offshore tags, they are the topics which have attracted those who masquerade as financial journalists.”

The warmest of seasonal greetings to readers, including those sinners – members, I should say, of a very broad church – who worship at offshore altars but who never fail to give to the government, if not God, what is expected of them when the offering plate comes round.



*Offshore Pilot Quarterly (independent writing for independent thinkers) has been published since 1997 by Trust Services, S. A. which is the British face of trust business in Panama where it is licensed under the fiduciary laws. It is written by Derek Sambrook, our Managing Director, who has been Treasurer of the British Chamber of Commerce Panama, a member of the former Latin America and Caribbean Banking Commission as well as an offshore banking, trust company and insurance regulator. He has over 45 years private and public sector experience in the financial services industry about which he has written extensively and our website provides a broad range of related essays including his Latin Letter column which appears in every issue of Offshore Investment, a British professional journal published since 1986.*

*Engaging an offshore representative is an important decision and we advise all persons to seek appropriate legal and tax advice from professionals licensed to render such advice in the appropriate jurisdiction before making offshore commitments.*

Local Bankers  
Banco Panameño de la Vivienda, S.A

Auditors  
Deloitte