

OECD and attacks from major onshore jurisdictions: how should financial institutions and International Financial Centers react?

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Introduction

- Historical Operations of International Wealth Management
 - Risks Inherent with this Business
 - Commercial Risk With These Business
 - “Aiding and Abetting”
 - Securities Issues
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Traditional Services

- Banking
- Investment
- Trust
- Foundations
- Corporate Service



What Have Clients Traditionally Looked For?

- Secrecy
 - Protection
 - Tax Avoidance
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Recent Events

- Events of the last two years
 - Regulatory issues
 - Tax issues
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- Information exchange related issues
 - OECD
 - Voluntary Disclosure



Jurisdictions and Financial Institutions Under Attack

- Government Intervention
 - Germany
 - France
 - US
 - Brazil
- Securities Regulators: SEC, FSA
- European Regulation

OECD

Jurisdictions that have substantially Implemented the Internationally agreed tax standard			
Andorra	Czech Republic	Korea	San Marino
Anguilla	Denmark	Liechtenstein	Seychelles
Antigua and Barbuda	Estonia	Luxembourg	Singapore
Argentina	Finland	Malaysia	Slovak Republic
Aruba	France	Malta	Slovenia
Australia	Germany	Mauritius	South Africa
Austria	Gibraltar	Mexico	Spain
The Bahamas	Greece	Monaco	Sweden
Bahrain	Guernsey	Netherlands	Switzerland
Barbados	Hungary	Netherlands Antilles	Turkey
Belgium	Iceland	New Zealand	Turks & Caicos Islands
Bermuda	India	Norway	United Arab Emirates
British Virgin Islands	Ireland	Poland	United Kingdom
Canada	Isle of Man	Portugal	United States
Cayman Islands	Israel	Russian Federation	US Virgin Islands
Chile	Italy	St. Kitts & Nevis	
China	Japan	St. Vincent & the Grenadines	
Cyprus	Jersey	Samoa	

OECD continued...

Jurisdictions that have committed to the internationally agreed tax standard, but have not yet substantially implemented					
Jurisdiction	Year of Commitment	Number of Agreements	Jurisdiction	Year of Commitment	Number of Agreements
Tax Havens					
Belize	2002	(4)	Montserrat	2002	(3)
Cook Islands	2002	(11)	Nauru	2003	(0)
Dominica	2002	(5)	Niue	2002	(0)
Grenada	2002	(5)	Panama	2002	(1)
Liberia	2007	(0)	St. Lucia	2002	(8)
Marshall Islands	2007	(1)	Vanuatu	2003	(2)
Other Financial Centres					
Brunei	2009	(9)	Philippines	2009	(0)
Cost Rica	2009	(1)	Uruguay	2009	(5)
Guatemala	2009	(0)			




Lessons:

- The only item that is secret is something you keep in your head and have never told anyone: anything else can and will be told
- Cross Border Behavior needs to have a revised business model
- Does the organization structure match up with behavior
- Politics more important than law
- Decisions made for one country can impact other countries




Onshore or Offshore?
Is this the Right Question?



“But offshore banking will continue to be critical for many of the world’s wealthy as they seek out higher returns and try to manage currency and political risks in their home countries.

Institutions are finding that it is cheaper to build an offshore banking business that serves customers from many parts of the world than to create individual national franchises.”

*Global Wealth Report
Going for profitable growth
Boston Consulting Group 2005*



“Tighter regulatory regimes in North America and Europe are causing many wealth-management firms to weigh their options when it comes to offshore and onshore businesses. This is not to downplay the importance of the offshore market. We estimate that as much as \$5.7 trillion is now held offshore, with more than half of that figure coming from European countries and with Switzerland as the dominant offshore center.”

*The Boston Consulting Group
The Rich Return to Richer Returns
Global Wealth 2004*



Full Service Wealth Management



Choosing an Appropriate Jurisdiction

- Traditional Offshore Centers v. Onshore Centers
- Do you need to be everywhere?



Is your Legislation up to date?

- Trust Law
- Company Law
- Holding Company Statutes
- General Partnership and Limited Partnership statutes
- Split Cell Company Legislation
- LLC Legislations



Educating Clients

- Pricing
 - Full Transparency
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Real Needs of Clients

- Charitable intentions
 - Managing risks of divorce
 - “second” families
 - “living” wills
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- Asset gathering and identification
 - Tax planning
 - Privacy
 - Succession and probate
 - Asset protection and preservation
 - Special assets, art, toys and more
 - Business succession



Needs Driven by the Home Country

- Political risk
- Kidnapping and security
- Relationships with the U.S. and others
- Forced heirship
- Confidentiality
- Community property



How to Develop a Cross Border Marketing Plan

- Determine Your Market
- Understand Clients Needs in the Market
- Understand Regulatory and Tax Regimes
- Consider Registration in Other Jurisdictions
- Develop Services
- Use of Tax Treaties



How Will Jurisdictions and Financial Institutions Compete in the 2010's?

- Are They Threatened by Non Transparent Jurisdictions?
- How to Maximize Value?
- Is the Current Product Based Mentality Viable?



Conclusion

- Financial Institutions and Jurisdictions must create country specific services and products to meet identified client needs.
- These must be compliant in all respects to meet home country tax, regulatory and legal requirements.
- Jurisdictions and Financial Institutions who grasp the opportunities will succeed, others may not!