Barbados
International Finance & Business

2010

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Barbados offers international businesses the necessary resources and structures required to facilitate and manage operations.

Barbados - a fundamental element of the growth strategy.
Welcome to the 2010 Edition

Welcome to the 2010 issue of Barbados International Finance & Business ... and what a year 2009 was. The world experienced a Global Financial Crisis not seen since the Depression of 1929, and of course Barbados has also been impacted.

Barbados continues to be the domicile of choice for international companies seeking to become more globally competitive. The country’s strategy of pursuing Double Tax Treaties with other nations remains a key platform, and this strategy was rewarded in April 2009 with an excellent standing endorsement in the “Progress Report on the Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard”. The number of tax treaties grows, with Spain, Vietnam and Italy to be added soon and more to follow.

Barbados has been classified by the OECD as a financial centre that has substantially implemented the internationally agreed tax standard

The overall purpose of the magazine remains to provide an annual update on Barbados as an International Business domicile, and we thank Invest Barbados and our sponsors (both editorial and financial) for making this happen. We hope you enjoy reading the 2010 issue and invite you to send any comments and suggestions to bifb@investbarbados.org.

James Gardiner
MESSAGE FROM SENATOR THE HON. DARCY BOYCE
MINISTER OF STATE
MINISTRY OF FINANCE, INVESTMENT, TELECOMMUNICATIONS & ENERGY

Global Change! It’s the new reality of our era.

The international business and finance sectors have undergone a difficult year, with the global recession slowing the pace of the investment flows across financial centres. Today, we are all more acutely aware of our global interconnectivity. The challenge for many countries is to survive these difficult and uncharted waters.

In Barbados, our goal is to chart a course that will see us prosper as a premiere jurisdiction for financial services, offering stability and respectability. To achieve this, we will continue to be meticulous in the governance, regulation and supervision of our financial services sector. In re-tooling, we will nurture a business culture that mirrors excellence, integrity and innovation. We will ensure that our workforce is well trained and that our infrastructure is more efficient, responsive and supportive. Importantly too, we will safeguard our positive image as a transparent, credible, low tax domicile by strengthening our regulatory environment.

In the April 2009 and subsequent progress reports on the “Jurisdictions Surveyed by the OECD Global Forum in Implementing the Internationally Agreed Tax Standard”, Barbados’ excellent standing was endorsed.

With its expanding network of tax treaties, Barbados continues to be a beacon for the exchange of tax information. The race to negotiate TIEAs by jurisdictions listed on the grey or black lists has not included Barbados, as the negotiation of Double Taxation Agreements has always been a fundamental element of our international business strategy.

To garner more foreign direct investment, Barbados will provide a more competitive environment. In this regard, government will move quickly to amend legislation to enhance competitiveness, strengthen the regulatory framework and bolster investor confidence.

Two key pieces of legislation have already been amended: the Property Transfer Tax Act and the Stamp Duty Act. The changes to the two will be particularly attractive to holding companies, as an exemption is now provided from the payment of property transfer tax on any transfer of shares to a person resident outside of Barbados, whether or not the transferor is resident in Barbados. The enhancements will also impact companies whose assets are derived solely from sources outside of Barbados. Also slated to be completed are amendments to the Shipping (Incentives) Act and the Shipping Corporations Act. The amendments to the Shipping Corporations Act facilitate inter alia, the incorporation of offshore shipping corporations (in terms of requisite authority) and that are domiciled; the registration of a shipping corporation incorporated in another jurisdiction as an External Corporation; a non-resident Director; the registration of incorporated and unincorporated bodies for expanded shipping activities.

In recognition of the key role that a Financial Services Commission will play in the sustained growth of the Barbados domicile, government has already allocated resources to establish such an entity early in 2010. The Commission will regulate all non-banking sector activities, including the Stock exchange, Credit Unions, the Insurance industry and pension funds, inter alia, regardless of the source of investment and will ensure that applicable internationally recognised best practices of due diligence are practised.

The climate of global change, galvanised by the financial crisis, makes it imperative for governments and investors alike to embrace prudent investment choices. The Barbados government remains committed to this ideal.

I am confident that this publication will inform you about Barbados’ offerings as a first class international business jurisdiction. I urge you to invest wisely - choose Barbados!

Senator The Hon. Darcy Boyce
Minister of State
Ministry of Finance, Investment, Telecommunications & Energy
Expertise.

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Firstly, welcome to the second issue of our International Finance & Business magazine. Since our last publication, the world has tumbled into recession, and shell-shocked G20 leaders have launched an entirely misplaced attack on international financial centres (IFCs). Unfortunately, even those centres – like Barbados – that followed a path of bilateral tax and investment treaty negotiation – Government-to-Government - have been under attack, and some proposed G20 retaliatory measures would overturn or contravene negotiated agreements – a unilateral trampling of bilateral agreements that will no doubt trigger countless complaints at WTO level.

In defense of IFCs, the recent publication of University of Toronto’s Professor Walid Hejazi’s new study on the use and value of IFCs – which expands the original Canadian study to include US companies, is certainly timely, as it reflects a similar conclusion to the original study - that companies which use structures in IFCs (as opposed to tax and secrecy havens) are more successful, expand more rapidly, and pay more taxes and employ more people in their domestic market than companies that do not use those structures.

However, while there is evidence in some parts of the world that the recession has begun to abate, credit availability is still problematical, and the G20 are still playing the ‘name, blame and shame’ game with IFCs – the latest front being regulatory havens. Today’s investors are understandably cautious, and that translates to a wait-and-see attitude, for the most part.

So in this state of world investment flux, what is Barbados doing as a jurisdiction? Firstly, we are a treaty based jurisdiction and are continuing to expand our tax treaty network. On the regulatory front, part of the reason why the World Economic Forum ranks our banking system so highly among Western hemisphere countries is because of our robust regulatory systems and anti-money laundering regime. Recognising that we need to improve in the non-banking regulatory arena, we are in the final stages of implementing a Financial Services Regulatory Commission, which will be in place early in 2010.

We are creating appropriate, but strong regulation for Hedge Funds and Private Trusts, and we are making changes to various other pieces of legislation to make it more attractive for Headquarters and Holding Companies to set up in Barbados.

On the local business environment scene, Barbados has solicited the technical assistance of the IADB in overhauling its processes in Town and Country Planning, Corporate and Intellectual Affairs, Immigration, and legal drafting – all aimed at faster and more transparent service for international business. I am also delighted to announce that the Immigration department has dedicated an officer to international business, located in the offices of Invest Barbados, where all international business immigration matters are now processed on a fast track basis.

In terms of new offerings, Barbados will soon provide a facility for high net worth individuals who wish to become resident, but not domiciled, for tax purposes in Barbados, offering a transparent and fast immigration process, freedom from exchange controls on funds brought in, and a very attractive local income tax rate based on the taxpayer’s level of foreign currency earnings.

We have also commissioned a study of the insurance industry to see where we can improve and whether there are any niches developing that we should seek to facilitate in Barbados. Also on the cards is the establishment of a branch of an international arbitration firm in Barbados, with the aim of making the island a seat for international arbitration by 2011. By early 2011, international investors structuring their activities through Barbados should also be able to list their IPOs on the new international trading floor of our stock exchange.

And let’s not forget the quality of life investors can enjoy in Barbados - friendly and well educated people, an infrastructure that works, safety, great weather, plenty of good restaurants, and many things to do … as our ad says, isn’t it time you considered Barbados?

Wayne Kirton
Chief Executive Officer
Invest Barbados

By early 2011, international investors structuring their activities through Barbados should also be able to list their IPOs on the new international trading floor of our stock exchange

Barbados' Double Tax Treaty Network includes:

- Austria
- Botswana
- Canada
- CARICOM (10 countries)
- China
- Cuba
- Finland
- Malta
- Mauritius
- Mexico
- Netherlands
- Norway
- Seychelles
- Sweden
- Switzerland
- United Kingdom
- United States of America
- Venezuela

Note From the CEO
The Evolution of International Business in Barbados: A Brief Commentary

BY DR. TREVOR A. CARMICHAEL, Q.C.

When the framers of the original 1965 International Business Companies legislation formulated the statute primarily to leverage the benefits of United Kingdom direct investment into Barbados, they could hardly have considered that the ever-changing scope of global financial flows would dictate such later flexibility in the statute. Indeed, that flexibility and creativity, blended with consistency, all mirror the wider scope of international business in Barbados.

At the outset, and throughout the past forty years, there has been an implicit recognition that the path of a zero tax policy was one not to be pursued. Having inherited, on independence, the Scandinavian treaties, there followed an ongoing recognition of tax treaty negotiation and multiplication as an article of faith, which has been manifested in different ways. The flexibility in this policy may be easily identified by the development of the negotiating machinery itself, which at one time comprised an informal mix of government officials combined with some unpaid professional lawyers and accountants. However, as international capital flows increased and globalisation manifested itself in its many forms, the speed, organisation and skills required for multiple treaty development accounted for more rigorous treaty negotiating teams, as is clearly manifested in the jurisdiction’s current team of very effective professionals.

In the decades of the eighties and nineties, recommendation and change were essentially led by small groups of professionals meeting informally with the Central Bank’s legal advisors. However, this feature has been supplanted by the organisation of formal structures advising the relevant Ministers. The flexibility has allowed the development of the sector and, in particular, has facilitated critical changes to be effected at opportune times.

Hence, the decision to modify the CARICOM Model Corporate Legislation and to introduce, in 1982, a statute which, although based on the Ontario and Delaware models, was philosophically in keeping with the CARICOM draft - a strategic coup. For this new legislation proved to be a catalyst in the expansion of the international business agenda, and further contributed to the ease of captive insurance corporate formations and the growing transaction work which now flows naturally within the local financial services industry as a whole. In this respect, the further refinement of the legislation, with the introduction of segregated cell legislation and the Society with Restricted Liability Act, has buttressed the flexible use of the corporate vehicle. Furthermore, these two additions were introduced at the time of particular need and have been very favourably utilised, thereby underscoring the flexibility which has marked the consistency within the industry as a whole.

Of no less significance has been the creative thinking which has marked the international banking sector. When, in 1979, the relevant legislation was introduced, which also employed the term Offshore in its title, the international financial milieu recognised the importance attributable to the term. However, as the international regulatory ethos changed and the term Offshore lost much of its glamour and respectability, the new International Financial Services legislation recognised the trend and renamed, as well as refashioned, the statute accordingly. Sufficient to say, the amended legislation, regulations and practice directives have endorsed the consistent creativity of the sector, while ensuring that proper banking regulation is not compromised by banking confidentiality. Hence, on the one hand the Central Bank has set important categories and criteria for establishment while, at the more international level, it has ensured that banking regulation keeps pace with the ongoing Basle financial edicts.

The consistency of creativity and flexibility remains a critical component of Barbados’ international business, in full recognition that the delivery and refining of new products over the years is a sine qua non for the ongoing feeding of a national economy. Such growth, however, will hopefully seek to continually recognise the important ingredient of discipline which, as Tom Rohn reminds, is the bridge between goals and achievement. ♦
For the early negotiators of income tax treaties, commonly referred to as double taxation agreements (DTAs), the policy and practice of their modern-day counterparts might well cause them to pause.

Of course, DTAs have long been an important expression of a country’s desire to expand bilateral trade by addressing the tax constraints to the cross-border movement of persons, goods and services through the articulation of clear rules designed to avoid double taxation and prevent fiscal evasion.

Mindful of this customary basis for DTAs, it should not be a surprise that the first question answered by governments prior to a round of negotiations being scheduled would be, what is the level of trade between the two countries, and are current levels sufficiently high to warrant the establishment of a bilateral mechanism to address the international aspects of domestic taxation?

For traditionalists, the satisfactory determination of this issue, based on quantitative data, is still a pre-condition for tax talks. However, even for those who adhere to the purists view, equally important today is the consideration of prospective trade flows and the opportunity that such a negotiation would present to further multilateralize internationally accepted standards of transparency and access to tax information.

Perhaps ushered in by the establishment of the World Trade Organisation (WTO), subsequent work by the Organisation for Economic Co-operation and Development (OECD) on tax havens, prescriptions announced by the G20 in response to the global economic crisis, and the practice of states, it is clear that tax treaties are now important instruments of international diplomacy.

How else can one explain the proliferation of DTAs brought into force between countries where issues relating to trade flows might otherwise preclude the conclusion of such an arrangement? Of course one can point to those non-traditional flows more closely associated with an international business and financial services centre, like Barbados, which continues to successfully interpose itself in investment flows around the globe, adding value to and, in some cases, ultimately re-deploying the investment.

Indeed, it is precisely because of the host/home country characteristics of the major international business and financial services centres that DTAs have become an important tool in creating relationships between the taxing authorities in such centres and those in the countries from which the investment flows originate, and in those where the investment flows are destined.

Moreover, because Barbados has an established system of taxation on income, is able to add significant value to the investment flows and is already an exporter of goods and services, the DTA is its preferred vehicle to internationalise agreed tax transparency norms over the more recent construct of the Tax Information Exchange Agreement (TIEA).

Aside from the now well-known fact that Barbados was not required to make a commitment to the OECD as a result of that group’s work on Harmful Tax Competition, a position that was recently endorsed by the G20 in its April 2009 announcement of white-listed countries, Barbados has long subscribed to the view that a full tax treaty with the OECD-style provision on exchange of information is the best way to give expression to the internationally agreed standards in this area.

Indeed, many countries, with whom Barbados cannot boast significant trade flows according to traditional indices, share Barbados’ view. As a result, Barbados’ tax treaty network continues to expand at a rate that demonstrates the currency of its thinking on transparency and tax information exchange. Since the Washington Summit of the G20 meeting, which formally endorsed the use of tax treaties as instruments of international diplomacy, Barbados has successfully concluded tax treaties with Spain, Vietnam and Italy. Dates have already been confirmed in 2010 for negotiations with the Czech Republic and Belgium, as well as second round talks with Chile, Iceland and Brazil. Meanwhile, firm commitments have been received from Australia and Columbia.

### Treaty Update

- **Treaties signed awaiting ratification:** Luxembourg and Ghana
- **Treaties initialled:** Spain, Italy, Vietnam
- **Treaties currently under negotiation:** Chile, Brazil, India, Iceland, Czech Republic, Belgium, Panama
- **Treaties awaiting negotiation dates:** Australia, Colombia, South Africa, Ireland, Malaysia
The face of global financial markets has changed dramatically in recent months and many nations are now, as a result of the credit crunch, suffering significant monetary pressures on cash flow and also face mounting debts.

One of the key questions is how countries, such as the G20 nations, can attempt to reduce their unheard of levels of debt? Rather surprisingly, it seems that without realising it, several developed countries have started a train of action which potentially will assist them considerably in addressing their debt problems. The action in question is tackling tax evasion by their citizens.

The recent actions of the OECD and the G20 nations, following the election of President Barack Obama, have concentrated on targeting the traditional ‘tax havens’, or international financial centres, in order to force transparency and, more importantly, the provision of information regarding investors in international financial centres.

Current estimates of undeclared tax funds in offshore centres range between $6.5 and $11.5 trillion, which provide for an estimated under declaration of tax across the globe in billions of dollars annually. Indeed, HM Revenue & Customs in the UK has conservatively computed that the tax lost in the UK to avoidance and evasion ranges between £11 billion and £41 billion per annum. Other research in the UK suggests that the tax lost annually from avoidance alone is well in excess of £25 billion.

Given the size of the potential recovery from tackling tax evasion and tax avoidance, it is hardly surprising that the OECD and G20 actions against tax havens are beginning to produce results. Recently the IRS has secured details of US citizens from a leading Swiss bank and...
banks in the UK, and details were reported by a former employee of a Liechtenstein bank to EU countries. So called ‘Amnesties’ are increasingly favoured by governments, as this produces high cost-yield ratios and governments frequently do not have the resources to fully prosecute tax evasion in all cases.

In addition to this type of activity, information exchange is now at a level never seen before: who could have predicted that Switzerland and Liechtenstein would sign Tax Information Exchange Agreements with the UK in 2010? Furthermore, who could have foreseen that Liechtenstein would agree, within 12 months, to change its internal laws to allow the British government to obtain the names of UK residents who have funds hidden away in Vaduz? These are very significant and dramatic changes and give a clear indication of the way traditional offshore financial centres will have to operate in the future. It is also clear that these developments have radically altered the relationship between the OECD nations and the international financial world.

Is there an opportunity for Barbados?
Two issues arise, and the first relates to funds currently held in those jurisdictions regarded by the OECD and G20 countries as traditional tax havens. Current estimates suggest that within the next 5 years, the number of international financial centres will decline by at least 50%. Political pressure and concerted action by the OECD and G20 are likely to force the smaller international financial centres that are viewed as tax havens to close and funds located in these jurisdictions will have to move to other financial centres. However, in that process, it will be necessary for those previously undeclared funds to be taxed, or cleansed, in the relevant jurisdiction. This will result in countries which have a solid financial basis and a good reputation, like Barbados, attracting funds from the shrinking world of the tax havens.

The second issue relates to the rise in the need to carry out effective tax planning, given the fact that governments will attempt to increase their domestic tax take by raising tax rates. Accordingly, tax arbitrage has to be the future of the international tax world. However, to be effective in this field it is necessary to have an extensive network of double tax treaties, and it is this aspect which finds Barbados at a significant advantage when compared to its Caribbean competitors. Therefore, with the right support and direction, Barbados can compete effectively in the world of tax arbitrage.

What will be required is for the international financial sector in Barbados to have a greater outward focus over the next 2-4 years, in order to ensure that it remains ahead of its competitors.

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Increase Your International Competitiveness by Using Barbados

BY LINCOLN SCHREINER & RUSS JONES

When Canadian corporations begin planning to expand their businesses outside Canada, they usually engage a team of advisors to make recommendations on all aspects of the transaction. One aspect is to develop a global tax strategy to make them internationally more competitive, and often Barbados is included as a fundamental element of the growth strategy - here is why:

**Stable Pathways for Capital Flows**
The Central Bank of Barbados and tax policy decision makers do not make radical changes from one political administration to another. Other comfort factors include the fact that English is the spoken language and the major Canadian banks have significant operations in Barbados.

**Investment Protection**
Barbados and Canada have a Foreign Investment and Protection Agreement (FIPA). A FIPA generally adds an additional layer of benefits, such as protection against economic discrimination, fair compensation in the case of appropriation, most favoured nation status and curtailing the ability of a central bank to inhibit the repatriation of foreign currency. Barbados has negotiated a number of FIPAs. It should be noted, however, that FIPAs do not cover tax policy issues. Such issues are dealt with in a tax treaty.

**Familiar Corporate Law**
Barbados corporate law is founded on the Canadian corporate law model.

**Travel Access and Service Providers**
Barbados has good commercial airline access and is in the US Eastern seaboard time zone. Barbados’ legal, accounting and banking service providers are experienced with serving the local Barbados needs of Canadian companies.

**Attractive Corporate Tax Regime**
By world standards, Barbados has a low combined corporate income and dividend withholding tax regime (ranging between 1% and 2.5%). The low tax regime applies to International Business. Some examples include:

- Global sales & distribution of goods;
- Hedging the sale price of goods made or processed;
- Collecting (factoring) trade receivables;
- Paying trade payables;
- Licensing intellectual property;
- Lending for working capital & term debt needs;
- Accepting deposits & investing excess cash; and
- Providing various (captive) insurance needs.
Using a holding company located in Barbados as a vehicle for investing in foreign subsidiaries is especially attractive, because of the combination of the exemption from tax in Barbados on dividends derived by the holding company from the investment, and exemption from withholding tax on dividends paid by the holding company to its Canadian parent.

**Barbados has good commercial airline access and is in the US Eastern seaboard time zone**

Generally speaking, cash dividends received from a Barbados subsidiary that were derived from operational profits earned in Barbados can be exempt from Canadian taxation in the hands of the Canadian parent company, but there are exceptions when such dividends are taxable in Canada.¹

**Tax Treaty Network**
Barbados has 18 income tax treaties (covering 27 countries) that may reduce or provide immunity from taxation in a country from which the Barbados company derives income, or in which it carries on business or has a representational office. Additionally, Barbados’s maturity as a good citizen is well recognised in the global tax community, including the Organisation for Economic Co-operation and Development (OECD). In its April and subsequent status reports, the OECD placed Barbados in its highest ranking as a country that has made progress on the implementation of the internationally agreed tax standard on tax information exchange.

**Value Added**
A Canadian company that creates an appropriately designed investment, sales, intellectual platform, and treasury platform outside Canada may actually increase the equity market-cap value of the Canadian parent company. •

¹ A Canadian corporate tax advisor needs to be consulted before paying a dividend from a Barbados subsidiary to a Canadian company, to assess if the dividend is coming from exempt surplus retained earnings, in which case no Canadian tax is payable, or if the dividend is coming from taxable or pre-acquisition surplus retained earnings, in which case Canadian tax may be payable on the dividend.
Raising the Bar – Barbados as an International Financial Centre

BY RICARDO KNIGHT

There has been much talk in recent times of the future of International Financial Centres (IFCs). One clear message emerging is the need for IFCs to raise the bar. But what, exactly, does that mean?

IFCs are widely perceived to be low-tax, lightly regulated jurisdictions that typically specialise in the provision of the corporate and business infrastructure to facilitate the formation of legal entities and the investment of funds.

**Brand Differentiation**

Easy implementation and a seemingly unlimited access to jurisdictions have highlighted the need for brand differentiation and careful thought as to how this can be strategically achieved. Identifying significant benefits can often result not only in brand preference, but brand insistence. Differentiating factors to be considered in evaluating the benefits of the Barbados brand, in comparison to the other IFCs with which it competes, include:

- Unique and superior customer service
- Superior performance
- Heritage (i.e. continuity and solid leadership)
- Leading technology and innovation
- Focus on, or expertise or specialisation in, a particular customer segment
- Choice of experts
- Best overall value for the price

Confirmation of a brand’s worth is readily identified in the following:

- Expert endorsements
- Top ratings by independent authorities
- Industry analyst reports
- Blue chip customer list
- Market share
- Positive comparison testing with competing brands

Ultimately, the conclusion is that all brands can be differentiated, and Barbados’ rating in the above areas speaks for itself.

**Global Economic Considerations**

At the September 2009 meeting of the leaders of the Group of 20 economic powers, accusing fingers were pointed at perceived tax havens across the globe, with the threat of sanctions being imposed against those countries that fail to tighten standards and improve transparency.

The lesson for Barbados from the G20 pronouncements, and perhaps the single most important challenge facing the international financial services sector, is the need for a comprehensive review and strengthening of the regulatory framework governing the sector. The first steps towards improved regulatory oversight will be the establishment of a Financial Services Commission, slated to come on-line in 2010. In addition, the Resident Agent’s legislation is expected to further regulate service providers operating within the sector.

The easiest and most readily identifiable way to differentiate the Barbados brand is by way of its extensive tax treaty network and its ability to provide superior performance and customer service.

**Raising the Bar as an International Financial Centre**

The easiest and most readily identifiable way to differentiate the Barbados brand is by way of its extensive tax treaty network and its ability to provide superior performance and customer service. In the prevailing environment, Barbados’ performance will be judged by its capacity to ensure that business is conducted seamlessly and efficiently with the highest level of professional competence. It must be the aim of service providers in the public and private sector to surpass client service expectations and provide uncompromising excellence and integrity, combined with a focus on unrivalled compliance and due diligence.

However, this will not be sufficient to raise the bar. The real distinction has to be either through industry innovation, expert knowledge or specialty offerings. The challenge for the jurisdiction is to strike the correct equilibrium between maintaining an effective regulatory framework that meets relevant international standards and ensures high ethical standards, while creating an atmosphere that remains attractive to business and enables them to mature and develop successfully.
Melnyk’s Latest Investment ... Yet Another Bridge between Canada and Barbados
By Ken Villazor

TRIMEL BIOPHARMA was established in Barbados in July 2008 by the internationally recognised business executive, Eugene Melnyk. Melnyk is the former CEO and Chairman of Biovail Corporation, and is renowned for his relentless entrepreneurial spirit and global vision.

Ambitious Corporate Mandate
Trimel Biopharma is centred on a vision of rapidly building a fledgling pharmaceutical business into a major market force faster than has ever been done before.

World-class Pharmaceutical Innovation
Nearly two years into its research and development programme, Trimel Biopharma has found a nice niche in the non-systemic drug delivery category. The traditional route for administering medicines is orally in tablet, capsule or liquid form. Trimel Biopharma is by-passing this traditional oral route and targeting a novel nasal delivery method. This direct and efficient mode of drug delivery has the potential for a variety of benefits, including improved effectiveness and a decrease in a variety of challenging side effects normally associated with orally administered medicines. Younger and older individuals who have difficulty swallowing pills will also benefit from the advantages of taking their medicine through this unique form of nasal delivery.

Trimel BioPharma’s nasal-drug delivery platform has yielded four products now under active development. One of these products is expected to enter Phase III clinical trials in the United States this year, paving the way for Trimel BioPharma to soon launch its first product in the largest pharmaceutical market in the world.

From Research Bench to Bedside
The products under development are in market segments that are currently achieving combined sales of $35 billion in the United States. Therefore, it is our belief that the growth and revenue potential for Trimel BioPharma over the next few years is phenomenal. As Trimel BioPharma grows, so will significant new employment opportunities in Barbados, Canada and worldwide.

As a Canadian born resident of Barbados, Melnyk has made a strong investment commitment to the island he has called home for nearly twenty years. Whether it is sport or business, Melnyk has a long list of achievements, illustrating how he has leveraged and strengthened the strong commercial, tourism and investment links between Canada and Barbados. The establishment of Trimel BioPharma in Barbados is expected to further solidify the strong investment bridge that exists between both countries.
Legal Issues on Operating an International Business in Barbados

**BY DAWN A. WILLIAMS**

Setting up an international business in Barbados is a straightforward process, provided the requisite Know-Your-Client, Due Diligence, incorporation and licensing details are complied with.

Operating an international business in Barbados necessarily means that the company must be doing business outside of Barbados. Entities available for licensing to undertake international business under Barbados law include: an International Business Company (IBC); an International Society with Restricted Liability (ISRL); a Qualified Insurance Company (QIC); an Exempt Insurance Company (EIC) or an International Bank.

For example, an IBC must be carrying on at least one of the following:

- International manufacturing, i.e. making, processing, preparing or packaging any product within Barbados which is exclusively for export outside of Barbados, being a broker, agent, dealer, seller, buyer or factor within Barbados of that product;
- International trade and commerce, i.e. the business of the selling services which, if originating in Barbados, are to or for, or on account of, persons resident outside Barbados.

In addition to the many benefits of a Barbados international business company (IBC), setting up an IBC is a straightforward process.

### Compliance requirements include:

- Licensing and annual renewal of licenses;
- While there are no capital reserve requirements or minimum capital requirements for IBCs, QICs and International Banks must maintain the capital reserve requirements as set out in the relevant Acts or decreed by the Supervisor of Insurance and Central Bank of Barbados respectively;
- While this information is not kept publicly, any information provided to the Director of International Business or Supervisor of Insurance or Central Bank that subsequently changes, e.g. change of share ownership, change of name, amendment to Articles, must be submitted to the relevant licensing authority for approval (pursuant to the governing Act);
- Application for Inland Revenue for a corporate tax number;
- Annual filing of company tax return;
- Application for work permits, where needed, should be commenced as early as possible before the company goes active. Work permits for applicants in the Barbados international business sector are fast tracked;
- Where the company has employees, the company must register with National Insurance and pay the applicable National Insurance employer and employee contributions;
- Compliance with Barbados labour laws. In-house, or external, labour law advice is recommended.

Under the Companies Act of Barbados, many of the requirements may be familiar to some as they are similar to those in the Canada Business Corporations Act. These include requirements for a company seal, annual general meeting and meeting solvency requirements, before reductions in capital or distribution of a dividend.

While this is just a quick overview of the issues, when operating an international business in Barbados it is recommended that local Barbados counsel be sought to ensure that full compliance is met, regardless of whether the company is a local company or in an international business structure, such as an IBC, ISRL, QIC or EIC.

### What happens after licensing?

Where the company is incorporated elsewhere and registered as an external company in Barbados and licensed as an IBC, it will be taxed in Barbados only on the profits earned from its Barbados operations.

There are certain other requirements under Barbados law which must be met in order to obtain the benefit of 1 to 2.5% tax on profits and other tax and financial benefits. Compliance is therefore important and not to be overlooked.
How High Net Worth Individuals Use International Financial Service Companies

In the midst of the uncertainty surrounding the economic crisis, not only companies but also wealthy individuals and families need to closely manage their portfolios and focus on potential savings, in order to maintain and accumulate wealth. In addition, new economies are creating significant wealth, with China, Brazil and India being the most notable. These developments account, in part, for the continued need for the management of the wealth of such individuals and families. But how has such wealth been traditionally managed and what role has Barbados played in the management of such wealth?

Traditionally, private banks, trust companies and brokerage firms have assisted wealthy families in managing their finances. They have done so with the assistance of lawyers, accountants and investment advisors. However, family offices staffed by multi-disciplinary teams have also played a major role in providing such services, albeit on a more personalized basis. In modern times, multifamily offices, i.e. where more than one family sets up an office to deal with their financial interests, have emerged as a means of defraying the costs inherent in such an undertaking. The advent of multifamily offices has resulted in an increase in the use by wealthy families of the services of experts in wealth management to assist them in their efforts to preserve and grow their wealth. And with this change, Barbados has played, and will continue to play, a key role.

The Barbados Solution

From 1979, with the introduction of the Offshore Banking Act, Barbados became involved in a more structured way in the provision of management and financial services to the wealthy. This legislation was repealed and replaced by the International Financial Services Act in 2002. The existence of such legislation, together with a network of double taxation agreements, presents attractive options for wealthy individuals, since it allows them to maximise the returns on their investments when structured through Barbados. For example, in many instances investment through a Barbados international financial services company (IFSC) could reduce the exposure to withholding taxes ordinarily applicable on the income earned on investments, by virtue of the 18 double taxation treaties that Barbados has entered into with foreign Governments. This advantage is significant, especially as Barbados continues to vigorously expand its tax treaty network.

In addition, income derived by the IFSC from such investments is taxed in Barbados at low rates ranging from 2.5% down to 1%. Further, distribution of the investment income by the IFSC to its non-Barbadian-resident shareholder would be exempt from withholding taxes in Barbados. Additional benefits can also be enjoyed where the investments are made through a Barbados trust, the trustee of which is an IFSC. The reasons for this are that the income earned by such trusts would be exempt from tax in Barbados and, in addition, the remittance of such income to the beneficiaries would be exempt from withholding tax.

IFSCs have also been used for establishing family offices, particularly by wealthy Canadian families seeking to take advantage of the Canadian exempt surplus rules. These rules provide that dividends derived by a Canadian company from active business profits earned by an affiliate resident in a foreign country with which Canada has a double taxation treaty, would not be taxable on receipt in Canada. Investment income earned by an IFSC which employs more than 5 full-time employees generally qualifies for this exemption. Therefore, in order to take advantage of the above exemption, the Barbados IFSC will usually be owned through a Canadian company and not directly by the Canadian resident individuals. In such a case, dividends paid by the IFSC to the Canadian company would generally be entitled to exempt surplus treatment in Canada. The Canadian company, and its shareholders, benefit from these increased after-tax profits, which can be distributed to the shareholders or reinvested.

The existence of the segregated account and segregated cell legislation also enhances the Barbados legislative framework, as several families can now join together to defray the costs associated with the operation of the family office, while at the same time segregating their assets, income and liabilities from those of other families. The legislative framework will become even more flexible with the passage of proposed legislation that will allow for the establishment of private trust companies. It is proposed that such companies would not be required to meet the same regulatory requirements associated with the international financial services regime.

As long as wealthy individuals and families require a well-regulated environment to manage their wealth in a tax-efficient manner, Barbados must ensure that its legislation continues to meet their needs.
Before looking at international developments impacting multinational companies, we should first get some understanding as to why companies and individuals use Barbados as their domicile.

Companies looking to thrive in a highly competitive global marketplace invest in Barbados to capitalise on its business friendly environment, strong human capital, high quality infrastructure, tax advantages and investment protection. Barbados, therefore, enjoys a high degree of respectability among investors as a reputable International Financial Centre and has been successfully attracting Foreign Direct Investment (FDI) for decades.

**Barbados’ world-class educational system, with several tertiary and training institutions, produces a highly skilled, English-speaking labour force**

**Non-Tax Criteria**
Barbados offers a well-regulated, transparent, politically stable and supportive environment for business. Competitiveness is enhanced by transparent policies, effective laws and a flexible and business-friendly tax administration and regulatory framework. It has a strong legal system which ensures that property rights are well protected and an independent judiciary guarantees the impartial and effective resolution of disputes.

Barbados’ world-class educational system, with several tertiary and training institutions, produces a highly skilled, English-speaking labour force. Investors can readily access the services of tax advisors, reputable international banks, global accounting firms, lawyers and management companies offering the full range of corporate services.

Barbados has a well-developed seaport and a modern international airport offering daily connections to countries in North America, Europe and the Caribbean. It has gained the respect of the world for the quality of its communication infrastructure.

**Tax Criteria**
Barbados’ biggest attraction for FDI may be its reputation as a low-tax jurisdiction for international business, having a high level of transparency and disclosure, and procedures for tax information exchange. Multinational companies can minimise their global tax burden by using a Barbadian entity to conduct business overseas.

The country offers a range of tax efficient vehicles through which international business can be conducted. These specially enacted entities enjoy tax and other incentives locally, including low rates of corporate tax, participation exemption for dividends and capital gains, low or nil withholding tax rates on dividends and capital gains on holding company shares and freedom from exchange controls. Investors can also benefit from no (or minimal) control foreign corporation rules, subject to tax requirements, income character tests, no (or minimal) capital duty, net worth tax, or other indirect taxes and the ability to obtain binding tax rulings.

In addition, investors using Barbados entities to conduct international business may benefit from the extensive treaty network, which offers low dividend withholding tax rates and exemption from source-country tax on capital gains.

These tax and non-tax criteria have enabled Barbados to develop an excellent reputation among investors as a jurisdiction from which to conduct business of substance, including financial services, business process outsourcing and niche manufacturing.

Canada has been important to Barbados because of the benefits of using Barbados as a jurisdiction of choice for Intermediate Holding Companies (IHC). This facilitates repatriation planning through managed ordering of distributions from surplus and blending of low with high-taxed taxable surplus. IHCs also enable repatriation of taxable surplus to be deferred, provide for reduced foreign withholding tax on dividends and capital gains, allow for deferral of Canadian tax on dispositions of foreign affiliates and facilitate cash redeployment and centralisation of head office functions. Barbados is the third leading destination for Canadian direct investment abroad, after the UK and USA.

The new Supreme Court building
New developments in international finance mean that Caribbean advisors are going to be faced with a big threat to their business over the next few years – and an equally big opportunity.

The drive for increased tax revenues in many developed countries (as a result of the financial crisis) has seen a demand for greater information exchange, more anti-avoidance rules and more focused action by the tax authorities. For example, the UK authorities have recently issued an amazing three hundred and eight (308) Section 20(8) A notices to UK financial institutions, which will in due course yield tens or even hundreds of thousands of clients who have held undeclared funds offshore – many in the Caribbean.

The UK middle class is going to be extensively targeted over the next five years starting November 30th, when the Offshore Disclosure amnesty closes. This is likely to lead to significant tax exposure for many UK taxpayers with offshore accounts. Barbados practitioners will possibly at first see a decrease in business, as UK clients liquidate their offshore positions.

However, this presents advisors with UK clients with an opportunity to provide such clients with pro-active advice now.

In Ireland, taking into account the levies, the income tax rate for high earners is going to be more than 60%. In the UK, self employed higher rate earners will be subject to more than 50% higher rate tax on earnings over £150,000. For those in the UK with close companies, the higher rate is effectively 55-64%.

These high tax rates have resulted in an exodus of hedge fund managers, private bankers and entrepreneurs from the UK and Ireland to Switzerland and other countries with more favourable tax regimes.

Barbados will introduce the non dom regime for personal taxation early in 2010, and has a growing double tax treaty network. This should be enough to be attractive to UK and Irish entrepreneurs who do not fancy giving away two thirds of their wealth to the state.

The UK has a growing battery of anti-avoidance legislation. This has increased substantially this year with the introduction of the Corporation Tax Act (CTA) 2009. The CTA 2009 has introduced anti-avoidance provisions pertaining to foreign dividends paid to the UK.

As Barbados has a double tax treaty with the UK, this market segment can use Barbados most effectively in conceptually the same way as Canadian SMEs use the Barbados international business platform.

In addition, as Barbados has a double tax treaty network, it is five to ten years ahead of Jersey, Guernsey, Isle of Man and Bermuda. Barbados is also outside the EU and has an established international business infrastructure. Barbados’ main competitors are, essentially, Singapore, which does not have a treaty with the USA but has a much larger treaty network, and Hong Kong, which does not have a treaty network because it is not currently offering information exchange in its treaty negotiations. However, Hong Kong has recently committed to information exchange in accordance with the EU Savings Directive, a feature which is likely to spread to other offshore centres as time goes by.

Barbados, therefore, is in an ideal position to win significant new business. Because of its tax treaty network, many types of business activities can be commercially structured out of Barbados in a tax efficient manner. Cayman, BVI, Bermuda and the other overseas territories all have to restructure their economies to introduce a proper tax base, otherwise they will not be able to negotiate double tax treaties and that will have implications for them within five years.

In any case, some of these territories that are not Sovereign states will have challenges in this respect, as they may be unable to negotiate tax treaties in their own right.

The developments highlighted above present Barbados with a significant opportunity to expand its customer base to EU countries.

Barbados will introduce the non dom regime for personal taxation early in 2010, and has a growing double tax treaty network.
The signing of the China/Barbados Double Taxation Agreement (the Treaty) has placed Barbados in a unique position in relation to other competing financial jurisdictions. The Treaty not only makes Barbados an attractive jurisdiction for International Business Companies (IBCs) and other special incentive entities from a corporate planning perspective, but its ratification has created the architecture that can support and sustain significant Chinese Investments.

The key benefits of the Treaty are:

**Dividends, Interest and Royalty Payments**

- Under Chinese domestic law, dividend remittances are exempt from withholding tax, if originating from a foreign enterprise or from a foreign investment enterprise operating in China. Should there be any change to China’s tax laws, Article 10 of the Treaty stipulates that dividends paid by a Chinese resident company to a Barbados entity are taxed at a minimum withholding rate of 5%.

- An IBC that is resident in Barbados and receiving such dividends is subject in Barbados to a tax rate of 2.5% down to 1%. However, the dividends will be exempt from tax in Barbados, provided the IBC owns at least 10% of the shares of the capital of the entity paying the dividend and the shareholding does not constitute a portfolio investment. In general, where the dividend is taxable in Barbados, the IBC can claim a credit for the Chinese withholding tax and, if
applicable, the tax paid in China on the profits out of which the dividends were paid. However, the credit can not reduce the total tax payable to less than 1%. Any remittances by the said IBC to its non-resident shareholders are normally exempt from withholding tax under the Barbados IBC Act.

- Interest and royalty payments arising in China and paid to a company resident in Barbados are subject to 10% withholding tax.

Tax Exposure and Capital Gains
The Treaty also provides opportunities for tax planning under Article 5-Permanent Establishment and Article 7- Business Profits, in that:

- Chinese resident companies acting through an independent agent and not establishing a fixed place of business in Barbados can enjoy complete exemption from taxation in Barbados. Entities that set up permanent establishments and derive income in Barbados are subject to Barbados tax;
- Fees charged by Barbadian service providers acting outside of China will not be taxable in China.
- Another important provision under Article 13 of the Treaty is the treatment of capital gains:
  - Capital gains derived by a foreign investor from the sale of shares in a foreign investment enterprise which is operating in China, are subject to withholding tax of 10% in China, compared to the 33% levy that would normally be applicable in respect of a sale of shares by resident Chinese entities;
  - If a Barbados IBC owns shares in a Chinese entity and then disposes of those shares, then only Barbados has taxation rights with respect to this transaction. In this case, since Barbados has no capital gains tax, there would be no tax due. This is possible because the Treaty allows the right to tax the state where the seller of the shares is resident, thereby preventing the other treaty partner from levying tax on the capital gain.

From a macro-economic perspective, there has never been a more opportune time for investors to capitalise on Barbados’ strategic alliance with China in structuring their investments into China. Similarly, opportunities exist for Chinese investors to utilise Barbados as a conduit for certain of their overseas investments. China boasts the third largest economy in the world and has been the fastest growing economy for the past 30 years, with an annual GDP growth rate above 10%. China is standing firm against world economic patterns due to the implementation of a series of proactive responses, including the shifting of focus from an export driven economy to one that focuses on domestic consumption, partnered with the emergence of long term demand drivers of urbanisation and middle class society.

CASE STUDY−LONDON LIFE

20 Years of London Life in Barbados
By Gabriel Kelly

In 1989, London Reinsurance Group Inc. (LRG) established operations in Barbados. LRG is part of a much larger financial services organisation under Great-West Life Assurance Company (Great-West), which is one of the largest insurers in North America. Great-West, in turn, is ultimately part of Power Corporation of Canada, a diversified international management and holding company.

LRG offers specialty reinsurance products to the life insurance and property and casualty markets in the United States, Europe, Bermuda and a number of other countries worldwide. Activities in the US and Europe represent the majority of the Group’s current business mix.

Today we employ 20 people, the majority of whom are Barbadians, and LRG has a programme that encourages continuing professional development for our employees, many of whom have been with us in excess of 10 years. Further, our Group is conscious of the needs of the community and, since 1990, has made annual contributions to local charities and social and sporting events.

We are proud of our record of growth and development here in Barbados, as we continue to service our clients and brokers and contribute to shareholder value.
Expanding your corporate operations outside of your home jurisdiction to an international financial services centre can be a challenging exercise for even the most seasoned of investors. Much effort is expended in ensuring the financial, commercial, market and tax rationales driving such expansion are sound and tested.

Considering whether to use Barbados in your international operation can be an easy decision, given the Island’s reputation as a mature, highly-respected and well-regulated jurisdiction. Beyond the strategic critical success factors are several ongoing practical elements, which must also be considered at the planning stages to identify the necessary resources and structures required to facilitate and manage the operation.

Barbados has attracted and developed excellent, internationally-branded, and indigenous business support providers

Barbados built its enviable reputation by moving beyond hosting brass plate operations to emphasising the need for commercial and strategic substance in international business entities established in the Island. Barbados’ legislative regime imposes various compliance essentials on both domestic entities and those operating in its International Business and Financial Services sector by requiring, among others:

- the maintenance in Barbados of financial and accounting records;
- the audit of financial statements where prescribed asset and revenue limits are exceeded;
- the filing of corporation tax returns;
- the maintenance of corporate records;
- the application and renewal of enabling business licences; and
- regulatory filings.

While these requirements are by no means onerous or unique to Barbados, they are not likely to be the main focus of the investor during the initial planning stages for the Barbados venture.

### Practical Issues of Managing International Companies in Barbados

**By Cleennell Jackman**

Barbados has attracted and developed excellent, internationally-branded, and indigenous business support providers.
A captive insurer is a legal entity formed primarily to insure the risks of one corporate parent or a number of similar corporations (e.g., trade associations), thereby contributing to a reduction in its parent’s total cost of risk. Captives are formed for many reasons including:

- lack of a commercial market for certain lines of coverage;
- a desire to recapture underwriting profits and investment income that would otherwise be earned by the commercial underwriter;
- as a means to access the reinsurance market; or
- in certain circumstances, as a means of diversifying into insurance services.

Captives are used extensively throughout the world by major corporations to cover both domestic and international risks. The largest developments historically have been in North America, the United Kingdom, and Europe, but recently considerable interest has been evident in South America and in the Far East, particularly from Japan and Australia.

Captive Insurance Structures

Many captives operate as reinsurers, with a licensed commercial insurer (the fronting company) located in the country where the risks are insured, issuing the policies to the parent company and providing claims-handling, loss-control and other insurance-related services. The fronting company cedes a portion of the premium and risk to the captive through a reinsurance contract. The captive can then retain all the risk and premium it assumes or, if appropriate, it can pass on, or retrocede, a portion to another reinsurer. Alternatively, a captive may insure the risks directly.

The premium received by the captive, together with the investment income earned on its capital and reserves, is used to pay losses and loss-adjustment expenses. The premium also covers various captive operating expenses, including captive management expenses, any local regulatory costs and legal and audit fees. The captive must be adequately capitalised to ensure its financial viability, that it satisfies the regulatory requirements in its domicile, and that it can be demonstrated that the insurance structure represents real transfer of risk to the captive.

Advantages of a Captive

The major benefits that the establishment of a captive brings to its parent can be divided into two main categories: financial and insurance.
Financial Advantages

Reduced Insurance Costs: A captive can reduce the overall cost of an insurance programme by retaining the premium for the expected losses, thereby avoiding the premium loading for a commercial insurer’s overheads and profits.

Protected Cash Flow: Reserves for unpaid claims and unearned premium, otherwise kept by a commercial insurer, can be held by a captive and invested.

Performance Measurement: As financial statements are prepared for the captive, its performance can be monitored and evaluated in terms of return on investment (ROI) or other financial criteria.

Source of Additional Revenue: A captive can expand its book of business by offering insurance to related third parties, such as franchisees, vendors or customers, thereby generating an additional revenue stream for its parent.

Insurance Advantages

Coverage for Risks: A captive can provide insurance cover that is either not available in the commercial market, or not available at a realistic premium.

Reduced Need for Commercial Insurance: As a captive matures and its net worth grows, it becomes capable of retaining a greater proportion of its parent’s risks.

Flexibility in Programme Design: A captive provides opportunities to more easily structure insurance programmes, since the captive is not subject to the same constraints and conventions normally associated with traditional insurers.

Better Risk Management Programme: A captive facilitates the design of allocation systems to distribute costs more equitably among profit centres, the implementation of uniform accounting procedures, the accumulation of actuarial information, the design of more effective claims-handling, loss-control and engineering programmes, and the unification of the application of risk management throughout all divisions or subsidiaries.

Disadvantages of a Captive

While there are many potential benefits in forming a captive, several significant disadvantages exist. Before deciding to establish a captive, an organisation should establish and maintain an effective enterprise risk management programme, then thoroughly assess the potential disadvantages, which include providing the necessary capital to satisfy the regulatory requirements and providing capital to cover adverse underwriting results.

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U.S. Property and Casualty Round Up

BY MICHAEL DOUGLAS

Michael Douglas provides a brief analysis of the current state of the insurance industry, its trends and future growth prospects, together with a view on where the opportunities are for industry captives.

This analysis is against a background of unprecedented financial crisis and a combination of events which have posed many challenges and opportunities for the insurance market over the past 18 months.

Property Snapshot – Holding the Line
The feeling from property insurance carriers entering 2009 was decidedly shaky, due to attrition, global natural catastrophes and the global financial meltdown. In the coming year, insureds expect renewed competition and modest downward pressure on rates.

Premiums: There is an overall expectation of continued softening into 2010, as carriers repair balance sheets from organic growth and are actively seeking fresh capital. Clients with a significant natural catastrophe exposure saw the most upward premium rate pressure, with only a few insureds experiencing higher than 20% rate increase. Insureds with little or no natural catastrophe exposures remained competitive, which has the hallmarks for softening.

Limits: The initial reaction to purchase higher limits due to the economic downturn, dropped off rapidly in the second quarter, resulting in the same limits in the second quarter despite the upward pressure on rates.

Deductibles: Deductibles and retentions experienced little change since the third quarter of 2008.

Coverage and Terms: Similar to deductibles, there is no significant change in property coverage and terms for property risks.
Capacity: Some markets reduced offerings, particularly in natural catastrophe prone areas. Most carriers continue to offer renewal capacity.

Casualty Snap Shot – Soft and Softening
Competition remains strong in the casualty marketplace, with low rate decreases resulting in lower premiums. Soft market conditions are expected to continue into 2010.

Premiums: Primary and Excess casualty rates have continued to decrease.

Limits: While modest purchasing continued, insureds were reluctant to change limits.

Deductibles: The overriding discussion in 2009 regarding deductibles focused on the amount of collateral required to support deductibles. Credit market tightening resulted in more scrutiny and a conservative collateral position among primary casualty carriers. Insureds now weigh premium credit for increased retentions against likely increased collateral.

Coverage and Terms: Carriers continued coverage enhancements, lessening the impact of exclusions where there was good underwriting. Underwriters are expected to be unwilling to offer policies with unlimited defense obligations as they are waiting for the next asbestos, providing opportunities for companies to use their captive to include some such risks.

Capacity: Excess capacity is at record levels. The overall increase in capacity led to further competitive pressure, especially on excess layers, where carriers are more flexible in pricing and coverage positions.

An Ill Wind …
The events of the last 18 months tested the insurance marketplace. Carriers around the world are looking to raise capital to repair balance sheets and reposition for future growth. The current trend for softening in the market increased, however the insurance market will be challenged to attain growth in the next few years. Pundits are predicting a round of mergers and acquisitions in 2010 and growth in captives due to mis-pricing opportunities.

Property & Casualty and Workers Compensation remain the most popular lines for captives and some captive owners have used the opportunity (lack of capacity) to cover emerging risks. Captive owners in Barbados who follow the well travelled road of writing standard coverages, assuming an appropriate amount of risk and avoiding problem lines, will benefit from the expected uplift in insurance premiums, with the only clouds on the horizon being the low investment returns and increased collateral requirements.
The business community buying insurance is aware of reinsurance. However, knowledge is often limited to the perspective that it is a method used by insurance companies to shift risk in order to avoid being overburdened and to allow them to take on more business, which is correct to a large extent. Nevertheless, it is more appropriate to see insurance as ‘retail’ and reinsurance as ‘wholesale’. Indeed, each of these markets takes this view.

There are several reasons to form a captive, but a major one is to provide a vehicle allowing direct access to the reinsurance markets

Reinsurers provide insurers with products, the nature of which is substantial financial strength and expertise, without which the retailers (insurers) could not exist. The traditional premium flow from the insured is:

- Insurance broker
- Insurer
- Reinsurance broker
- Reinsurer
- Retrocessionaire

A major difficulty in seeking to purchase insurance directly from the wholesalers is that they sell only large amounts to a small number of customers. Other relevant issues include:

- The marketing and relatively small sales forces of wholesalers are geared to that environment;
- There is often considerable regulation to protect the insured, whether they are corporate or individuals. The reinsurers are not subject to the same regulation and are therefore prohibited from providing cover to the end insured, so that, generally, the reinsurers will not deal directly with the end insureds.

Still, corporations often prefer to access the wholesale reinsurance markets directly because:

1. It removes some of the friction costs built into the insurance premium, e.g. are all of the layers reflected above truly needed?
2. In the traditional insurance market, it is difficult for a well-run entity to completely avoid sharing the poor experience of other insureds as part of its insurance premium. Direct access to the reinsurers provides greater opportunity to reduce the impact of this;
3. The insurer often cedes most of the risk to the reinsurers because that is where the greater financial strength lies, i.e. the ability to assume and retain the risk. Therefore the direct access is to the ultimate risk taker(s);
4. The discussions, negotiations, etc. with the reinsurer(s) are conducted on the insured’s behalf by the brokers, who do not understand the insured’s business as well as the insured. This is not a criticism of the brokers, merely recognition that no one understands a corporation’s business better than the corporation’s own people. In addition, the reinsurers often have relevant expertise, e.g. engineers, to help evaluate the insured’s risk as presented by the latter;
5. The reinsurers are often willing to be flexible in the structure of the cover provided.

In summary, the end buyer has problems accessing the reinsurers directly, and one solution which removes many of the obstacles highlighted above is the formation of a captive insurance company (captive). A captive is a subsidiary insurance or reinsurance company formed to insure the shareholder corporation and affiliates and no others. The concept is well established and used extensively. There are several reasons to form a captive, but a major one is to provide a vehicle allowing direct access to the reinsurance markets, i.e. these markets cannot, or will not, deal with the insured, but will do so with its captive because it is an insurance company. Often the ability to directly access the reinsurers through a captive is the only reason they are formed.

Captive Insurance - An Effective Solution for Accessing Reinsurance Markets

BY CHRIS EVANS

Captives - An Effective Solution for Accessing Reinsurance Markets

BY CHRIS EVANS

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4. The discussions, negotiations, etc. with the reinsurer(s) are conducted on the insured’s behalf by the brokers, who do not understand the insured’s business as well as the insured. This is not a criticism of the brokers, merely recognition that no one understands a corporation’s business better than the corporation’s own people. In addition, the reinsurers often have relevant expertise, e.g. engineers, to help evaluate the insured’s risk as presented by the latter;
5. The reinsurers are often willing to be flexible in the structure of the cover provided.

In summary, the end buyer has problems accessing the reinsurers directly, and one solution which removes many of the obstacles highlighted above is the formation of a captive insurance company (captive). A captive is a subsidiary insurance or reinsurance company formed to insure the shareholder corporation and affiliates and no others. The concept is well established and used extensively. There are several reasons to form a captive, but a major one is to provide a vehicle allowing direct access to the reinsurance markets, i.e. these markets cannot, or will not, deal with the insured, but will do so with its captive because it is an insurance company. Often the ability to directly access the reinsurers through a captive is the only reason they are formed.
The context
The business of the captive owner is wholesale distribution of materials and equipment to the construction trade. They buy it in large lots, store it in owned warehouses, and sell it on to small and medium-sized clients in several countries. These clients are required to pay their invoices within 60-90 days. If they don’t, they become problems, and if collection efforts have been unsuccessful after 6 months, a credit insurer steps in to continue collection efforts and indemnify the selling company for 80-90% of the bad debt after a deductible.

This captive owner’s subsidiaries in the UK, France and other countries found that, instead of 90% of the clients and credit limits being approved, only 40%-60% were approved, and none at all in Spain. This was a serious concern to the credit management department (CMD), who found that their local managers were unable to maintain, much less increase, sales if the credit insurers were unwilling to accept half of their proposed clients.

In a strategy meeting with their brokers, they heard that the brokers were expecting large increases in premium rates from the big-name credit insurers. Maybe not all in the first year, which might be seen as anti-commercial, but 25% increases in rates for the next three years is our expected scenario, said their experts. Additionally, these increases in rates would be on the sales which the credit insurers are willing to accept. The restrictions on who they will insure and for how much will endure longer than the return to profitability.

The captive owner had never considered having the captive write trade credit insurance, correctly believing that half the value was in the services which the captive management company could not provide. However, the CMD staff, information systems and communications had been recently upgraded. Why didn’t they decide there and then to stop buying trade credit insurance altogether, and go non-insured? One or two of their subsidiaries, notably ones in the US and Switzerland, were doing just that. However, the client mix and credit information systems in those countries without insurance were special cases. In addition, they felt that their financial backers would have been seriously concerned by an announcement of going bare. They had to continue dealing with insurers whose rates were increasing and whose conditions were going down.

Use the captive to reinsure trade credit risk
The generalisation of the situation described above would be familiar to insurance buyers in other sectors – rates going up, availability going down, risk management providing better judgement of the risks than the insurers, and claims and losses stabilised or reducing. They and their brokers convinced the primary insurers to reinsure 75% of the normal business to the captive and (this was a key selling point) 100% of the business that the credit insurers would have rejected, even though they had been approved by the captive owner’s CMD. This allowed some 75% of the rate increases to be recaptured in the captive, thereby adding to the overall profitability of the business, provided that losses do not become excessive. They even spent some of the promised gains on a group annual aggregate retroceded protection for the captive, which was an important selling point for both the owner’s board and the insurance supervisor in the captive’s domicile.

The best part of this success story is that the subsidiaries that were heretofore precluded from dealing with some clients will now have the possibility of increasing their sales and profitability.

Key factors for success
Having information systems and aging balance reports which tell us within weeks of any deterioration in this moral hazard.

The other key factor for success was the large surplus in the captive that had been left there for a rainy day. This was a critical factor in convincing the credit insurers to cede to it, even with Solvency 2 coming down the pike. It also allowed guarantees and collateral to be reduced to a minimum by a skilful use of centralised funds-withheld balances at the international level, even though some countries’ guarantee and business profiles would not have been convincing on their own.

Hugh’s views
There are opportunities for reinsuring trade credit risks in the next few years. Captive owners who are thinking of taking back sleeping surplus capital should learn from this example, which demonstrates why it is better strategically to leave such surplus in the captive, in order to be able to take advantage of such opportunities when they present themselves.
Gildan - International Apparel Manufacturer

By Mike Hoffman

Gildan Activewear is a leading international manufacturer of apparel. Gildan selected Barbados for its sales and marketing headquarters due to its financial stability, modern infrastructure and quality of human resources.

Gildan’s success is clearly a reflection on its employees. Due in large part to the education, work ethic and enthusiasm of its staff, Gildan is able to successfully compete on a global scale in the apparel industry. Gildan owes much of this success not only to its employees in Barbados, but also to the long-standing partnership and tax and trade agreements that exist with Canada.

Focused on setting the standard in all of its markets, Gildan is a leader, recognised for its corporate social responsibility initiatives and its adherence to stringent environmental protection standards and fair labour practices.

With more than 20,000 employees worldwide, Gildan remains committed to the communities in which it operates through charitable donation programmes focused on youth education and humanitarian aid. This is an element of our corporate strategy that we will continue to emphasise in Barbados.

Gildan employs 150 people in Barbados, all of whom support the entire sales and marketing efforts for the corporation, which has annual sales of US$1.25 billion. Everything required to properly manage the business is available in Barbados. As a result, the company plans to expand its presence on the island.
This article is not meant to respond to all the issues between auditors and their captive clients, but instead addresses some of the key points that readily come to mind from the perspective of both the captive entity and the auditor.

Typically, insurance captives have a smaller risk exposure compared to domestic insurance entities, in terms of the extent of the reasonable persons at large. However, they tend to have more complex contract structures, with potentially greater substance over form issues. With this in mind, the business plan, which is typically submitted as part of registration of the entity, is one of the key documents to be utilised by the auditors.

Following on from the business plan, copies of all signed insurance and reinsurance contracts and amendments should be made available and the expectation is that the terms of these should be consistent with the amounts recorded in the company’s general ledger.

Agreements between any significant service organisations that the captive utilises should be provided; this includes agreements with third party administrators, brokers, and the local captive management company. For larger captives, there may be specific committees set up to govern the key business processes, such as investments, underwriting and claims, and copies of the related documented policies, procedures and minutes should also be provided.

Probably the most significant item of concern to both management and auditors is the actuarial reserves. The International Standards on Auditing (ISA) do not provide specific guidance relating to the auditing of reserves, rather the guidance relates to the auditing of accounting estimates, which is closer.

International audit firms, however, have typically added additional procedures to the ISA requirements, some of which may appear onerous to the captive insurer. Some key considerations, regarding reserves, of which management should be aware are:

- Does the type of business warrant the use of an actuary in the calculation of the reserves?
- If an actuary is utilised, is he/she in-house or external?
- Depending on the above, and sometimes regardless of the above, the audit firm may require a review of the client’s reserves by the firm’s own actuary.

The client, should, however, have a documented procedure on how their reserves are determined. Again, some audit firms may still require a review by their in-house actuary, and this is something that needs to be discussed and resolved at the outset. One of the potential bargaining chips that a client can use to negate the need for an audit firm actuary (even for long-tail businesses) is the use of a third party as well as an in-house actuary. Essentially, the third party actuary reviews the work of the client’s in-house actuary or insurance specialist, and the auditor may be able to utilise this third party actuary by evaluating their credentials, based on the use of specialist audit guidance.

From a financial reporting perspective, IFRS 4, which is the international accounting standard for insurance in general, poses further challenges to captives. One of the main challenges relates to the requirement that an insurer should disclose information that helps users to understand the amount, timing and uncertainty of future cash flows from the insurance contracts. This includes information on the sensitivity of income and equity to changes in variables that have a material effect on them, and information on actual claims compared with previous estimates, the latter of which may involve the inclusion of a loss development triangle in the financial statements.

With the continued growth of captive and captive-like insurers in Barbados, there will be a need for better understanding between the companies and their auditors, and the above should provide a stepping stone to aid in that process.

**CASE STUDY – TD**

**TD Celebrates 25 Years in Barbados**  
By Richard Bruce

TD Bank Financial Group celebrated 25 years of operation in Barbados during October 2009.

Barbados was in its infancy as an international financial centre when operations commenced in 1984, and over the years the group has grown to employ 11 Barbadian staff. The largest employer is TD Reinsurance (Barbados) Inc., operating under the Exempt Insurance Act.

TD is an active participant in community programmes and encourages continuing professional development amongst its staff. With more than 90 years of collective service, this has been rewarded with employee productivity and loyalty.
2009 saw a return to positive returns for most Fund Managers as global stock markets have rebounded from their lows. Banks have survived a Global Financial Crisis (GFC), economic activity recovers, but unemployment remains high. Against this background, it is important that we learn from history in order not to repeat investment mistakes. What follows are a few key lessons we must understand as we start to recover from the GFC:

1. **Discovery Process is critical** - there is nothing more important in the investment process than spending time with clients at the beginning of the relationship, to understand in detail their objectives in terms of risk and return, liquidity, time horizon, tax implications, and any other constraints. Prescribing an investment solution without clearly understanding all the facts of the client’s personal situation is investment malpractice. The recommended portfolio needs to be back-tested in terms of risk and volatility through all market cycles, including the last two years, to see how it would have performed in the worst case scenario.

2. **Strategic Asset Allocation complemented by Tactical Moves** - upon completion of the Discovery Process, a long term asset allocation between the various asset classes (cash, fixed income, equities, alternatives, commodities, etc.) is determined. Historically, this strategic asset allocation has accounted for over 90% of the performance of the portfolio. However, tactical moves around major market events are important as long as they are within the client’s long term strategic allocation. No one can time market moves and therefore major shifts can be dangerous, but making measured tactical decisions around protecting capital is important.

3. **Don’t Buy Anything You Don’t Understand** - famous investors, such as Peter Lynch and Warren Buffett, abide by one of the Golden Rules of investments - don’t buy anything you don’t understand. That would have prevented many investments in schemes such as CDO’s, ABCP, Sub-Prime Mortgages and other catastrophes that occurred in the last two years.

4. **Private Clients Don’t Want to Lose Money** - it is an investment professional’s responsibility to mitigate this risk. You must educate your clients on the expected volatility of investments to reduce surprises, prevent your client from realising losses at the worst possible time and, equally important, not miss the rebound.
5. **Due Diligence** - although similar to point #3, due diligence addresses rigorous, diligent research on all investment solutions in order to avoid potentially fraudulent schemes, such as Madoff and Stanford. If you can’t get full disclosure from your hedge fund managers, for example, don’t invest with them. There are many quality options with full transparency.

6. **Use External Managers** - sometimes clients focus more on the higher cost of using external managers versus the severe under performance of proprietary solutions. The first quartile managers in all geographies, including US large capitalisation stocks, out-perform benchmark by a minimum of over 7% per year, and have done so for the past 25+ years.

7. **House View vs. One Person’s View** - does your investment professional have a large team supporting them or is it just one person’s view on the world? It is not possible for one person to adequately cover the world.

8. **Quality Firms** - always ask the question: What is the likelihood of the firm I am investing with going out of business? The balance sheet and deep pockets of the firm with which you invest are very important.

9. **Diversify** - although almost all asset classes have experienced major corrections in the last two years, cash and high quality fixed income would have helped preserve capital for the overall portfolio.

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At Cidel, we are leaders in executing internationally compliant structures for tax planning professionals worldwide – utilizing Barbados’ extensive tax treaty network.

Using our experience and knowledge, we offer a wide range of fiduciary services for treaty-based planning, including:

- Trustee Services
- Corporate Services
- Active Business Services

Our expertise in the efficient execution of structures allows professionals to focus on their first priority – working with clients – leaving the day to day operations to us.

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No one can time markets and therefore major shifts can be dangerous, but making measured tactical moves around protecting capital is important.

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Investment managers in Barbados would do well to review their client’s investment guidelines, so that the risk and return associated with particular classes of assets meets the client’s objectives and that the allocation between the various asset classes is clearly defined and understood by both the client and the fund manager.
Managing money for clients requires discipline and an understanding of the client’s needs, risk profile and long or short-term expectations, in order to deliver solutions that work today and into the future.

Many clients choose their investment advisors through personal recommendations and require financial advice and solutions in the best interests of their stakeholders.

A rigorous five-step investment process can be used to manage clients’ assets.

**Step One: Client Profiling**
Recognise that each client has unique financial needs and requires an investment portfolio tailored to reflect those needs. To gain a better understanding of the client, use a detailed financial planning questionnaire to develop a complete picture of each client’s investment goals, circumstances and attitudes to risk. This allows the investment advisor to develop a bespoke recommendation tailored to the client’s individual situation and one that will meet their financial requirements over both the short and long term.

**Step Two: Personal Recommendation Based on the Client’s Profile**
Utilise the information gathered using the financial planning questionnaire, combined with a risk analysis tool, to create an individualised proposal based on the client’s investment profile. The recommended proposal will be prepared by the investment advisor with input from the portfolio management team. Any solution developed will take into account the client’s existing assets, tolerance to risk and income requirements.

**Step Three: Explaining our Recommendation**
Present potential clients with an investment proposal that explains the financial advisor’s recommendations and then ensure that the client fully understands – and agrees to – the investment approach proposed. Present the financial advisor’s recommendation to the client by letter, explaining, in detail, why the financial advisor thinks that the proposal is suitable for them. Detail how the recommended investment strategy and asset allocations in the portfolio support the client’s goals, both now and in future.

**Step Four: Delivery of a Tailored Portfolio**
Utilise all of the resources available to the financial advisor, both internal and external, and tailor the portfolio to the individual recommendations made for each client. A successful active management strategy requires deep investment knowledge across all asset classes. Utilise experienced investment professionals who have access to research from both in-house and external analysts, which allows them to decide the optimum strategic asset allocation based on current market conditions and forecasts. Also utilise external investment managers to assist in constructing client portfolios in the most cost effective manner possible.

**Step Five: Ongoing Review and Monitoring**
Once a client’s portfolio is established, it should be constantly monitored to ensure it is performing in line with the agreed objectives. In response to any changes in the client’s profile or in market conditions, a portfolio can be adjusted so that it remains aligned with the client’s goals. The client’s dedicated relationship manager will conduct regular reviews with the client to ensure that everything stays on track and be available to answer client queries or address concerns whenever they arise.

Captive managers and family office banks operating in Barbados should meet with their investment managers to review their investment policy, to discuss strategy and asset allocation that recognise the risks associated with both the fund manager and their portfolios.
The End of International Financial Planning?  …Not in Barbados  

BY DAVE THOMAS

Recent headlines from around the world declare the end of international finance and the death of offshore private banking. No financial centre seems immune to the turmoil, with daily reports from Switzerland and other major jurisdictions about forced disclosure, fleeing investors and the strident measures brought to bear by tax-hungry governments.

Despite the perception of doom, recent events are paradoxically positive for OECD compliant jurisdictions such as Barbados. Offshore private banking continues to offer high net worth (HNW) and ultra high net worth (UHNW) individuals unique benefits that complement their onshore planning and wealth management. Barbados offers an environment that is well regulated, follows international know-your-client and anti-money laundering requirements, and has a developed and experienced service sector. It continues to grow its international business sector by delivering the benefits of offshore banking to a global client base.

Country Diversification

Most HNW and UHNW investors position a portion of their assets internationally in order to ensure the maximum flexibility for estate and succession planning. By employing geographic diversification, these investors benefit from knowing they have diversified their assets into multiple jurisdictions that are subject to different social and political risks. They also benefit from the diversity of legislative frameworks each jurisdiction possesses, that can offer substantial improvements and benefits relative to the domestic legislation in their home countries.
Confidentiality

Confidentiality does not mean secrecy, nor is it a method for evading detection of financial crime. Confidentiality means that personal and family financial information is well protected from unauthorised disclosure and systems and safeguards are in place to preserve the identity and assets of investors. Barbados has a very well established regime of confidentiality that is manifested both legislatively and in best practices monitored by the Central Bank.

Asset Protection

International jurisdictions have very specific and investor-friendly asset protection laws that are designed to protect an investor’s assets from, among other things:

- forced heirship rules which provide entitlements to spouses and heirs;
- financial exposure for public company directors;
- the spiraling costs of indemnity insurance; and
- threats of identity theft and other unforeseen financial claims.

Barbados possesses very clear asset protection provisions as part of the International Trust Act, 1995. These provisions include a:

- 3 year period for creditors to commence action;
- requirement for creditors to prove intent to defraud; and
- requirement that decisions must be made solely by the Barbados courts without regard to the judgments of foreign courts.

Optimise Tax Globally

International jurisdictions are often crucial global conduits of investment capital for corporate and HNW investors alike. The use of these jurisdictions, particularly a jurisdiction like Barbados which possesses an extensive network of tax treaties, confers a number of benefits with respect to international structuring:

- Certainty and clarity of tax provisions;

- Elimination or reduction of withholding taxes and other potential frictional costs; and

- Simplification of tax reporting requirements and a reduction in the burden of tax bureaucracy.

Global Investment Options

Many international banks offer an open architecture approach for their clients, whereby they search out the best money managers from a global list of candidates. Many domestic jurisdictions impose burdensome restrictions on investor choice and limit investors in their ability to invest internationally. By utilising an offshore jurisdiction, investors are able to access a full universe of investment management options many of which are only offered offshore. The portfolio benefits of this access from a diversification and return perspective can be substantial.

PLATINUM provides a broad range of high-quality corporate and professional services to the international business community, with an emphasis on thoroughly understanding each client’s business objectives and embracing the concept of ‘Central Management and Control’. We have extensive experience in managing all areas of cross-border client activities, such as financing, investment-related and manufacturing/export commercial operations. Our existing clientele varies from high net worth investors to publicly-listed corporations.

PLATINUM has the reputation for ‘getting the job done right’!

For information contact our management team.

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- International schools
- University & Colleges
- Conference facilities
In 1998, a group of entrepreneurial Canadian bankers, convinced that globalization would allow capital to move easily to places where it would attract the lowest liabilities, decided to establish an international bank and trust company in Barbados. We named it Cidel Bank & Trust Inc (Cidel).

Eleven years later, Cidel and its subsidiaries, with offices in Toronto, Calgary, Johannesburg and Bermuda, has grown into a successful financial services “group” and is the largest privately owned international bank and trust company on the island.

It is a success story, and Barbados has played a leading role in that success. We chose the island for two primary reasons:

- Prospective Canadian clients could set up and plan their affairs through Barbados, using the existing Canada/Barbados double taxation agreement that had been in place for a number of years;
- To satisfy a Canadian requirement where a regulated institution that has more than five employees in a treaty country can generate significant tax benefits for any Canadian resident corporation that owns more than 10% of its shares. This is an attractive proposition when you are seeking to raise capital from prospective Canadian shareholders.

Over the years, we have reaped solid benefits from our decision, many of them unintended and unexpected. Of particular note are the “human capital” benefits we have derived; these have enabled the business to be more profitable and to grow at a faster rate than might have been the case elsewhere.

This human capital is made up of the bank’s information technology, corporate services, accounting and management and administrative skills. Together, these elements form the core of a robust financial services platform that has been developed in the bank’s Barbados headquarters.

As a result, Cidel is able to access non-Canadian markets using a model of an overseas front office supported by a back-office platform in Barbados. Put educated people in an innovative work environment and you can quickly build a team which is able to compete with any North American team at lower cost. These human resources – our people – are as productive as any.

For example:

- **Information Technology (IT) Resources**
  It has been the bank’s experience that well educated IT resources are available in good supply. These employees are likely to be graduates of the local campus of the University of the West Indies.

- **Corporate Services Resources**
  Among the bank’s core products is the provision of corporate services to clients. In effect, we help them to structure their wealth needs by using corporate and trust vehicles. There is a well resourced corporate services sector on the island that primarily emanates from the legal profession.

- **Accounting Resources**
  Barbados is fortunate to have the “big four” accounting firms well represented on the island. As a result, there is a steady supply of good quality accounting talent. From this point of view, it is a competitive advantage for the bank to be located in Barbados.

- **Management and Administrative Staff**
  Every organisation requires highly competent managers and administrators, and Barbados has a plentiful supply of these. Indeed, the bank has managed to develop a valuable pool of highly experienced managers and administrative bankers from this resource base.

Obviously, the above human skills are not the only skills required for a successful private wealth management organisation. However, being able to access them readily in Barbados, means that most international businesses need import only very specific skills. The real benefit here is that a business such as ours can reduce staff turnover and limit the number of revolving expatriates.

In summary, apart from all of the benefits created by its legislative framework, the real competitive advantage that Barbados offers to international businesses is a pool of competent people from which to recruit. Rest assured that trained, skilled “Bajans”, recruited into a North American-style workplace, perform just as efficiently and more cost effectively than their peers from North America.
We believe that banking is about opportunities, not restrictions. With our wide range of products and services, you will have the opportunity to grow your organisations the way you always dreamed – without hassle and with a team of financial specialists represented through your very own Relationship Manager.

As an International Corporate Banking Client you will benefit from specialised banking solutions offered by our International Corporate Banking teams located in dedicated centres across the region. Our Corporate Banking Specialists will be able to guide you through our services, ensuring you receive ongoing, relevant, discreet and high quality support.

Our membership of the CIBC Group expands our global reach whilst our regional experience gives us access to a wide network of industry experts and contacts within the industry.
Isn’t it time you explored the possibilities?

Open your business in Barbados or expand your operations. Barbados is recognised around the world for its quality lifestyle, natural beauty, culture and, above all, the friendliness of its people. We are a highly respected International Financial Centre with:

- A wide network of tax and investment protection treaties that continues to expand
- Modern corporate law
- Daily international flights to the UK, USA and Canada
- A wide variety of business incentive legislation
- Strong regulatory systems
- A well-developed infrastructure including excellent telecommunications
- A highly educated and flexible workforce
- Quality lifestyle
- And so much more

Thousands of international businesses have already discovered the advantages!

Contact us