

# A CLEAN BILL OF HEALTH

Lawyers are keen to defend their territory after the Foot Report painted a mixed picture of offshore jurisdictions. **Dominic Carman** reviews how firms have responded to a hard year

Trawl through 90 pages of the Foot Report – an economic health check of British offshore financial centres delivered to HM Treasury last October – and you'll get a mixed impression.

The three crown dependencies (Jersey, Guernsey and the Isle of Man) fare pretty well. But among the six overseas territories (Anguilla, Bermuda, British Virgin Islands (BVI), Cayman Islands, Gibraltar, Turks and Caicos Islands) a more nuanced picture emerges, with Foot concluding that some jurisdictions need action on transparency, regulation, fiscal

management and tackling financial crime: "Meeting international standards... is an absolute must if the (offshore) jurisdictions wish to continue to hold themselves out as internationally active financial centres."

The culmination of 12 torrid months for many offshore law firms, the Foot Report provokes a robust response from lawyers: "A lot of misinformation is peddled by the mainstream media suggesting that offshore centres are engaged in dubious activities like money laundering or tax evasion," argues Jersey-based Mourant du Feu &

Jeune managing partner Jonathan Rigby. "That view is outdated and dangerous. The top-tier centres are very important and operate a very high level of regulation."

He points to recent International Monetary Fund (IMF) and Organisation for Economic Co-operation and Development (OECD) reports listing the

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Channel Islands and Cayman, where Mourant practise, as having a clean bill of health. "Both of these reports state that the Channel Islands operate at the very top end of regulatory and compliance infrastructure," echoes Mike Jeffrey, a partner at Channel Islands firm Carey Olsen.

"Cayman has responded positively to adverse press coverage: the government has been proactive in putting in place a regulatory framework, for example, Tax Information Exchange Agreements (TIEAs)," *Continued on page 20*

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adds Henry Smith, managing partner of Maples & Calder, 'best friend' firm to Carey Olsen.

**A year in review**

Offshore firms certainly found 2009 every bit as tricky as their onshore counterparts. "It's been a year of challenges," says Peter Bubenzer, managing partner of Appleby, where there has been a recruitment freeze for 18 months, except for limited strategic hires.

Although firms such as Conyers Dill & Pearman and Carey Olsen have managed to hold off making redundancies, it's a familiar story among their peers.

At Isle of Man-based Cains, managing director Andrew Corlett believes normality has returned to the market, but suggests: "For firms that have grown quickly on the back of commodity work, hedge funds and securitisation, it's difficult to see where that work will come from in the future."

Maples' Smith is keen to point out that fund formation in Cayman, where more than 70% of all hedge funds are registered, has picked back up to the 2005-06 levels and that in the two years to the end of 2009, the number of Cayman hedge funds increased by 5%. He estimates that Maples acts for nearly 40% of these funds.

Although in common with other jurisdictions, streams of work, such as property, have fallen dramatically, but many of the offshore firms have been buoyed by an influx of litigation, contentious

trust work and fund blow-ups.

Ogier chief executive Nick Kershaw comments: "Our growth has slowed, but we have still grown – in fiduciary services work in particular. Structured finance is down most, investment funds are flat but corporate and commercial are good."

Conyers managing partner John Collis is distinctly more bullish: "Last quarter, business picked up. The recession is over. All the signs are right for our industry pointing up."

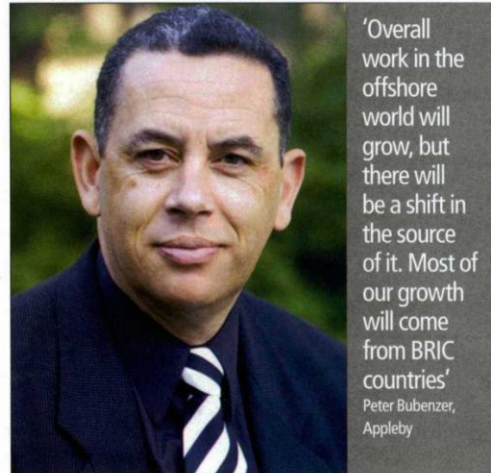
**A merging market**

Workstreams aside, one of the biggest shake-ups in the offshore market has been the merger between Mourant and Ozannes, creating a significant player in the market and the largest firm in the Channel Islands.

The newly-merged firm, which will be the third biggest by headcount in the offshore market, is set to be operational by 1 May. Mourants had been in talks with Walkers with a view to a tie up in 2007-08, but discussions were aborted. Rigby, who was appointed managing partner of Mourant in April 2008, believes that the Ozannes merger is "a better cultural fit" than the previous firms in discussion.

But the merger talks are not restricted to Mourant and Ozannes – Conyers also plans to open a Channel Islands office in the next few months, preferably through a merger.

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Cayman-based Boxalls in 2003 – the first such transatlantic tie-up – and in 2007 tied the knot with WSmiths of the BVI, is no stranger to the merger scene.

Kershaw comments: "Mergers work for us. We have had an increase in revenues and many of our clients use all the jurisdictions where we are based. Clients are very attracted [to a spread of offices]." Kershaw might even consider an onshore merger at some point, as well as further mergers with offshore firms: "It's a model we're going to roll out more widely," he adds.

But expansion is not limited to mergers. Appleby is set to launch in Guernsey after taking on four Ozannes partners. In the Channel Islands, the firm already has offices in the Isle of Man and Jersey, as well as a spread that includes the Caribbean, Seychelles and Mauritius. Bubenzer says his mission statement is "to be everywhere that matters in the offshore world".

**New horizons**

On one theme, there is uniform agreement among offshore lawyers: the real growth for their industry will be in Asia. "Listings in Hong Kong have picked up significantly," says Collis. "We're doing seven or eight listings a month. It's almost back to the pre-recession high point."

Smith adds: "Asian markets like to use Cayman and BVI companies to do their initial public offerings (IPOs) and joint venture work."

The clearest strategic message comes from Kershaw: "Asia has bounced back more quickly – we need to follow the money to those jurisdictions. We are expanding our Asian practice, building our fiduciary business in Hong Kong." Ogier is actively recruiting and plans to relocate lawyers, including partners, to Hong Kong, which Kershaw predicts "will be our centre of gravity". Further ahead, he is looking at Shanghai, Beijing and Singapore offices.

In further evidence of the strength of the region, Cayman-based Walkers opened in Singapore last year, adding to its existing Hong Kong presence. It is not just the Asian region which is receiving attention though, with several firms extending into South America and Russia, completing the BRIC set.

"Overall work in the offshore world will grow, but there will be a shift in the source of it," says Bubenzer. "Most of our growth will come from BRIC countries."

Rigby adds: "We want to take the Jersey/Guernsey product to China and India."

Conyers finished their BRIC strategy in 2009 by opening in Mauritius, a proxy for India, and in Sao Paulo, Brazil.

"Offshore firms are competing in what is a very tough market," says Bubenzer. Add in the dash for growth and the urge to merge, and that may be something of an understatement. As Foot concludes in his report – there can be no second chances.



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