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Marketing Offshore Financial Services

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Content:

The offshore sector

Offshore and onshore traditions

The offshore sector has a long history. The European continent is serviced by offshore finance centers (OFCs) that have been structured decades ago. Some of the older ones are genuine 'offshore' jurisdictions. Some traditional offshore centers have created their position on the basis of a colonial past, the British Virgin Islands, the Dutch Antilles (Curacao, Aruba, St Marten), etc. Others have created a special status as being an island just in front of the mainland (the Channel Islands of Jersey and Guernsey).

Yet not all so-called offshore centers have been created decades ago. A number of recently created jurisdictions exist. Some of them are islands (Mauritius, Malta, Cyprus and Ireland); others have used the offshore status as a generic term for a financial tax-driven position (Liechtenstein, Luxembourg, Gibraltar, Monaco).

Offshore financial structures are a global phenomenon. The offshore sector is not restricted to any continent. There seems to be permanent global competition between the different jurisdictions. All actors try to reserve their position in the global financial market.

Surrounding each of the major trading blocs of the world economy there is a growing number of jurisdictions often known as 'tax havens'. The Pacific islands including Vanuatu, Western Samoa and the Cook Islands, Labuan and Singapore serve the Japanese area. The North American Free Trade Association and the Caribbean and Central American havens include jurisdictions such as the Cayman Islands, the British Virgin Islands and The Bahamas. China has Hong Kong; the Gulf States, Bahrain; India and Southern Africa, the Seychelles and Mauritius. Some authors even include relative independent financial centers such as Delaware, London, Brussels, New York in their analyses of offshore centers.[1]

And the sector is growing. At present over forty jurisdictions offer a variety of facilities for tax-driven activities and offshore finance.[2] It is a sector that has been formed by a growing competition in the financial markets. The development of the offshore sector has had large effects on the financial sector. For some it has meant

[1] Hampton Mark P. and Jason P. Abbott (Ed.): ***The Rise (and Fall?) of Offshore Finance in the Global Economy***, MacMillen Press, London 1999

[2] Grundy Milton: ***The OFC Report 2001: Offshore Financial Centres and Services***. Campden, London 2001

accelerated financial growth, especially in those underprivileged areas as small offshore islands. In these areas it means employment and prosperity. For others is has meant an ever-growing threat of financial losses.[3]

International tax planning, tax evasion and money laundering

Tax evasion and money laundering

It is difficult to find adequate figures about the volume of the offshore sector. This might be due to the fact that the activities are on the one hand developed within the public sphere, yet at the same time the operational activities are mostly hidden for third party spectators.

The offshore sector covers all international financial movements, yet depending upon ones position one can identify three different activities.

All international and multinational financial organizations are active in *financial international tax planning.* The different tax regimes in the separate jurisdictions are used to plan specific activities such as financial investments, restructuring of corporate profit and (inter-)company costs, etc.

Part of these activities could be characterized as *tax avoidance or evasion*. In this case the company uses the different jurisdictions and tax regimes to lower the total amount of corporate tax that has to be paid.

Money laundering

A third term used is *money laundering*. The two activities mentioned above are executed strictly within the limits of the legal structures available. Money laundering however is an activity with illegal and therefore criminal aspects. The Financial Action Task Force (FATF) – a subcommittee of the Organization for Economic Cooperation and Development (OECD) – states:

> *'The goal of a large number of criminal acts is to generate a profit for the individual or group that carries out the act. Money laundering is the processing of these criminal proceeds to disguise their illegal origin. This process is of critical importance, as it enables the criminal to enjoy these profits without jeopardizing their source.' ' By its very nature, money laundering occurs outside of the normal range of economic statistics. Nevertheless, as with other aspects of underground economic activity, rough estimates have been put forward to give some sense of scale to the problem.*

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[3] OECD: ***Harmful tax practices.*** OECD Paris 2002

> *The International Monetary Fund, for example, has stated that the aggregate size of money laundering in the world could be somewhere between two and five percent of the world's gross domestic product.*
> *Using 1996 statistics, these percentages would indicate that money laundering ranged between US Dollar (USD) 590 billion and USD 1.5 trillion. The lower figure is roughly equivalent to the value of the total output of an economy the size of Spain.'* [4]

One of the problems of the offshore sector is that on the one hand it is identified as international tax planning, based upon high standards of professionalism and ethics, yet at the same time it is identified with the practices of money-laundering.[5]

Defining the object of study

Object definition

There is still no internationally accepted definition of 'offshore finance' or even 'tax haven'. On the one hand we see actors that highlight the negative effects of tax driven services. In 1998, the OECD published a report on 'harmful tax competition'. At the heart of the report is a threat to blacklist countries, which the OECD considers to be engaged in harmful tax practices, in particular, in the offshore financial services industry. (see further)
The jurisdictions themselves deny the label 'tax haven' despite their existence being predicated upon low or even no taxes being levied there. They prefer the term 'Financial Service Sector'.[6]

It is therefore not easy to find a definition that covers the total scope of activities. The problems of attempting to define offshore finance have been discussed in detail elsewhere.[7] 'Offshore centers', 'tax havens' or 'Financial Services Centers' are basically:

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[4] FATF: ***Basic Facts about Money Laundering***. Paris as seen on: http://www1.oecd.org/fatf/MLaundering_en.htm at May 14, 2009
[5] See: Seiichi Kondo: ***Ending Tax Haven Abuse***. Deputy Secretary-General OECD, OECD Paris 18 april 2002
[6] '*Financial centers can be divided into to types: low tariff financial centers that simply have no or very low tariffs for corporate or income tax, or high tariff financial centers, that have a rather high tariff for corporate and income tax, but have created tax incentives and/or have entered into tax treaties to relieve the burden*.' In: Bikker Andin C.G.: '***The current status and the future of Aruba as a 'Financial Center'.*** Aruba Financial Center Association (AFCA'),
[7] See Hampton, M.P.: '***The Offshore Interface. Tax Havens in a global economy'***. Macmillon, 1996, or: Cobb S.C.: '***Global Finance and the growth of Offshore Financial Centers'***, in: Geoforum, vol. 29, no. 1, 1998

a. jurisdictions where there are no relevant (personal and/or corporate) income taxes, or:
b. jurisdictions that grant special tax privileges to certain types of companies or operations.

For our study we will be focusing here upon these kinds of jurisdictions.[8]

[8] Hampton, M. P. : '***Treasure Islands or Fool's Gold ? Can and should Small Island Economies copy Jersey?***', World Development, vol. 22 no. 2 p. 237.

The financial marketplace

The actors

Actors and products financial sector

Within the offshore sector we can identify different actors. First of all we have the providers of the financial services. These organizations (banks, fiduciaries, accountancy firms, law firms, financial service providers) hold the people who execute the direct interaction and contacts with the different clients. They promote the different products on the basis of the need of the customer.

The different financial products are first of all created on the basis of the neatly-nit tax provisions in the different jurisdictions; national and or local taxation schemes, bilateral and international tax treaties. The different governmental institutions compete with one and other on the global market for foreign capital-flows.
In between these two – the people in direct contact with the clients, and the governmental organizations – there is a field of financial intermediaries; banks, trust management companies, tax consultants who develop new products, scan the changes in the different jurisdictions in order to find new routes, new opportunities for the different products. Sometimes these intermediaries are part of the same organization as the ‘sales person’ (a trust department within a private bank), sometimes they concentrate totally on the service provision. In the latter case they hardly handle the contacts with the end-customer themselves. They offer their services to the different front-office organizations. Some organizations do both.

Given the central role of international banking activities within the broader category of 'offshore finance', international banking can be divided into two types: retail and wholesale.[9] Retail banking includes international private banking (IPB), where financial institutions manage the wealth of individuals and international corporations around the world. This has developed from traditional merchant banking. IPB often operates alongside other innovations such as offshore trusts and offshore companies as integrated asset management.
Wholesale international banking mainly comprises the offshore currency markets. We will not concentrate on these aspects of the offshore financial sector. We will concentrate on the

[9] See: Hampton Mark P. and Jason P. Abbott (Ed.): p. 3

marketing efforts of international private banking, their products and services.

Central object for this study

Central in our study is the relationship between the client and the financial service provider (FSP). It will be impossible however to study the financial marketplace without taking the regulatory context into account.

Our study concentrates on the FSPs that offer international financial and legal structures in order to create an adequate strategy to execute an optimal tax planning.

a. **The client**

Sometimes the client is an individual who is looking for a financial solution to his individual problem. A father wants to arrange his financial affairs in relation to his children, his present and former partners; he wants to safeguard his estate for his children; he want to protect them from future liabilities, etc.

Often however the client is part of an organization. In this case the person who gets in direct contact with the service provider is a representative, either for a firm (a) or this individual represents his clients (b) as in the case of legal advisors.
In the first case the client could for example be a financial planner and/or controller within an international firm that holds one (or more) holdings with subsidiaries in different countries. In the second example we might see a business lawyer who operates on behalf of his clients or the clients of his firm.

b. **The financial service providers** (FSPs)

Within the financial market we acknowledge individual firms (a local trust management company, fiduciary, etc) that deliver financial services to their (most of the time local) clients. Most service providers however are part of a multinational network of international service providers. It can be either an international group that concentrates solely on the international financial tax planning issues. Or it is part of an international financial group that offers a range of different financial products such as tax planning (Trust and Corporate structures), merchant banking, consumer banking, investment and brokerage services, etc.

Within these larger financial institutions often the organization is structured in different departments. Each branch is divided within a ‘front office’ and ‘back office’ department, operational departments, marketing and Public Relations, Information

Technology and Communications etc. The front office holds the direct contacts between the clients and the organization. The back office etc. is responsible for the actual operational aspects of a transaction.

c. **The regulatory context**

The financial sector is strictly regulated in order to safeguard the reliability and quality of the services rendered. The integrity of the banking and financial services marketplace depends heavily on the perception that it functions within a framework of high legal, professional and ethical standards. A reputation for integrity is the one of the most valuable assets of a financial institution. [10]

The financial sector itself is under permanent supervision. Each country holds its own structure of regulation and control. In almost all countries we can find a state controlled regulatory structure that is safeguarded by the National bank and/or other official governmental bodies and organizations. These national institutions are supervised by international regulatory and supervision structures.

Regulation and supervision covers all aspects of financial services; reliability of banking institutions, financial intermediaries, investment funds, stock markets, etc.

The products offered in the financial sector have to comply at least with one crucial criterion: they have to be legally reliable. The legal foundations of the products (a combination of local legal entities and international tax treaties and provisions) have to provide a sound financial structure, with which the client is certain he or she will reach the results he/she wants.[11]

Given the different actors sketched above we can identify the following structures:

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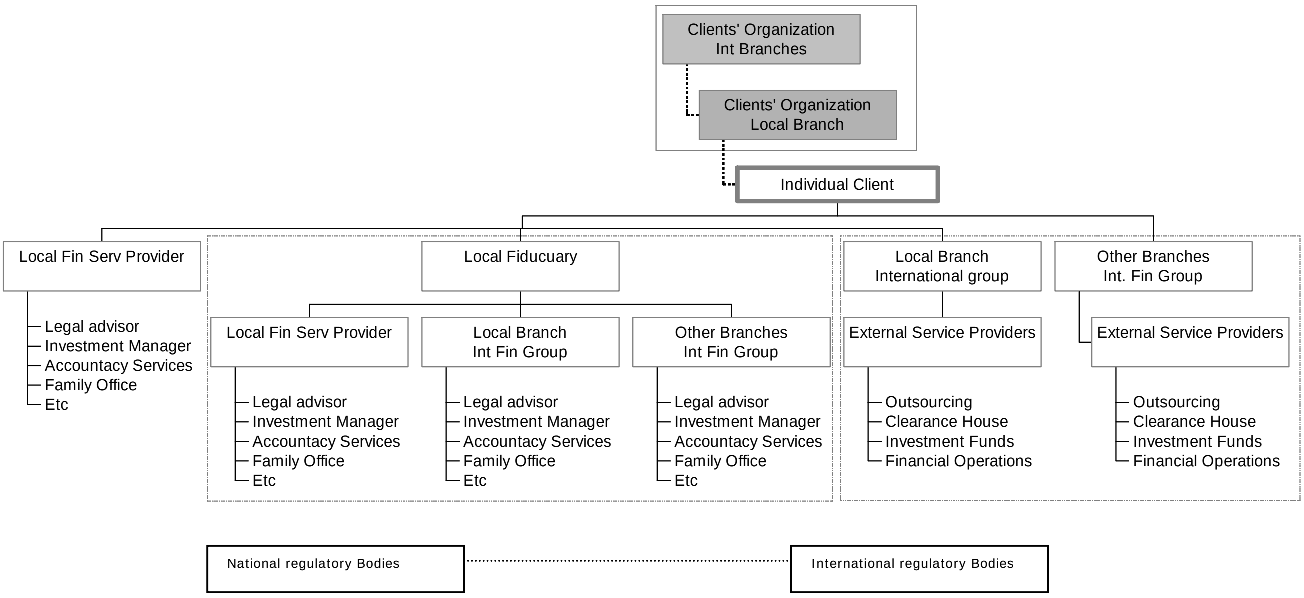
[10] FATF: ***Basic Facts about Money Laundering***. Paris 2002

[11] This view is reflected by the statements of the Financial Stability Institute (FSI) in Basel: '*It is not easy to create and maintain a strong financial sector mainly because information deficiencies among depositors, financial institutions and borrowers may create incentives to take undue risk. Only effective financial supervision can successfully counteract this behavior by promoting adequate capital standards, effective risk management and transparency. This requires skilled supervisors, who can understand the risks in financial activities; identify the best ways to anticipate, manage and control these risks; and establish an adequate framework of prudential regulation. These strong leaders should have independent status and be backed up by institutional and legal support to help them enforce regulations and apply corrective measures.*' http://www.bis.org/fsi/index.htm (as seen on June 2 2002)

Organizational Structure Financial Services



The financial sector consists of thousands of active interacting organizations that are sometimes not aware of each other's presence and identity. Often a service provider does not know which organization is handling what for which client. Specific activities can be outsourced to other third party organizations without being known to the customer. The structures are too complex to be overseen by the individual person. In its attempt to conquer Money Laundering the U.S. for instance the Senate Permanent Subcommittee on Investigations states: 'S*everal U.S. banks were unaware that they were servicing respondent banks* [12] *which had no office in any location, were operating in a jurisdiction where the bank had no license to operate, had never undergone a bank examination by a regulator, or was using U.S. correspondent accounts to facilitate crimes such as drug trafficking, financial fraud or Internet gambling. In other cases, U.S. banks did not know that their respondent banks lacked basic fiscal controls and procedures and would, for example, open accounts without any account opening documentation, accept deposits directed to persons unknown to the bank, or operate without written anti-money laundering procedures.*'[13]

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[12] The term *"respondent bank"* is used to refer to the client of the bank offering correspondent services. All of the respondent banks examined in this investigation are foreign – non US - banks.
[13] U.S. Minority Staff, P. 2

Marketing offshore financial services

The marketing perspective

Many definitions of marketing exist with different emphasis on the process of marketing, the functional activities that constitute marketing or the philosophical orientation of marketing. For the moment we will use the definition given by the American Marketing Association:

> *'Marketing is the process of planning and executing the conception, pricing, promotion and distribution of ideas, goods and services to create exchanges that satisfy individual and organizational objectives.'* [14]

In most cases we discuss the marketing perspective looking at the relationship between the customer and the service provider. We look at the product range, external competition, pricing and publicity, etc.

If the service provider is part of a larger organization such as a large bank or international financial group marketing principle can be applied not only to the relationship with the customer but also the relationship with internal parts of the organization. This process of internal marketing has evolved in organizations to facilitate the implementation of quality initiatives and a diverse range of activities targeted at customer contact staff to improve performance and employee/customer relations. Internal marketing has evolved alongside the development of customer-driven thinking in organizations. [15]

External and internal marketing

The Internal Marketing process can take three shapes:

1. Marketing to employees - motivating employees to better performance and improved relationships with internal and external customers.
2. Marketing of an internal function - e.g. marketing the marketing department, so that marketing is perceived as investment not expenditure, or other functional areas/departments marketing their roles within the organization.
3. Marketing the organization's products and services to employees - for example, where a bank would encourage employees to use the banks' own services.

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[14] Bennett Peter D. (Ed): ***The Dictionary of Marketing Terms***, 2d edition. The American Marketing Association, 1995

[15] Helman Deborah and Adrian Payne: ***Internal Marketing: Myth versus Reality***, pg 71

The concept of internal marketing is used to define a range of both formally organized activities and a range of *ad hoc* initiatives. In practice 'marketing to employees' is the most common form of internal marketing. In many large-scale organizations each department has its own set of goals and success criteria. The quality of the Customer services are sometimes perceived as being less important than the financial results; 'the bottom line'. In those cases 'marketing the marketing dept' is necessary.

International competition and cooperation

The financial service sector is in a constant flow of creating financial instruments that cater for very different needs of the different clients.
In general we can identify:

- Personal financial services: individual tax planning, estate planning, personal investment and pension schemes, etc.
- Corporate financial services: corporate tax planning, corporate salary and option schemes, multinational financial structuring of assets and investments, accountancy services, etc.

The different service providers find themselves in a high competitive market in which the different competitors are continuously developing new product lines and offerings. Traditional offshore financial centers are facing increasing competition following the proliferation in recent years of new offshore locations. Offshore financing was formerly the exclusive domain of a handful of European centers together with some islands in the Caribbean and isolated centers in the Far East. The last decades a number of newly established centers have evolved (Dublin, Madeira, Malta). An increasing quantity of Caribbean Islands have upgraded their financial infrastructure, while further afield tropical islands such as Mauritius have joined the offshore financial service sector. In addition, the UAE (United Arabic Emirates) has been marketing itself as a financial center following the rapid growth experienced by the emirates after the 1970s surge in oil prices.[16]

[16] Swiss Samantha: ***Competing for International Capital***. Pg 3

Product dynamics

International cooperation and competition of nation states

The different financial products offered are often based upon the different tax regimes and bilateral and multilateral tax treaties between the different nation countries. These nation states on their turn find themselves in a multinational playing field with harsh competition amongst the different nations. Each of these countries wants to attract a slice of the large financial streams that operate on a global scale.

To complicate our image of the financial markets we have to realize that each country is at the same time competitor and financial partner in relation to other countries. So hold all countries within the European Union a competitive position to one and other. The local states act as an enterprise, a competitor on an international financial market. Yet at the same time they want to restrict the damage done by so called 'harmful international level in order to avoid 'harmful tax competition'. The same dilemma can be seen on a global scale. Within the countries covered by the OECD we find a parallel double bind dilemma. Here too we find a permanent interaction of cooperation and competition.[17]

Because of the fact that the financial market is structured on the basis of national, bilateral and multilateral agreements of nation states the financial market is in permanent change. Service providers have to be well aware of these permanent changes in order to be capable of offering adequate solutions for existing financial structures, as well as identifying hazardous changes and new opportunities.

Most of the financial service providers use third party consultants such as specialized tax advisories in order to be sure of the quality of the advice given to the client.

Apart from these content driven changes we find a permanent change of operational aspects. Often the mother organization is not capable of handling all financial activities that the client is looking for. Often the bank or fiduciary is outsourcing certain activities in order to guarantee an optimal quality of services. For instance the day-to-day investment brokerage activities, etc are being outsourced to third party organizations that are specialized in these fields. Or the IT aspects are no longer handled by the internal organization but done by specialized firms.

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[17] OECD: ***The OECD's Project on Harmful Tax Practices: The 2001 Progress Report***. OECD Paris February 2001

Brand strategies

An important element of any product strategy is the role played by brand names; the name of the bank, the FSP, etc.

Brands are designed to enable customers to identify products or services, which promise specific benefits. As such, they are a form of shorthand in that they create a set of expectations in the minds of customers about purpose, performance, quality and price. This, in turn, allows the organization to build added value into products and to differentiate them from competitors.[18]

Branding

In developing a brand strategy, an organization can pursue one of different approaches:

1. corporate umbrella branding: all financial services are offered under one corporate image and identity
2. family umbrella branding: a range of products that is used in a variety of markets
3. individual branding: one type of product in one type of market, possibly with different combinations of service options

FSPs that are part of a larger financial group often use the corporate umbrella branding to create an optimal customer loyalty. A large bank for instance will try to sell not only the private banking activities, but also the corporate and trust services, etc. In this case the client will approach the bank for opening a bank account, the private banking Relationship Manager will try to sell all banking services. One will try to offer as many services as possible, even though if not all specialized knowledge and know-how is available within the organization.

Secrecy, trust and public presence

The nature of the activities creates a specific communicational problem. On the one hand a service provider would like to reach out to all possible future customers. One would like to expose itself as being an important, modern, outreaching, professional and reliable financial partner. This aspect requires an active public relation strategy in order to create a presence on the financial market, brand awareness, to publish contact details in order to lower any social and informational threshold that might

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[18] Wilson Richard M.S. and Colin Gilligan: ***Strategic Marketing Management***. Pg 397

exist. One would like to urge the customer to contact ones firm.

Yet at the same time in the very hearth of the activities lies the principle of confidentiality. The client is looking for financial privacy in order to be able to trust the financial institution that is handling his or her assets. The very nature of financial transactions is that all and every executed financial interactions and personal contacts between the customer and service provider should be hidden for interested outsiders. Information should be restricted to the direct interaction between client and service provider.

This double bind character of approaching the market has severe consequences for the corporate communication. On the one hand a firm needs to communicate openly to an anonymous market; a one-to-many relationship. On the other communications should be private, secure and hidden for external eyes. It should be restricted to this client and his/her service provider, a one-to-one communication process.

Trade and protection in financial services

In the context of the financial institutions there is a political debate about the responsibilities of the nation states and the individual rights of the customer. The nation state strives to be a reliable partner both for its citizens and within the international community. It tries to operate under the principles of 'good governance'.[19] Yet at the same time individual clients stress the right to individual privacy.

When a good is traded internationally, the good itself is usually sent from its country of manufacture to the country of the purchaser. That is not typically true of trade in services. Services, being intangible, often *cannot* be sent from one place to another. The outcome of a service, or the signifier of a service, such as an insurance policy, can be dispatched, but not, usually, the service itself.

Service transactions often call for the provider of the service and the receiver of the service to be in proximity with one another. International transactions in services therefore often entail cross-border movement of the means of producing the

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[19] Hindley Brian: ***Internationalisation of financial services: A Trade-Policy Perspective.***

service, or local establishment of the service provider; not movement of the service itself.

Modern communications technology, though, blurs the notion of "proximity". A customer of a bank may communicate entirely by letter, telephone, fax or internet, and in that case, the bank need not be in the same country as its customer. Nor is there any technical reason why a resident of country A should not buy insurance from an insurance company in country B. Faced with the social and economical changes of the modern society companies have to rethink and rearrange their marketing strategy.[20]

Many aspects of an FSP's business, however, demand knowledge of local conditions, and responsiveness of the FSP to changes in them. FSPs themselves seem to have a strong preference for offering their services from local establishments rather than from foreign-based establishments. The vary character of the financial sector is the notion of trust between FSP and the client. Trust – as stated before - both in terms of operations, information, and secrecy and privacy conditions.

The ever-changing range of international financial products however requires – if one wants to offer high quality professional advice – an up to date knowledge of all the changes in the global financial context.

Market segmentation

During the past 20 years market segmentation has developed and been defined in a variety of ways. In essence it is the process of dividing a varied and differing group of clients or potential clients into smaller groups within which broadly similar patterns of clients' needs exist. By doing this, one is attempting to break the market into more strategically manageable parts, which can then be targeted and satisfied far more precisely. Because of this, each service provider will categorize clients on the basis both of the characteristics and their specific product. Each provider will try to adapt its services to satisfy these different tastes and demands.[21]

The potential benefits of a well-developed segmentation strategy can be considerable since an organization should be able to establish and strengthen its position in the market and in this way operate more effectively. Not only does it then become far more difficult for a competitor to attack, but it also

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[20] Bergadaà Michelle, Leila Amraoui: ***Strategie Marketing dans un Environnement Changeant***. Université de Genève 2002

[21] Wilson Richard: ***Strategic Marketing Management***, Pg. 269

allows the organization to build a greater degree of market sector knowledge and customers loyalty.

In the retail-banking sector one can identify four distinct customer groups which segment's characteristics influence the allocation of marketing efforts:

- *the very rich:* a small but strategically significant group with substantial assets in excess of £1 million - customers within this category are typically over 50 years of age and expect a high level of personal service;
- *the rich:* a far larger group with assets of around £100,000;
- *high net worth individuals (HNWIs):* a semi-mass market with assets available for investment of £15,000 to £100,000.
- *medium net worth individuals (MNWIs):* the bulk of the market both for the high street banks and building societies. [22]

Each of these groups has very different sets of expectations, which need to be reflected in the organization's communication and marketing strategy.

Marketing strategies

We can identify different marketing strategies within the financial service sector. First of all we find the undifferentiated marketing approach. In this case of *undifferentiated or mass marketing* emerges when the organization deliberately ignores any differences that exist within its markets and decides instead to focus upon a feature that appears to be common or acceptable to a wide variety of potential clients.

The obvious advantage of an undifferentiated strategy such as this is that it offers scope for enormous cost economies in production, promotion and distribution, since the organization is dealing with a standardized offering on a large scale (for instance through the Internet).
At the same time it needs to be recognized that undifferentiated marketing is becoming increasingly rare, largely because of ever-greater degrees of competition and the increasingly sophisticated and fragmented nature of the majority of the highly developed financial markets.

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[22] Channon D: ***Through the eyes of customers***, in: Wilson Pg.272

The demassification of markets has led many organizations towards strategies of *product-variety marketing* and, ultimately, target marketing. Product variety marketing can often be seen as an interim step in the move towards *target marketing* in which the strategist identifies the major market segments, targets one or more of these segments, and then develops marketing programs tailored to the specific demands of each segment (for instance relative well-to-do males, above the age of 55 who are in the process of considering early retirement in country x).

For some organizations target marketing leads to a concentration of effort on a single target market, referred to as *concentrated segmentation.* The obvious advantage of an approach such as this is that having identified a particular market, the firm can then control costs by advertising *only* to the market it views as its primary target.

In so far as disadvantages exist with a strategy of concentration, they stem from the possibility of missed opportunities; it may be the case, for example, that significant opportunities exist elsewhere but that the firm's single-minded approach to just one part of the market fails to recognize this. Equally, the organization can prove vulnerable either to a direct and sustained attack by a competitor or to a downturn in demand within the target market.

Because of this, many marketing strategists pursue a policy of *multiple segmentation* in which the firm focuses upon a variety of different segments and then develops a different marketing mix for each. This is often described as a 'rifle' rather than a 'shotgun' approach in that the company can focus on clients they have the greatest chance of satisfying rather than scattering the marketing effort.

The social context

In order to understand the development of the offshore financial service sector we have to include the recent developments in the social context of the sector.

Entering the public domain

The financial sector has become under severe debate. Even though the sector has a long history and tradition it seems that only in recent years the sector has become the focus of public attention.

A number of social developments have stimulated the open public debate on financial planning.

- In general there has been a growing availability of financial information, partly stimulated by the technological developments through the Internet.
- Secondly there have been a number of financial scandals that have been widely published in the different media. More than ever the relative well-to-do individuals know the existence and potential possibilities of international offshore financial planning.
- In the third place there has been a growing debate upon the globalization on the one hand and the necessity of social accountability of international operating firms on the other.
- And in the fourth place we have to point at the growing tension created by the increased international cooperation of the different nation states (globalization) and the growing international competition at the same time. (see further)

Influence regulatory institutions

As a result of these social developments the regulatory institutions and semi-governmental bodies have become more critical in their approach towards offshore planning. In response to the political debates in the nineties the OECD Committee on Fiscal Affairs launched its project on harmful tax competition in 1994. The request for international regulation was subsequently endorsed by the G7 countries: which included the following paragraph in the Communiqué issued by the Heads of State at their 1996 Lyon Summit:

> *'Globalization is creating new challenges in the field of tax policy. Tax schemes aimed at attracting financial and other geographically mobile activities can create harmful tax competition between States, carrying risks of distorting trade and investment and could lead to the erosion of national tax bases. We strongly urge the OECD to vigorously pursue its work in this field, aimed at establishing a multilateral approach under which countries could operate individually and collectively to limit the extent of these practices.'*

In response to mounting concern over money laundering, the Financial Action Task Force on money laundering (FATF) was established by the G-7 Summit in Paris in 1989 to develop a coordinated international response. One of the first tasks of the FATF was to develop Recommendations, which set out the measures national governments should take to implement effective anti-money laundering programs.

Recently the OECD states the problem in this way: '*The more competitive environment of the last decades has had many positive effects on tax systems. However, some tax practices are anti-competitive and undermine public confidence. The OECD provides a framework in which countries can work to eliminate such harmful tax practices.'*

Corporate sector identity

The debate has become so fears that the offshore sector itself is wandering whether one should continue to use the term 'offshore' to the customers. Perhaps it is better – given the changing social and political debate – to use the term the 'International Financial Service Sector', or the term 'Financial Intermediary'. [23]

As mentioned the offshore jurisdictions themselves often refuse to use the term and see themselves as financial service provider or financial intermediary. Others however continue to use the term in order to stress the fact that one has to deliver high-quality services that can stand every critical legal and political attack. They see the debate upon the term 'offshore sector' as a sign of growing professionalism. [24] In recent years to are trying to improve their public image in creating more

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[23] The recently published online magazine of the Offshore Institute is called '***The Offshore Financial Intermediary***'. See: http://www.financialintermediary.org/

[24] See: www.financialintermediary.org

official recognized transparent tax planning on the basis of tax treaties and rulings.[25]

Globalization versus localization

Recently we have seen a growing internationalization of the financial sector. The key players in the financial market are trying to keep their share of the markets by initiating international mergers and/or strategic alliances. This globalization of financial markets is partly stimulated by the technological developments through the Internet that creates a global virtual reality without local boundaries and time zones.

At the same time we can see a countermovement. Local nation states try to compete by protecting and safeguarding their market position. In general a number of arguments against internationalization and for the protection of local markets can be seen.

To open the financial sector to international competition, the argument runs, is to risk elimination of local FSPs, leaving the domestic financial system at the mercy of foreigners. International competition must therefore be impeded or banned. Economic arguments for protection of the domestic financial-service sector include:

(a) a supposed need to allow time for local FSPs to mature (the infant-industry argument for protection)
(b) that the stronger links with the rest of the world that internationalization creates will themselves be harmful to the domestic economy
(c) cream skimming — foreign FSPs, it is said, will operate only in the most profitable market segments, thus reducing the profits of domestic FSPs and their ability to offer services in less profitable market segments, which they can only do, the argument continues, by cross-subsidizing provision of them from profits made elsewhere
(d) the access to domestic savings that internationalization will give to foreign FSPs (for example, sellers of life insurance) - foreign FSPs, it is said, may prefer to invest

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[25] The OECD speaks of '*significant additional progress made by most of the 15 non-cooperative countries and territories*'. These fifteen jurisdictions are: Bahamas, Cayman islands, Cook Islands, Dominica, Israel, Lebanon, Liechtenstein, Marshall islands, Nauru, Niue, Panama, Philippines, Russia, St. Kitts and Nevis and St. Vincent and the Grenadines. See: ***Public Statement progress Report on Non-Cooperative Countries and Territories***. OECD Paris 1 February 2001

these resources abroad rather than in the domestic economy

(e) the possibility that lack of commitment to the local economy of foreign FSPs will lead to more rapid capital flight, and that the better international connections of foreign FSPs will facilitate such flight, thus making it more difficult for the local government to control the economy.

Besides these economical arguments another set of arguments against internationalization is used, based on the supposed difficulties of regulating a domestic financial system in which foreign FSP have a substantial presence. For example:

(f) domestic regulators are said to have a limited ability to monitor a more complex financial system - internationalization in such circumstances, it is said, will increase systemic risk

(g) moreover, the demand that local regulators should try to monitor a more complex financial system brought about by internationalization will loosen their control of local FSPs, and allow domestic FSPs to take excessive risks, at the final expense of the national government, when it acts as the guarantor.

It is also claimed that foreign banks have more experience in operating in sophisticated regulatory environments than local banks, so that

(h) competition between domestic and foreign banks will be unfair to domestic banks if both are subject to the demands of a sophisticated regulatory system. [26]

Increasing regulation and self regulation

As a result of the changing financial markets the regulatory arrangements supervising the financial markets have changed both in content and in organizational structure.

In the past financial institutions were eager to attract as many clients as possible. When a client would like to open a bank account or would like to buy an offshore financial entity the bank would ask as little information as possible. Little had to be known of the identity of the client involved. It was possible to hide ones' identity behind anonymous number accounts.

[26] Hindley Brian: ***Trade Policy Dimensions of Financial Services***.

During the last decennium however the situation has changed drastically.
As stated the financial sector has actively promoted the internationalization and globalization of the financial service sector. There were however little organizational structures that can counterbalance the global financial interactions. Formal Regulatory Institutions can in most cases only execute their legal powers on a national level.

The continuous political debate has created an ever-growing tension between the financial sector and the political arena. The dominant discussions about the position of offshore jurisdictions within the financial markets have been initiated by the Organization for Economic Cooperation and Development (OECD).

The OECD is a group of 30 member countries: Austria, Belgium, Canada, Denmark, France, Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, the United Kingdom, the United States, Japan, Finland, Australia, New Zealand, Mexico, the Czech Republic, Hungary, Poland and Korea. The Commission of the European Communities has given the right to attend the meetings.

The OECD strives to promote democratic government and the market economy. It tries to promote good governance in the public service and in corporate activity. In her eyes '*Good, effective public governance helps to strengthen democracy and human rights, promote economic prosperity and social cohesion, reduce poverty, enhance environmental protection and the sustainable use of natural resources, and deepen confidence in government and public administration*.' [27]

In order to regulate the international market for financial services the OECD has urged national governments to cooperate in order to create a counterbalance on a global scale. *'For a global economy to succeed, governments must intensify their co-operation and provide international frameworks for the effective management of global issues. Taxation is no exception. In this context, the OECD in 1998 established an international framework to counter the spread of harmful tax*

[27] http://www.oecd.org/oecd (as seen on 14 May 2009)

competition by adopting its Report, "Harmful Tax Competition: An Emerging Global Issue" (the "1998 Report").' [28]

In 1988 the OECD stated in this first report on the so-called harmful tax competition that '*governments must intensify their cooperative actions to curb harmful tax practices. To achieve this, OECD Member governments have developed "Guidelines on Harmful Preferential Tax Regimes". These Guidelines will discourage the spread of harmful preferential tax regimes and encourage countries with such regimes to eliminate them. To counteract both tax havens and harmful preferential tax regimes, Member governments have also agreed to pursue vigorously the implementation of the other Recommendations in the Report, including entering into a dialogue with non-member countries.*'
The OECD explicitly points at the effects of globalization: '*Globalization has had positive effects on the development of tax systems and has encouraged countries to engage in base broadening and rate reducing tax reforms. However, it has also created an environment in which tax havens thrive and in which governments may be induced to adopt harmful preferential tax regimes to attract mobile activities. Tax competition in the form of harmful tax practices can distort trade and investment patterns, erode national tax bases and shift part of the tax burden onto less mobile tax bases, such as labor and consumption, thus adversely affecting employment and undermining the fairness of tax structures*.' [29]

The OECD has identified 41 jurisdictions as meeting the OECD criteria for being considered a tax haven. These jurisdictions have been blacklisted and have been invited to cooperate with the OECD Guidelines for economic transparency and cooperation. Amongst them:

- Andorra
- Anguilla – Overseas Territory of the United Kingdom
- Antigua and Barbuda
- Aruba - Kingdom of the Netherlands [30]
- Commonwealth of the Bahamas
- Bahrain
- Barbados

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[28] OECD: ***Harmful Tax Competition - An Emerging Global Issue***. OECD Paris 1998
[29] We have to note that the OECD Council approved the 1998 OECD Report, with abstentions from Luxembourg and Switzerland.
[30] The Netherlands, the Netherlands Antilles, and Aruba are the three countries of the Kingdom of the Netherlands

- Belize
- British Virgin Islands – Overseas Territory of the United
- Kingdom
- Cook Islands – New Zealand b)
- The Commonwealth of Dominica
- Gibraltar – Overseas Territory of the United Kingdom
- Grenada
- Guernsey/Sark/Alderney – Dependency of the British Crown
- Isle of Man – Dependency of the British Crown
- Jersey - Dependency of the British Crown
- Liberia
- The Principality of Liechtenstein
- The Republic of the Maldives
- The Republic of the Marshall Islands
- The Principality of Monaco
- Montserrat – Overseas Territory of the United Kingdom
- The Republic of Nauru
- Netherlands Antilles – Kingdom of the Netherlands [31]
- Niue – New Zealand
- Panama
- Samoa
- The Republic of the Seychelles
- St Lucia
- The Federation of St. Christopher & Nevis
- St. Vincent and the Grenadines
- Tonga
- Turks & Caicos – Overseas Territory of the United Kingdom
- US Virgin Islands – External Territory of the United States
- The Republic of Vanuatu

In the 2000 Progress Report the OECD has established a procedure by which jurisdictions wishing to co-operate in addressing harmful tax practices could avoid being listed as Uncooperative Tax Havens by making commitments to address harmful tax practices. The requirements for making such commitments were modified in the 2001 Progress Report. Commitments are now only being sought with respect to transparency and effective exchange of information.[32]

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[31] see note 30

[32] OECD: ***The OECD' Project on Harmful Tax Practices: The 2001 Progress Report***. Paris November 14 2001.

In respons to the OECD work on harmful tax practices 37 jurisdictions have made commitments to transparency and effective exchange of information and are considered co-operative jurisdictions by the OECD's Committee on Fiscal Affairs. Only a small number of jurisdictions have been able to resist cooperating with the OECD: [33]

- Andorra
- The Principality of Liechtenstein
- Liberia
- The Principality of Monaco
- The Republic of the Marshall Islands
- The Republic of Nauru
- The Republic of Vanuatu

Good governance versus privacy

In direct contrast with the urge for global good governance there is the right of the individual to protect his personal privacy.
It has been a long tradition that one's financial status should be kept private. It is up to the individual to reveal its income, debts, assets and possessions. It is this very principle that the financial sector works upon.

Common law judges have repeatedly declared the right of a citizen to arrange his affairs so as to minimize taxation, although taxation authorities are fond of producing generalized 'anti-avoidance' laws that come into conflict with this common law right. [34] The European Financial Forum states that there should be international protection for the human rights of taxpayers. '*Although over 250 tax cases have gone to the European Court of Human Rights in the field of taxpayer protection the process of international standard-setting has hardly begun.'*
'New proposals to extend massively the exchange of information between tax authorities around the world require a more systematic protection of taxpayers' rights. Protection is not uniform from country to country and is in some respects quite haphazard'.

The Forum recommends that '*protection should be given against retrospective tax laws, disproportionality, unfair*

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[33] OECD: - ***List of Unco-operative Tax Havens*** , Paris April 18 2002
[34] Lomas Ulrika: ***European Think Tank Recommends International Tax Privacy Code***, In: www.Tax-News.com, Brussels 15 May 2001

procedures and breach of confidentiality. Taxpayers should be given an explicit right to arrange their affairs in such a way as lawfully to minimize the burden of tax. An internationally recognized minimum standard should be established under United Nations auspices.'[35] In the vast majority of countries the taxpayer is not given prior notice of the proposed exchange of information relating to him, so there is no opportunity to challenge the exchange.

According to the report three countries comply with best practice by providing notification of a proposed exchange of information and an opportunity to challenge that exchange: the Netherlands, Germany and Switzerland. Except in these three countries there is no formal procedure whereby a taxpayer is informed of the intention to supply information of a commercially secret nature to a foreign revenue authority. The report says that there should be no information exchange with countries not protecting taxpayer rights. "If the international community comes to recognize basic minimum standards for the protection of taxpayers, then countries which do not respect those standards - and do not sign up to the international norms - should not be entitled to receive information from those countries which do".

The report says that whilst there is a high degree of consensus that taxpayer rights should be protected no attempt has yet been made to incorporate these principles into an international legal instrument. As a result the protection of taxpayers' rights does not apply to all countries, and is far from uniform between countries. According to the European Financial Forum tax legislation, which imposes an excessive or disproportionate burden on particular taxpayers, may already be challengeable under the European Convention on Human Rights.

It seems that two different social movements compete for the future developments within the financial sector. On the one hand there is the movement to increased social control and regulation (OECD) on the other there is the social battle for privacy and individual legal rights.

Center and periphery

The very origins of the offshore centers can be identified upon the peripheral position within the international organizational

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[35] Baker Philip and Anne-Mieke Groenhagen: ***The Protection of Taxpayers Rights***, European Financial Forum, London 2002

structures. Most of the countries positioned far away from the well developed (urban) centers did not have any other choice but developing their specific financial status in order to cope with the ever proceeding economical growth.

In the political arena the debate is often structured on the basis of the central, high regulated powers. The position of small, less political developed nations with limited resources is a-priori weak.

For example: the Caribbean. The Organization of Eastern Caribbean States (OECS) is made up of six small independent island nations in the Caribbean. Antigua (population: 70,000) is the smallest of the six. St Lucia, the largest, has only 152,000 people. Just a short cruise away from the United States, these states are understandably touchy about sovereignty. European trading privileges, which once protected their rum, sugar and banana industries have been eroded. Tourism prospers, but with a GDP smaller than the sales figures of many companies they do business with, the islands fear bullying from foreign international organizations both from multinational enterprises such as airlines, telecom firms and cruise lines and from international political pressure such as the OECD, IATF, etc.[36]

With the growing globalization these small countries have to fear an increasing influence of foreign entities such as banks and other financial institutions. Empirical research on the factors that compel foreign banks to enter a country indicate that the market opportunities available in the host country, entry restrictions and other regulations (including tax treatment) have all affected in the decision of foreign banks to set up operations in a host country mainly by either opening up a branch or a subsidiary. [37] It is however a question whether we can a priori assume that 'Growth is good for the Poor'.[38]

If we consider the member list of the OECD the contrast with the smaller countries in the social periphery is clear. The OECD

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[36] ***The Caribbean; Small states, big money***. In: The Economist, Sept 21 2002

[37] Clarke George, Robert Cull, Maria Soledad Martinez Peria, and Susana M. Sánchez: ***Foreign Bank Entry: Experience, Implications for Developing Countries***, and Agenda for Further Research. In: World Development Report 2002: Institutions for Markets. World Bank October 2001

[38] See: Francois Xavier Merrien: ***Les nouvelles politiques sociales de la Banque mondiale: le cas des pensions***. In : Revue internationale des sciences sociales, Issue 170. UNESCO Décembre 2001

is aiming to promote economic prosperity, yet prosperity seems to be restricted to its already well-to-do member countries.

Financial services in a global environment

Financial service providers operate on a global scale. If the tax regime in one jurisdiction changes, or a new tax treaty has been accepted between two different countries etc the service provider will try to develop new products for his client. As a result of the global dynamics financial structures tend to change and move from one destination to another. All of the different jurisdictions face a global competition.

In order to avoid tax avoidance the US taxes companies on their "worldwide" income. In addition to imposing high compliance costs, this system makes American-based companies less competitive. *'A U.S. firm competing against a Dutch firm for business in Ireland, for instance, would have to pay a 35 percent tax on its income – with the lion's share going to the IRS. The Dutch firm, by contrast, only pays the 10 percent Irish tax on its Irish-source income because Holland has a "territorial" tax system (the common-sense notion that a government only taxes income earned inside a nation's borders).* ' [39]

In an effort to remain competitive and protect the interests of shareholders and workers, some U.S. companies are re-chartering in low-tax jurisdictions. Bermuda is a popular choice because of its strong legal system and zero-tax environment. The Cayman Islands has attracted several companies for similar reasons. A company that expatriates to one of these jurisdictions no longer has to pay U.S. tax on its overseas income. This enables the company – which still maintains substantial U.S. operations and pays taxes to the U.S. government on all income earned in America – to compete on a level playing field with foreign competitors.

On one side are those who argue that it is a good thing when governments face competitive pressure to improve their tax systems. They argue that if America's worldwide tax system is making U.S. companies less competitive, the economically rational and morally sound answer is tax reform. Specifically, the United States should follow the lead of most other nations and shift to a territorial tax regime, meaning that the IRS would tax only income earned inside America's borders. And if

[39] Mitchell Daniel: ***Fighting Fiscal Protectionism, Helping Companies Compete***, Heritage Foundation, Washington May1 2002

politicians refuse to enact this reform, proponents of tax competition argue that businesses – like people – should be allowed to choose a more attractive jurisdiction.
On the other side, opponents of tax competition want to increase tax and regulatory barriers so that companies will have a harder time re-chartering in a jurisdiction with more attractive laws. Some politicians have sponsored legislation that would arbitrarily declare that certain companies are based in the United States regardless of where they are chartered.[40]

In general we can combine the different movements towards the globalization debate. We see the increasing international financial structures that operate at above-national level. At the same time there is the movement of the US, the EU and the OECD, the WTO etc. to create a global counterforce to international financial structures that have been set up for tax purposes. Regulatory bodies strive to the creation of a global regulatory system.

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[40] see 35

The field study

Our study concentrates on the marketing activities of International Financial Service Providers. Given the dynamic structure of the international financial service sector we are trying – within the limited characteristics of this study – to get an idea of the present state of affairs. The study is one of a descriptive nature. Central question of our study will be:

> '*Given the different international developments within the financial sector what changes take place in the marketing approach of the International Financial Service Providers*'.

The purpose of the study is to give an overview of the current perspectives used by the different actors in the sector and to formulate a list of recommendations for improvements in the marketing strategy.

The research method

Literature study

On the basis of the literature study presented above we have created a list of subjects that will be the focus of attention in the field study.[41] In total we have identified seven central subjects for study:

a. The structure of the Financial Service Provider
b. The direct actors involved
c. Th different competitive forces
d. Client developments
e. Regulatory forces and its consequences
f. The communication processes
g. The marketing strategy used

Field study: semi-structured interviews

On the basis of these central subjects a question list has been composed. A number of semi-structured interviews have been organized with the different practitioners within the sector. Each interview lasted about one hour. Within the interviews we have taken great care that the person interviewed:

[41] See Appendix A: What questions to ask?

- has been given the opportunity to express his/her views upon the developments within the sector
- yet at the same time that the different topics have been discussed

Content analyses

Each interview has been recorded on tape and typed out into written transcript. These transcripts have been send to the person involved for approval. The written transcripts of these interviews have been the basis of a content analyses, structured around the principal questions given before and the topics of interest that have been at the focus of attention within the conversation.

Setting up the sample

Forced to choose a limited number of subjects we have been forced to limit the number of respondents. A number of criteria have been used in order to create a sample of the financial sector that would provide a reasonable part of the sector involved. Different criteria have been taken into account:

- the type of service provider: branches of a general bank, specialized trust companies, law offices, fiduciaries, financial management companies, etc.
- the geographical position: the different on shore and offshore jurisdictions
- the type of financial institution: small scale entrepreneurs, large financial groups

In this study we have used the following participants (in alphabetical order):

Timothy James Colclough
Managing Director Quantum Wealth Management Ltd.
Nassau, the Bahamas
Quantum Wealth Management is a new, small and independent Investment Management company. Main activity: the creation and management of investment portfolios, offshore activities (through affiliated offices)

Jean-Claude Bergadaa
Manager Credit Agricole Indosuez, Paris
Part of a large, multi facetted international bank, concentrating on financial commodity trading

Cristine Breitler
Managing Director Dixcart Corp, Geneva
Small trust management company. Subsidiary of a young middle sized (128) family-owned financial group

Anthony Bristol
Deputy Managing Director Financial Center Corporation, Santa Lucia. The FCC is charged with the promotion of the jurisdiction and the development of the information systems. Anthony is responsible for the marketing and promotion of the offshore jurisdiction to the international financial sector

Simon Denton
Sovereign Corporate and Fiscal Services Ltd., London
The Sovereign Group holds 21 subsidiaries in the world. Headquarter operations are based in Gibraltar and Hong Kong. Large scala of financial products. London office: 7 staff, 7000 companies

Hans Hoegen Dijkhof
Managing Partner Hoegen Dijkhof Law Office, Amsterdam
Small International law office: 7 lawyers. Dutch offshore structures (BV/Antilles NV structures) for foreign customers

Hans Leijdesdorff
Managing Director IMFC Management, Amsterdam
IFMC (International management and Financial Consultancy) is a small sized (14) independent financial service provider concentrating on international holding structures, financing and licensing

Roeland Pels
Managing Director Benelux Trust SARL, Luxembourg
Medium sized Independent Trust Management company. 32 personnel. Core product: international onshore/offshore financial services

Patrick Piras
Commercial Director CITCO (Monaco) S.A., Monaco
Small subsidiary of a large global trust management group. Concentrating on the Italian market

Jan Rouppe van der Voort
Managing Director Trust and Securities, Deutsche Bank,

Amsterdam
Global financial organization. Local subsidiary concentrating on the UK and Germany

Ariane Slinger
Managing Director Amicorp (Switzerland) S.A., Geneva
Subsidiary of a young, middle sized corporate, trust and fund services company, concentrating on onshore/offshore structures

The findings

The state of affairs

All respondents show the feeling that the international financial sector is in **permanent change**. All aspects of the profession have undergone an update during the last five years. The type of clients, the product range, the way the business was done, the type of competitors, the size and type of structures, they all have been updated. There is a general feeling that the international financial sector can be characterized as a dynamic environment. Old products fade away, jurisdictions flourish or become obsolete, companies are bough by competitors, colleagues leave the firm in order to start their own enterprise, etc. As a consequence they stress the need for a permanent update of information (see further).

All respondents stress the idea that there are periods in the financial sector of almost **unlimited wealth and growth and periods of ultimate modesty**. There are periods of extremes. They all share at the moment the feeling that times are difficult.

Discussing the marketing aspects of their profession they stress the fact that you have to carefully **differentiate between the different actors**, their products and markets. An agent in the private investment sector operates in a very different profession than a corporate financial engineer, a commodities brokerage or an agent for licensing structures.

There is a general feeling that the offshore sector is **moving from the offshore products** that build the sector **towards onshore financial products**. These onshore structures will hold an optimal transparency. All actors, transactions etc. are publicly known and discussed with the different fiscal authorities. In this respect the expectations are that offshore jurisdictions that hold on to the relatively simple, ‘quick and dirty’ offshore bulk-products will lose out in the future. The general movement of both clients and markets is towards more professional, more elaborated onshore products or onshore/offshore structures.

A second commonly shared notion is that the sector is moving from the financial structures for the well-to-do individuals towards institutional structures based upon professional international tax planning and financial strategy. It creates the need for an increasing level of professional standards, ethics and educational levels.

The structure of Financial Service Providers

In the trust management sector we find three types of organizations.

A. **The pioneer enterprise**

Within the sector we can identify a number of individual or family owned enterprises. Most of the have grown out of an initiative of an individual entrepreneur who started his business some five to ten years ago. The enterprise is relatively young and they now hold a small or medium size number of staff (five to fifteen members). They have build their activities often on the basis of experiences and networks build in earlier jobs; mostly jobs within a larger financial group.

These entrepreneurs are eager to find new products, new markets and target groups. They show a flexible approach to the financial market. They mostly concentrate on a limited number of activities and services. They operate in a network of small and medium sized financial institutions. They specialize in the execution of specific financial services and create strategic alliances with others. They set up administrative services on the basis of financial structures initiated by tax advisors and business lawyers; they do the financial investments and outsource the offshore structure to affiliated partners, etc. They operate as an independent entrepreneur.

B. **The local representation**. A second type of organization is the branch office of an international group specializing in onshore/offshore products. These offices have a relative independency yet are at the same time bound to group procedures, norms and activities. Within the group structure the individual branch office will have a limited number of tasks. They either concentrate on a specific product range mostly based on the jurisdiction they operate in. Or they have a specific task; for instance a representative office responsible for the marketing of the group product range. Partly they are dependent upon the activities initiated and/or tolerated by the group structure. These local entrepreneurs have to work within the tension between the individual initiative and the group boundaries.

C. **The global individual**. The last type of FSP is the local branch of a large financial institution that operates on a multinational or global scale. These entrepreneurs find themselves often in the periphery of a vast organizational structure with different specializations, responsibilities and financial activities. The local entrepreneur is fully responsible for his own activities, yet has to play in a field of 'global individuals' and has to take into account that he is bound to follow the internal decision structures and rituals.

His clients most often will also consist of individuals who represent other international or global financial institutions. These institutions most often have a long history and carry the fruits of a long lasting reputation. Often they use the principles of corporate umbrella branding: all financial services are offered under one corporate image and identity regardless the jurisdiction and services rendered.

The actors involved

The financial sector is strongly based upon the 'know your customer' principle. Every ISP will go into great length to know the customer he is dealing with. Not only so because the regulatory structure demand customer awareness, but more so because the relationship of the FSP and the customer is based on mutual trust and reliability.

The type of client however differs on the basis of two dimensions:

a. the different jurisdiction the ISP is operating in
b. the historical maturity of that jurisdiction

An ISP operating in a mature well known low-tax jurisdiction will often have to deal with individual clients that will turn to him in order to solve his/her private financial affairs. An ISP in Monaco for instance is almost exclusively involved with relative well-to-do individuals that want to have personal advice regarding the personal financial affairs including (ex)partners, children, spouses, estate planning, etc. The same will apply for the Bahamas; a jurisdiction close to the US mainland, reachable in a weekends' journey. There will be hardly any institutional client that is looking for an international financial structure.

On the other side of the spectrum we might find jurisdictions that have deliberately opened up their frontiers towards international companies. In the more mature financial markets, such as, the Netherlands, UK etc relatively well-to-do individuals will be a minority in the client-base. Here we find almost exclusively institutional clients, benefiting from the special tax regime created in this jurisdiction. The client comes through the interference of foreign intermediaries; foreign tax advisors, foreign law offices, etc.

Can we see a certain specialization amongst these mature markets in the Emerging Markets within the offshore financial sector (Eastern Europe, Russia, South America, Africa) we find a mixture of private and corporate clients. Within these markets the ISP will often specialize in the marketing function; selling products from other jurisdictions either as an individual FSP or being part of a larger group.

Competitive forces

If discussing the different competitive forces we have to make a distinction between three different levels of competitive behavior:

a. the competition amongst individual FSP's at a local level
b. the competition of the different nation states, responsible for the legal vehicles and limitation of the different products
c. the competition amongst supra-national organizations

a. Competition amongst individual service providers

Every respondent is in general terms aware of the existing direct competition. The share the feeling that they operate in a competitive sector where quality of the product and service rendered are being judged by the price asked.

There is also a general feeling that we can make a distinction between existing and potential customers. The idea is that new customers do shop-around; compare prices and pricing structures. On the basis of this information they choose a certain service provider. If the services however have been set up there is a large price-elasticity. If the structure is set up and incorporated, the customer will try in great length to stay with that service provider. Part of this notion is based upon the fact that the information shared with the FSP has a confidential nature, and the fact that an existing judicial structure is hard to transfer because of the fact that the service provider in that case will not be especially cooperative. Sometimes it leads to low initial pricing structure for new company that is meant to attract the new customer (a low basic fee) combined with a more elevated and partially hidden high operational fee (on a time spend basis).

As a counter approach we can find service providers who tend to offer an all-inclusive price. This price will be higher than the one of the competitors mentioned before; they include a calculated risk for unforeseen activities. Yet - dealing with institutionals and hoping to build long lasting client-relationships - it is thought that this way of pricing is unavoidable. These type of FSP's even refuse clients if the pricing structure is a problem. If a client wants to have a professional structure yet does not want to pay for that quality it is better not to get involved with that client. A professional client will have done his homework; they will calculate the net profit of a financial structure. These institutional clients often set up structures that have been based upon long-term analyses and strategies. They do not want surprises. They want to know what the structure will cost and save for the coming five years. They are looking for reliable high quality services that will be worth its costs. In these cases quality is a more important criterion than costs.

b. Competition amongst nation states

It is impossible to look at the nation state as an impartial, neutral actor. Nation states are active as entrepreneurs in an international financial market competing for optimal market share in the international financial money-flows. On the one hand they hope to avoid tax-avoidance and financial fraud. Yet at the same time they are creating financial vehicles that will allow for aggressive tax planning for foreign actors.

Each state is choosing its market niche in order to compete with other entrepreneurial states. New tax routes are being developed on the basis of international and bilateral tax treaties. Specific countries are specializing in individual tax advantages (Monaco), tax advantages for foreign investors (the Netherlands, the Irish Republic), banking facilities (Luxembourg, Switzerland). The Netherlands is in direct competition with Luxembourg (even they have a common political platform within the BeNeLux), Brussels has created its own tax regime in order to tackle other European capitals such as Dublin, Amsterdam, etc.

c. Competition amongst supra-national structures

As in the case of the nation state we can identify different political and geographical collectives that compete for the worlds prosperity. On the one hand we can identify mature and relatively well-to-do nations who use their international political platforms (OECD, FATF, EU) to defend their position in the financial markets.

As a counter movement we see the smaller offshore island jurisdictions getting organized in order to create 'a level playing field' in the financial markets. There is a growing cooperation amongst the smaller offshore jurisdictions in order to safeguard their position in the financial markets.

Client developments

In specific jurisdictions the clients stay the same even if the financial products change. In Monaco you will find mainly older, wealthy men, who sold their company and they want to set up a structure in order to cater for their individual needs. These kind of very specialized markets do not seem to change.

However they are an exception. We see several client developments. A couple of years ago the offshore market was vary accessible. Clients have widely become more aware of the possible benefits of offshore services than five or more years ago. Some years ago they thought that an offshore structure was a vehicle only for the rich and the famous. Now they know that it is more widely applicable. Clients are better informed because the information is more available. It is not more so secret as it used to be. It is open to more types of clients. And clients have become more mobile. Cross border transactions, and people who live in a different jurisdictions outside their national home state have grown in numbers.

The old type of client – an individual looking for a simple straightforward solution – still exists. Baby boomers who were becoming richer and would come down from the US to the Bahamas; or people who would travel with a little suitcase of cash from Belgium, the Netherlands or Germany to Luxembourg in order to avoid taxation.

Yet they are becoming a minority. The last two or three years these individual clients have changed their attitude. Customers have become more nervous. The different legislations have changed. The idea of confidentiality has been damaged by computer programs sniffing for tax related information, cross-border information exchange, anti-money laundering activities, etc. These type of individuals are either looking for fully legitimate ways of diminishing the tax burden (life insurances, investment funds), looking for more secure jurisdictions or have decided to pay their taxes because of the fact that the offshore structures have become more complex and therefore costly.

On the other end of the spectrum there is the institutional client that knows exactly what he wants. There are a growing number of corporate clients that are looking for products of undisputable nature. They want a fully transparent structure than can be publicly published and will be available to all interested sources. The financial structure has been discussed with the local lawyer or tax advisor, the homework is done and they contact the Financial Service Provider with an exact defined request to set up the structure. The FSP in these cases is more becoming the executor of an already tested and proven structure. Or they come to the service provider to test their ideas, using the specialized overview that the service provider can give.

The influence of regulatory bodies

In general we can see a fierce growing demand for further regulation. The requirements for client adoption, transaction adoption, Know-Your-Customer compliance and Due Diligence procedures have been stepped up in recent years. What was seen as an irrelevant joke five years ago has become serious business. Each institution has introduced specialized Compliance Officers and activities. Compliance matters have become a substantial part of the administrative activities.

The growing regulation has had direct influence on the client behavior. The clients will have to deliver more personal information. They will be more cautious and question the confidentially of the information given away because of the fact that they have become more aware that the onshore high tax jurisdictions do not want to loose out on their tax revenues. They have become more cautious towards low tax jurisdictions.

Even though it seems that the regulation has changed fundamentally for the offshore sector in reality regulation regarding the international financial sector has been in place for a long time. Both lawyers and banks have been subject of both national and international regulations for decades. It seems that the offshore sector has become so popular that is has not only attracted the attention of a large customer base but also of the regulatory bodies.

It seems that because of governmental black listing, the more explicit tax directives, directives of exchange of information, etc. the large volumes of business that was around a couple of years ago is not there any more. It has been replaced by more sophisticated demands, based on proven international financial structures. In general the effect is that the offshore sector in moving towards a more professionals status, more acceptable for the international financial community.

The international competition of nation states has not only created the need to become a trustworthy serious financial institution, but has also created the international pressure on other countries that went to far in creating low-tax regimes. The Danish Holding regimes, the Dutch Antilles route, the Luxembourg 29 Holding have become object of severe international criticism. In these jurisdictions the national government has been forced to change their regulatory system in order to comply with international demands.
Other governments have increased their efforts to change the national image in the eyes of the international financial community.[42] Many offshore jurisdictions have changed their regulation in order to diminish the offshore character of the state regulation. Explicit marketing and public relation planning is used to change the corporate image of the different offshore jurisdictions (St Lucia, Curacao, the Bahamas, and Guernsey).

Communication and public relations

Advertising one's services is seldom done. Partly this is justified by the character of the profession. A service provider does not want to loose time communicating with people that he does not want to accept as a client. A second justification given is the argument that the profession is based on personal relations. Even though many clients will be contacted through other intermediaries (lawyer, tax advisors, fiduciaries) they still will feel the need to know the client in person - if possible – in order to be able to justify the services created.
One respondent is using advertisements in on-flight Magazines and the classifieds section in the Economist. It is creating brand awareness and brings the attention to the services on offer to international business travelers.

Joining the professional bodies (ITTP, STEP, the Offshore Institute) and visiting the different conferences is seen as a nice mixture of staying up to date and executing PR activities. Within these organizations one is trying to promote the different services and/or jurisdiction. The contacts created on these meetings are often followed up by one-to-one meetings with targeted professionals. The target would be someone highly reputed in a small to medium size firm that will realize fifty to a hundred incorporations a year. One does not target the big ones; those are big ships that are hard to turn.

The Internet has had a profound influence on the day-to-day interaction. All respondents mention the fast and efficient Email

[42] See note 25

facilities that they use. They also however stress the complete lack of confidentiality at the Internet. Financial confidential information is therefore always exchanged in hard copy or through the fax machine. The same applies to financial transactions above a certain financial threshold (€ 2000).

Not everybody wants a website presence on the Internet. Those who do see the website as a basic information source; an equivalent for a written Magazine. It is less expensive than sending out the hard printed copies. In the case of the website the service provider only bears the initial cost of the site development and design. The customer is paying for the distribution and use of the information.
Nobody encourages online sales. First of all because of the security reasons mentioned. Secondly because of the fact that they want to know the client. The website is seen as a good way to start and invite potential customers to call the office. Yet only after a personal contact and the required paper work one can move on to the operational stage.

New clients are being approached on the basis of network-development. Most of the time the actors involved have built up their networks during a long period of time (ten years or more). They operate on the basis of a long lasting reputation, the effect of being present in a certain market for a long period and/or with different responsibility in which they have proven to be a reliable partner.

Different respondents have stressed the importance of long lasting client relationships. During the years the client is giving confidential information to his personal contact within the FSP. This contact knows the background of the different structures that have been put in place, the goals and requirements of these structures, the history and background of the customer. Many smaller and medium size service providers are proud of the fact that the marketeers hardly ever leave the company. They are one of most important assets of the company and one is taking great care to keep them within the company.

In the large multinational or global organizations the situation is very different. The different communication partners change more often because of personal and institutional ambition and ambiguity. Often both for the offshore specialist and for the client the large structures they have to work in are not clear in whom to contact with what. Dealing with large corporate global partners with different departments create a more dynamic

communication pattern in which the different partners have a changing opinion of the corporate identity and goals.
In these cases not only personal career changes happen more often but also mergers and acquisitions change the interaction between client and service provider.

Marketing strategy

The offshore market has grown and become well known to the larger public for its simple, easy to understand and relatively cheap to avoiding products. Respondents share the idea that these days have gone; the large bulk of relative easy products will disappear. A number of service providers realize that they will have to look for different products marketing strategies.

They all stress the fact that there will always be a demand from individuals and institutions in high tax jurisdictions for products that can lower the tax burden, can guarantee asset protection, future litigation, etc. If the sector will be able to defer assets and reduce effective taxation it can please a lot of people.
The general idea is that it won't get easier but the demand will be growing. 'The tougher it gets the more the demands will be increasing'. The discussions about the sector will only attract more and new target groups for the products range.

Given the changes that take place the planning horizon within the sector is three to five years. It is impossible to predict the developments over a longer period. It is therefore that most respondents realize that they have to reposition themselves within the changing markets, yet at the same time that there is little certainty of which direction will be a profitable one.

One strategy is the intention to keep the number of clients at the present level by means of diversification of the product range. In these cases one is looking for a combination of financial offshore products, private investment funds, family office activities, etc. By means of diversification new products can be offered to existing customers and new customers can be found that might be interested in a larger number of different products.

A second strategy is based upon the realization that there will be fewer customers in the years to come. These fewer customers however will have a demand for more complex, more sophisticated and more time-consuming services. In these cases one is concentrating on that segment of the exiting customer base that is much promising with respect to larger and longer lasting financial structures. Attention goes especially to those feeders (international business lawyers, accountancy firms) that hold a key position in the different markets.

A third strategy is based upon the historical dynamics of the financial markets. In order to keep up the volume of customers and services one is moving from the jurisdictions that grow to a mature status towards the upcoming new emerging markets. These service providers are looking at Eastern Europe, Russia, South America in order to open up new markets for the existing product range.

A fourth strategy is going towards the opposite direction. One is not concentrating on the offshore vehicles developed in the past but moving towards complete transparent onshore constructions, in which the offshore component plays a minor role or is completely absent.

Sector perspectives and further research

Towards a formal institionalized sector

The offshore sector is changing fast. The future of the sector is hard to predict. Fundamental changes are taking place in regulation and information exchange requirements both in the EU and the US. If the confidential nature of the activities will be lost the offshore character of the sector will be a historical phenomenon. New products and markets are being developed and tested with respect to future profitability. A number of general trends can be seen.

The offshore sector is growing towards a more sophisticated and mature state. Coming from an almost hidden, obscure presence in the past the sector is more an more widely known, debated in the public domain and therefore subject to governmental and institutional regulation.
Further institutionalization and regulation will be unavoidable. The sector is growing towards a formal status comparable to that of the institutionalized international banking sector.

Three possible roads to go

Within this development it will be difficult to stay afloat as a small, independent trust company. The smaller services providers can only survive if they are capable to outsource a large number of activities to other service providers. They will have to concentrate on the marketing aspects – bringing in the customer - and handling the due diligence procedures. They will have to concentrate on local markets, based upon local contacts; providing a diversified range of products who's operational activities will be executed by third parties. Their strength has to be found in the personalized services that they can offer, combined with a high level of flexibility. They are able to put in the time and effort to respond to high demanding individuals who are looking for a diversified range of activities, for instance the family-office activities. The services themselves, the operational aspects and back-office activities, will be done elsewhere. These small service providers will be the personal contact for the client. They will coordinate all the different actors and procedures involved.

The sector itself shows a swift towards larger institutions with a package of sophisticated international structures both onshore and offshore. Here we can see two directions. There is a move towards larger financial groups that specialize in the offshore sector. They try to buy out or merge with different smaller trust management companies in different jurisdictions in order to be able to provide a large range of different products. They position themselves as offshore/onshore specialists who can offer a large range of services to the clients who are looking for more complicated financial structures.

A third path is followed by independent trust management companies who become part of larger financial structures; international banks that are looking for the possibilities to offer international financial tax planning instruments to their existing clients. In these cases the trust management activities are an additional service offered on the basis of the core activities of the bank. In these cases that trust management company will become a specialized department in a wide variety of other department. Their customers often come through the other activities that the bank pursues.

Theoretical perspectives

This study has given rise to a number of questions that have to be pursued.

The first question is concerned with the nature of the professionalization of the sector. Increasing regulation will lead to larger formalization of the activities. One of the effects will be that the sector will lose its pioneer character and will grow towards a formal institutional sector. It remains to be seen whether the sector will lose its entrepreneurial character and will become a fully regulated sector that will demand specific educational requirements, professional organizational bodies, accreditation procedures, etc.

The political arena has shown an increasing attention for the regulation of the international financial markets. The political debate has resulted in a social pressure that forces the different jurisdictions to comply with internationally accepted rules. Can this obligatory situation of self-regulation be seen as an on-going process of self-regulation; a process of a developing civilization process.[43]

A second cluster of interesting questions concerns the position of the nation state as an entrepreneur. It seems that nations – in competing with one and other for the international capital streams – function as a producer of tax products specially developed for foreign capital.

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[43] See on civilisation: Elias Norbert: ***Über den Prozeß der Zivilisation***. Amsterdam 1956

These nation states compete on an international level. The question is how do they perceive their own marketing efforts and policies. At the moment there is a widespread effort to be perceived as a serious, trustworthy nation. Many offshore jurisdictions try to avoid the association with the offshore character of their activities and tend to move towards a more transparent corporate identity of onshore tax structures based on bilateral tax treaties and tax ruling regimes. Central question that has to be discussed is the tension between diversity and global capitalism.[44]

A third path of further reflection is concerned with the marketing approach itself. It can be discussed whether the sector that deals with financial services based on interpersonal processes of trust and confidentiality should be analyzed on the basis of pragmatic, rational analytical concepts used in the marketing theory. Should the marketing process be analyzed in product and profit terms, or is a theoretical approach in terms of interpersonal qualitative processes possible? In what terms can we describe and analyze the interpersonal processes between client and service provider? [45]

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[44] See Suzanne Berger and Ronald Dore (Ed.): ***National Diversity and Global Capitalism***. Cornell University Press, Cornell 1996

[45] We might find here – again - the discussion between the rational-analytical approach in social theory and the qualitative hermeneutic tradition. See: Anthony Giddens: ***Profiles and Critiques in Social Theory***. University of California, Los Angeles 1982

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Appendix A: Questionnaire

What questions to ask?

1. How is the FSP structured:
   - is the ISP an individual enterprise or part of a larger group. If so; what is the position of the other identities
   - does the ISP concentrate on specific services and target groups

2. What actors are involved;
   - direct contact with individuals
   - direct contact with FSPs
   - what service are done in-house/what services outsourced
   - are there any strategical alliances

3. What are the different competitive forces at the different levels;
   - who are the direct competitors
   - is there any price competition
   - does the ISP specialize in specific target markets

4. What client developments take place at the moment;
   - are clients better informed; do they know what they want or are they mostly 'shopping around'
   - do they demand more sophisticated structure or is there a need for simple financial structure for the masses

5. What is the position and influence of the regulatory bodies;
   - what role does the political arena play
   - is the increased regulation seen as a burden or an asset (a further professionalizing sector)

6. How is the communication structured:
   - face to face interaction with the client
   - what publicity is used; oral/written media
   - what kind of corporate image and identity; offshore identity or general financial service provider
   - what is done by telephone/fax, what by the Internet

7. What kind of marketing strategy will be executed in the near future;
   - is there a formal marketing target plan; is there need for internal marketing
   - is there a system of market analyses and control
   - how does product development take place;
   - who identifies new opportunities
   - how is the quality of the advice given to clients judged and safeguarded
   - what is the life cycle of the different products

Appendix B: Overview of respondents interviewed

Timothy James Colclough
Managing Director Quantum Wealth Management Ltd.
Nassau, the Bahamas

Jean-Claude Bergadaa
Manager Credit Agricole Indosuez, Paris

Cristine Breitler
Managing Director Dixcart Corp, Geneva

Anthony Bristol
Deputy Managing Director Financial Center Corporation, Santa Lucia

Simon Denton
Sovereign Corporate and Fiscal Services Ltd., London

Hans Hoegen Dijkhof
Managing Partner Hoegen Dijkhof Advocaten, Amsterdam

Hans Leijdesdorff
Managing Director IMFC Management, Amsterdam

Roeland Pels
Managing Director Benelux Trust SARL, Luxembourg

Patrick Piras
Comercial Director CITCO (Monaco) S.A., Monaco

Jan Rouppe van der Voort
Managing Director Trust and Securities, Deutsche Bank, Amsterdam

Ariane Slinger
Managing Director Amicorp (Switzerland) S.A., Geneva