

Guernsey and the rest of the world

the changing shape of private client transparency

Keith Corbin
executive chairman, Nerine Group of Fiduciaries

There is no question that the face of private client work, and trust companies in particular, is changing and evolving. This evolution is partly a consequence of external pressures for greater uniform accountability across jurisdictions both onshore and offshore and partly from a natural desire by the sector to continue to improve and change. Nerine Group of Fiduciaries executive chairman, Keith Corbin considers the way forward and how jurisdictions may have to react to this change.

There has been much discussion, and, arguably, hysteria, around the escalating pressure for transparency on the beneficial ownership of trusts and companies. The industry is all too aware of the mounting pressure from the UK government and the EU in this area and it is not proposed to go through the situation as it stands again but rather to consider how jurisdictions may, or has to, evolve to meet the new world.

The recent G20 commitment to the OECD BEPS Action Plan is trying to achieve something that the Crown Dependencies would argue they have already put in place – the highest standards of accountability and transparency required to prevent tax evasion, money laundering and terrorist financing to flourish. What is vexing many is just what level of client information is required to meet these aims, the cost involved in doing so and

whether all jurisdictions – onshore and offshore – are complying. Despite the plethora of Tax Information Exchange Agreements (TIEAs), FATCA and other tax information arrangements entered into by the Crown Dependencies, there still appears to be a failure to acknowledge in some quarters that there is no block to access to tax information in the Crown Dependencies whereas other jurisdictions are still some way behind the curve.

What is without question is that some jurisdictions around the world that still believe they can dodge the bullet on transparency are out of step; the momentum behind this is not going away. While some may be doom-saying and predicting the downfall of the sector there is a great opportunity here for those trust companies and private client professionals to demonstrate themselves to be a cut above.

Historically there has been, and continues to be, less well regulated jurisdictions which arbitrage on price and have not adopted the highest regulatory standards and this has, arguably, been acceptable and welcomed by clients who were willing to take the cheap seats over sound regulation.

The Crown Dependencies and Overseas Territories have made their position clear on these issues demonstrating that they operate to the highest possible standards of compliance and significantly higher than other offshore, and some onshore, jurisdictions.

The main issue of the public underlying beneficiaries register (UBO) is not one of clients' affairs not standing

up to scrutiny but rather one of privacy. For sound and just reasons some clients require a level of privacy around their affairs – not least to prevent beneficial owners to the risk of kidnapping, threat, blackmail or fraud. This is a just position. If there are clients that are attracted to jurisdictions for reasons other than privacy and sound compliance the impact of the UBO register will have greater significance.

Asian clients have been naturally drawn to the British Virgin Islands (BVI) and Cayman Islands where, arguably, there has been a chequered past in this area but which have, in recent years, developed a different mindset demonstrating they are durable and reliable with improving standards of regulation.

Nerine's Hong Kong director, Melanie Ison said: "Where previously clients may have been attracted by the cheaper fees offered by some firms they are beginning to recognise that there may be a higher price to pay in the end. They are now looking to jurisdictions and trust companies that can prove themselves to be resilient with regulatory standards that are unassailable. This level of compliance comes with a price tag which more and more clients are willing to pay for peace of mind. Additionally the recent high profile publicity around hacking of client files and leaks has been a wakeup call to many clients and their advisers."

Rather than the "pile 'em high, sell 'em cheap" philosophy clients and their advisers are looking for different reassurances when selecting a trust company or an international finance

centre with which to do business; longevity, the ability to solve complex issues with a high level of client service and long-term compliance are becoming the key factors on which clients are making decisions.

Switzerland, for example, has found itself in a situation almost unimaginable a decade ago – facing levels of scrutiny and transparency to which it has had to submit or risk losing its ability to operate as a finance centre.

Nerine's Geneva managing director, Gareth Corbin, said: "Despite the increase in compliance costs and requirements (which will closer align Switzerland to the existing requirements of other offshore centres) the actual increase in cost to the client remains minimal when compared to the overall benefits such a structure can provide."

Nerine's BVI managing director, Jonathan Bailey, is the Society of Trust and Estate Practitioners branch deputy chairman. He sees a bright future for the sector and the jurisdiction.

"The BVI is frequently the corporate domicile of choice for clients and advisers globally, and the BVI government, has engaged with the UK

government to confirm its commitment to international standards while not compromising the best interests of the BVI. BVI's position is that it will comply with the standards accepted internationally by other financial centres. It recognises that arbitraging against those standards is not a sustainable policy."

There is also a sea change coming in India where Nerine is the only independent fiduciary business with an office.

"There is a renewed sense of optimism after the general election and the new government is signalling a desire to attract investment into India through an enhanced regulated environment which will be seen as a jurisdiction that clients and their advisers are keen to explore. Under the new government the Reserve Bank of India has increased the amount Indian nationals can remit abroad from \$75,000 per person, per family to \$250,000 and also relaxed rules on Indians buying off shore properties," said Pranav Khanna, Nerine managing director in Delhi.

Guernsey has a strong heritage in providing fiduciary and investment

structuring solutions and its experience and expertise in wealth management is internationally-renowned. Debate at a recent trusts forum in Guernsey highlighted how the local trust sector is exploring opportunities in the emerging markets and is knocking on open doors with clients and advisors who see the benefits of this well-run jurisdiction known for its high standards.

Providing the increasing levels of regulation and transparency are required everywhere (and this is a big provision) then the differential for clients will no longer be on price; the world we now live in gives those working in the trust sector a new opportunity to distinguish themselves through real values; standards of regulation, infrastructure underpinning the finance sector, highly experienced and expert support services and quality of service will be the attributes that win and retain business. Of course geographical proximity may still be a factor as well but younger generations of beneficiaries and their advisers are less wedded to this than, perhaps, their elders. 

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