

Anguilla Financial Services Commission

Industry Day

“IFCs in the Eye of the Hurricane”

PREPARED REMARKS OF

**ROBERT MATHAVIOUS
MANAGING DIRECTOR,
BRITISH VIRGIN ISLANDS FINANCIAL SERVICES COMMISSION**

Thursday, 20 February 2014

“IFCs in the Eye of the Hurricane”

I am honoured by the invitation extended to me by the Anguilla FSC to be here in Anguilla once again on the occasion of your Industry Day. And I am delighted for this opportunity to address you on a topic of significant importance to us all.

When your MD, Keith Bell, first approached me about participating, I wondered on what I should focus my address. After reflecting on the global storms that international finance centres (or IFCS) have weathered over the past two decades, and in light of the storm clouds that increasingly threaten the future of international finance centres today – especially those with connections to the UK – I have decided to revisit, refresh and focus anew on an old canvas: “The Eye of the Hurricane”.

The international finance community – by which I mean the governments of the developed world, the G8, the G20 and the supranational bodies they control, such as the IMF, FATF, OECD and FSB – have conjoined with NGOs such as the Tax Justice Network and Christian Aid, and with organisations such as the International Consortium of Investigative Journalists to place the activities of small island international finance centres everywhere under intense scrutiny and spotlight.

This has been especially so for those centres associated with the UK, the Crown Dependencies and the Caribbean Overseas Territories.

The intense scrutiny has resulted in a fundamental global shift and hardening of attitudes against international finance centres. Indeed, you might say that the terms “climate change” and “global warming” have taken on new meanings in the world of small island IFCs! It is a world that is getting warmer and warmer.

For IFCs, these are challenging and turbulent times, gruelling and daunting times, times of change and transition. The onslaught of initiatives has been transformational and paradigm shifting.

This is not all bad. Yes, change and transition are challenging – but they also bring with them new opportunities for those who are prepared to grasp them.

I am not claiming that for the Caribbean Overseas Territories this has been anything other than an arduous period. We have all walked a long and dark road together.

We have received a wake-up call as we watched those writing our obituaries or singing our demise as international finance centres.

But wake up we have. We have put in place new procedures, protocols, policies and laws to ensure compliance with international regulatory standards. And we are still here.

Over the past two decades, we have faced increasingly intense international pressure and scrutiny. The demands from all quarters for greater transparency of our financial services programmes, policies and procedures have grown ever louder.

Our legislation, law enforcement, taxation and international cooperation modalities have been reviewed, evaluated and inspected *ad nauseum* to ensure they comply with relevant international standards. And we have had constantly to raise our game as the standards themselves become more demanding

The Caribbean Overseas Territories have withstood this onslaught relatively well – perhaps better than most. In the process, we have transitioned from the early accusations leveled against us as uncooperative, non-compliant and poorly regulated “tax havens” – as places that sheltered money launderers and the ethically challenged – to a position today where we are increasingly viewed as cooperative, compliant, well-regulated international finance centres that apply international standards and play their part in protecting the global financial system.

Testimony to this was the recent statement by Prime Minister Cameron that we should no longer be call “tax havens” or “secrecy jurisdictions”.

However, we cannot yet sound the “all clear”. In a sense, I beg you to consider that what we have gone through in the past few years is no more than the outer edge of the hurricane. Today, we find ourselves not in clear or fair weather but rather in the tranquil centre of the storm, in the hurricane’s very eye.

Those of us who have weathered an actual hurricane will never forget the terrifying experience – the howling winds of destruction, the damage, the fear and the awesome power of a force greater than yours.

And then the eye passes overhead and there is sudden calm. The sun shines again and the birds start flying and singing. Everything seems well and there is the temptation to return to life and business as usual.

But don't be fooled. The calm is only temporary. What is yet to come will be at least as severe, if not more so, than what has gone before.

The eye of the hurricane sent by the international finance community is where OFCs such as the Caribbean Overseas Territories currently find themselves. Our biggest danger lies in complacency, in toasting the end of the storm too early, in resting on our laurels while those who would unite against us are re-energising, re-strategising, planning and preparing for further battle.

Yes, even while we are patting ourselves on the back, all across the world, developed countries and our IFC competitors as well as our critics are working with feverish, laser-like intensity to reduce our long-term competitiveness.

This means that defending ourselves in the future will continue to be as mentally demanding, daunting, time-consuming, stressful and emotionally and physically draining as it has been so far.

As long as we are in the eye of the hurricane, we are still very much in the cross- border financial services game. Whether we remain in the game once we emerge from the eye will, as ever, be a matter of what we do next.

Being in the eye gives us some time – albeit only a brief time – for reflection, dialogue and developing a shared perspective on what we ought to do to mitigate the risks ahead.

I am clear that our efforts now must focus on the effective implementation of the standards.

We cannot escape the spectre of blacklisting simply by stating that we want to be regarded as mainstream compliant jurisdictions. Words alone will not be enough to take the threat away.

Transparency must mean transparency in practice, and cooperation must mean cooperation in practice. Our laws and our mechanisms for regulation, law enforcement, international cooperation and exchange of information must be genuinely fit for purpose.

They must work. If they don't, we will be prevented from accessing world markets.

Let us not fool ourselves that doing nothing is an option. It is not. A dialogue on the best way forward should not be used – or abused – as an excuse for standing still. We must all work with fierce urgency now to safeguard and enhance our financial services sector.

So let us all use this brief respite in the eye of the hurricane wisely. Let us take stock of our immediate world and let us plan well.

Let us start by not fooling ourselves that Prime Minister Cameron's validation means that for the Caribbean Overseas Territories means the worst is now behind us.

The reality is that even more demanding storm clouds are gathering and heading our way, some even courtesy of Mr Cameron himself. We may well be seeing the preconditions of a perfect storm which if not handled properly could finally knock us off the financial services map.

So what are these ominous storm clouds heading our way?
Let me name a few.

First, there is the growing threat of US extraterritorial application of its domestic laws.

The USA's FATCA initiative has proven to be a watershed moment for international tax information exchange policy. A number of jurisdictions have already entered into agreements with the USA and some of these have developed or will be developing their own FATCA-style arrangements – sons and daughters of FATCA.

Then there are the FATF's revised 40 AML/CFT Recommendations and the revised methodology for assessing compliance with the Recommendations, which also requires the establishment of effective national risk assessment frameworks.

Meanwhile, the OECD Global Forum's Phase II Peer Evaluation Process is leading to the emergence of automatic exchange of information as the new international standard, with multilateral MMoUs replacing bilaterally negotiated treaties. There is even talk now of a global FATCA – or "GATCA" – being developed.

A further storm cloud is "EU creep". Like the US, the European Union is increasingly seeking the global application of its own laws, including the potential extension of the EU savings directive to companies and legal arrangements, including trusts. Mr Cameron's call for central and public registration of beneficial ownership is part and parcel of this.

So the storm is continuing to build. If we are to survive, we cannot rely on the status quo. As the challenge grows, so must our response.

This requires us to be bold and imaginative. It has always been a delicate balancing act to satisfy international demands while not endangering good business operating in and from within our jurisdiction.

Today more than ever, we have to balance doing too little against doing too much. We have to balance acting too soon against acting too late.

I know that everyone is “initiative fatigued”. As a result partly of the simple tiredness we all feel after years of weathering the storm, doubt and scepticism about the future of small island international financial centres are creeping in.

But let me tell you this. When you see what we have accomplished by working together, by being united and organized over the years, such pessimism is not justified.

I am confident that if we continue to make the right choices, a positive future lies ahead of us as small island IFCs.

How can we build this future? By having the courage to do what is right, not what is expected or expedient. By being prepared to do the unconventional, to take the tough decision, to travel the road less travelled.

This means fleshing out our words with deeds. It means not merely choosing to do the right thing but choosing to do things right. It means honouring our commitments so that we are seen genuinely responsible participants in the global market place.

Let us not confuse talk with action. Let us ensure that all stakeholders redouble their efforts never to be weighed in the balance and find wanting. Let us work in strategic, joined up partnership for the common good.

If we are not just to survive but to thrive, a crucial element will be maintaining thriving and effective partnerships at all levels.

Within each of our territories, that means a genuine partnership between the government, industry and regulator. Across the Caribbean OTs, that means frank and supportive government-to-government partnerships and regulator-to-regulator partnerships. It means similar partnerships between different industry bodies and individual firms spread across our territories.

Only by the strength of our common endeavor can we weather this storm. Yes, we are islands. But we give way to island mentality, if we look inwards rather than outwards. If we seek to undermine our neighbours rather than ally with them, we will be picked off one by one.