



Cayman Islands

Bermuda

British Virgin Islands

# What you need to know about US offshore funds centres

The experts give their views on how the Bermuda, BVI and the Cayman Islands shape up in the increasingly competitive world of offshore fund business. **Vanessa Nicholson reports**

**T**he islands off the east coast of the US have long been favourite tax domiciles for offshore hedge funds and other specialist investment funds. But in a globalised marketplace for fund administration and domiciliation, are they still on the radar for international fund managers? And what are their relative strengths?

"In reality there are only really three serious centres," says Derek Adler, director and founder member of BVI fund administrator IFINA, "BVI, Cayman and Bermuda, though there are other centres where you can set up a fund." Cayman's Georgetown is the world's fifth biggest financial centre and every major bank is on all three islands.

"The Cayman Islands and the British Virgin Islands both have mature, sophisticated and extensive fund administration and fund domiciliation industries," says Paul Govier, a partner at law firm Maples and Calder. "The Cayman Islands, in particular, is clearly the global

domicile of choice for hedge funds and private equity funds and many of the major fund administrators have offices on Grand Cayman. The British Virgin Islands has a similar, although perhaps not as developed, industry."

"Bermuda is a favourite for the huge American hedge funds," adds Adler. "Cayman has a 20 to 30 year reputation and the BVI has improved enormously. They've had a makeover in terms of becoming more credible locations – so much so that Luxemburg is struggling to compete; it brought out legislation a year ago trying to offer something more similar to the Caribbean."

The jurisdictions are more than just a credible location. "The complete absence of taxes in Cayman, coupled with political and economic stability, excellent communications, international professional and banking facilities and support services, a highly developed infrastructure, a sound judicial system and modern legislation has attracted the attention of many seeking a flexible and sophisticated jurisdiction for international transactions," says Govier, adding that the attractions of BVI and Bermuda are similar.

According to Derek King, managing director of Folio Administrators in the BVI, "Cayman is number one and BVI number two in terms of the number of offshore funds domiciled in the respective

jurisdictions, but the BVI's financial infrastructure does appear to be catching up.

"Cayman is heavily resourced in terms of international banks, custodians and administrators actually located on-island but the BVI is a close second in terms of offshore domicile of choice and is becoming increasingly well represented in terms of international law firms, including Maples, Walkers, Appleby's, Ogiers, Conyers Dill, audit firms like KPMG, BDO, and Deloitte's and fund administrators basing themselves here," he says. "Fortis has recently established a presence, Citicor (the biggest fund administrator) is already here and others are in the process of planting their flag in the BVI."

## REGULATION

The Bahamas, once full of financial promise, committed 'financial suicide' according to Kieron O'Rourke of BVI law firm Harneys by reacting in the extreme to the poor Caribbean regulatory image with strangulating legislation after the millennium. "The Bahamas was a big financial centre, but there was meltdown there," agrees Adler, "total chaos, although there had been problems before the new legislation." The future may become promising again with the creation of the new Investment Funds Act and SMART funds.

Both the Cayman Islands and the British Virgin Islands enjoy the

reputation of being well established in the "magic circle" of offshore jurisdictions, according to Govier. "As offshore jurisdictions are increasingly integrated into the global financial infrastructure," he says, "so they must meet the increasing burdens of global regulation. Only those sophisticated and rigorous enough to do so are able to survive. The response of these jurisdictions to

powers to intervene and protect the interests of stakeholders." He continues that it is a 'testimony' to the success of these regimes that these powers rarely need to be invoked. The regulation may be gaining credibility, but there is a general consensus internally and internationally that the regulators' muscle has yet to be tested. "We do say to the regulators: 'don't bark unless you have a bite'," says Adler.

## THE REGION MAY BE GAINING CREDIBILITY BUT THE REGULATORS' MUSCLE HAS YET TO BE TESTED

recent international initiatives, such as the European Union Savings Directive (EUSD), is evidence of their ability to meet the standards expected by the international community and thereby grow and prosper. The failure of other jurisdictions to meet this challenge (like Bermuda in the case of the EUSD) can have a significant impact on reputation and growth."

Both the BVI and the Cayman Islands have a regulatory regime that allows minimal regulatory delay in launching a new fund and marketing it to prospective investors and, according to Govier, apply a 'streamlined, progressive approach' to the regulation of funds.

"In the event that a fund domiciled in the jurisdictions encounters difficulty," he adds, "each authority has extensive regulatory

### HUMAN RESOURCES

Adler believes the region's laidback reputation may be why it can be hard to find 'quality personnel' locally and the lack of activities on the island requires expatriates to be 'alcohol-proof.' "It is hard to instil a work ethic you might find in Europe," he says. As a result, many ex-pats are brought in at huge cost and needing company sponsorship. "And when they go, it is a big problem."

Maples and Calder's Govier disagrees. "The attractive lifestyle has always ensured that the islands are able to attract the highest quality of staff," he says. "Staff turnover in the Cayman Islands and the British Virgin Islands is very low." In terms of local employees, fund administration is, at most, a generation old in the region, so the next decade is likely to see more home-grown talent as the companies and Governments invest in financial education. "Thankfully we live in a globalised labour market," says Derek King. "For specialised professional staff our hires are necessarily exclusively ex-pat." **TFB**

## NEW ERA FOR BERMUDA ADMINISTRATOR

In December, Olympia Capital, the leading offshore hedge fund administrator, was bought by French custodian CACEIS in a major new deal that will take the firm to a new level.

Based in Bermuda for the last 17 years, Olympia is famous for being one of the first specialist administrators of hedge funds – and one of the last to remain independent.

But after being acquired by CACEIS, Raymond Morrison, global chief operating officer for Olympia Capital, is looking forward to a bright future. "We want to maintain our success without changing who we are," he says. "But we are looking to grow. There is a lot of business out there and this has come just at the right time."

The deal will allow Olympia to offer its clients a new range of services – FX, European onshore fund administration and custodial banking – as well as introduce a new business from CACEIS' own client base.

And despite a rocky year in the financial markets, Morrison believes hedge funds will continue to grow as an industry. "Our clients have weathered the storm very well indeed," he says. "Some of them did really well out of it."

## PLAIN SAILING?

How to get the best out of the Caribbean – and keep an eye on the offshore horizon:

### » BUSINESS DEVELOPMENT

CEO

- The Cayman Islands and BVI have the most developed financial community, but other areas of the Caribbean may suit your needs
- Bermuda's living costs have been grossly inflated by tourism and this may affect the retention of employees
- Institutional investors may still have reservations about Caribbean domiciled funds, so list on internationally recognised exchanges such as Dublin
- Integrate new expatriate staff into island life and communities to improve staff retention.

### » OPERATIONS

COO

- Two of the region's largest fund administrators, Citco and Fortis, are both on BVI – this may bring distinct advantages to the administration of hedge funds which can be limited in the area
- Prepare funds designed for domiciliation and launch from the Caribbean elsewhere, due to domestic staff shortages.

### » INVESTMENT

CIO

- To guard their reputation the islands will not deal with companies or countries which may cause concern. Russian and Nigerian funds, for example, will struggle to get approval
- BVI fund approval times are generally the quickest
- The region is popular with American fund managers keen to escape red tape.

### » KEY SUCCESS FACTORS

- Choose a jurisdiction which is ahead of the curve in responding to regulation. Bermuda recently failed to meet the EU Savings Directive challenge
- Be wary of onshore crusades to penalise offshore jurisdictions in the name of a level playing field
- Ensure the work ethic of staff remains conscientious despite relaxed island culture.