

FINANCIAL CENTRE ASSOCIATION OF VANUATU

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DISCUSSION NOTES TO SEMINAR ON 6 JUNE 2008 RE THE FUTURE OF OFC

FCAV VIEW – HOW TO GROW THE OFC

PREAMBLE

- We must congratulate the Minister of Finance for his positive responses towards the recent events, particularly when most others have remained silent. We also thank Minister Jimmy for his support for today's initiative. We have been seeking something like this, with the Government and Industry working together, for some time.
- The FCAV and the finance centre industry are keen to see some type of damage control or mitigation occur that will help to provide comfort to investors and clients that the confidentiality provisions we do have are not irreparably damaged.
- Note that we cannot really significantly differentiate between the different aspects (onshore and offshore) of the Finance Centre as there are many areas of crossovers and complementation.
- There is a misconception as to what really happens in the OFC. In George Andrews' paper of 22 May he refers to "providing wealth management to High Net Worth Individuals" as the key area of activity in the Vanuatu OFC. This is simply NOT CORRECT. For example, PITCO who was about the only firm to provide such services moved wealth management funds to Canada, to take advantage of more amenable legislation, some time ago. The primary type of business that the OFC actually undertakes is custodial control of funds and enabling of transactions.
- There are a number of other statements in George's paper that we feel are not truly reflective of the real situation in Vanuatu. However we are not here to debate that view on a point by point basis. We may have a chance later to look at the key areas of difference we have. There is a belief that some of the observations may have been provided to George by others. We stand to be corrected on that perception.
- There have been instances where Government has been misled by so-called advisors. The shining example is the consequence of the introduction of the International Banking Act, which pushed away most of our offshore banks. I was in a

meeting where the advisor stated that this legislation would lead to the shores of Fatumaru Bay being lined with high-rise office buildings full of new banks. We need to be careful! Some advisors can do real harm.

- It should be appreciated that the recent strong economic growth in Vanuatu, much of it engendered by new and expanding foreign direct investment, has been made possible by the push by the members of the Finance Centre to promote Vanuatu and to facilitate the entry of new investors. Good professional services are a key to ensuring that potential investors make a choice between Vanuatu and other similar options. The fact that we are known as a tax haven also is significant in the decision to invest in Vanuatu or elsewhere.
- We cannot simply look at the annual registration fees for companies as a guide to the FINANCE CENTRE's contribution. Here are a number of other direct areas of (Government) revenue contribution that emanates from the fact that the Finance Centre is in Vanuatu:
 - 5% business licence fee/tax on fees sent to non-residents by the service providers
 - 7% transfer fee and stamp duty on new property transactions from foreign direct investors
 - Other property-related fees from start title developments and mortgages etc
 - VAT on fees;
 - VAT on general expenditure emanating from Finance Centre workers
 - Residency fees;
 - Work Permit fees
 - VAT paid via hotels and so on for business related travel that comes to Vanuatu because we are a tax haven
 - etc
 - etc
- There are also the plethora of contributions that value add to the economy simply because the Finance Centre has been established here for such a long time. Some of these benefits will be in jeopardy if the life was squeezed out of the Finance Centre. Examples of these are:
 - Opportunities for training and employment in professions (working under experienced mentors) such as, finance; accounting; banking; and legal
 - Construction industry
 - Luxury goods market
 - Airline bookings to/from Vanuatu
 - Domestic employment opportunities
 - Service levels are higher
 - We have 4 commercial banks instead of maybe only one
 - etc
 - etc
- We must reflect upon why people say that Vanuatu has a bad or poor reputation. We do NOT have a poor reputation, simply ask those clients who choose to utilize the jurisdiction and new clients that continue to make enquiries. It would appear that we have a poor reputation with countries and organizations that consider that we do not fit their particular mould. We seem to have a poor reputation with some countries and organizations that do not get their own way. The "poor" reputational assessment seems to be highly subjective.

- Refer to Appendix 1 at the end of this paper for some of the reasons why Vanuatu OFC has not shown recent growth.....

WORKING TOWARDS GROWTH

- Government and Industry must **work closer together** to determine appropriate strategies for:-
 - Marketing and promotion
 - Legislative developments
- Therefore look for regular meetings between FCAV, VFSC and Ministry.
- Need to ensure legislation is:-
 - Well thought out
 - Workable
 - Is attractive to potential users of Vanuatu's OFC
 - Does not yield up confidential information to overseas authorities without due process taking place
- We need to carry out a review of other jurisdictions to determine if there are any common characteristics regarding their strengths.
- We note that there are sometimes adverse comparisons made between Vanuatu, and say, Samoa's, Finance Centres. We wish to point out there has been no infrastructure developed in Samoa as a result of them creating their Finance Centre. The great majority of their registered companies are managed by service providers in Hong Kong and Singapore. But Samoa is a great example of where wholehearted Government support led to a rapid expansion of the basic activity of the jurisdiction. Labuan is another good recent example.
- We say "look to within" for advice and cooperation in the first instance rather than bring in overseas consultants who may have a jaundiced perspective rather than the best interests of Vanuatu as their motivating force.
- If necessary we should bring people who are experienced practitioners/service providers in to assist with legislative development rather than single-perspective views from retired regulators who may look at general appeasement, rather than progress and profit for the jurisdiction.
- The interest of Vanuatu and the Vanuatu economy must always remain the priority when any institution or advisor is retained to prepare legislation or review the situation on the ground. We have seen too many "consultants' produce reports or give advice that leans towards the views of the OECD and it's constituents. That is, they seem to, too regularly, produce biased reports and advice.
- We suggest that Govt; VFSC or RBV, look to consult with FCAV when it is time to select an overseas consultant for any study that may impact upon the Finance Centre, regardless as to who the study is paid for by (EU; ADB; Aust etc)
- Improve and Promote our strengths
- Promote the positives such as Vanuatu having stronger due diligence and KYC requirements for any financial transactions than OECD country we know of.

- Bring Government and Industry close by industry representation on Board of VFSC and RBV etc.
- Extend this Government-Industry Working Group to a regular schedule with a real objective, which needs to be well defined and actively pursued. (note also Kevin Lindsay's paper and the comments therein)
- George Andrews does point out that one of the drawbacks of Vanuatu is that our legal system is limited. This means that we will never attract significant wealthy clients with major assets (such as super tankers) as they do not necessarily have confidence that if there is a legal challenge they will be able to take the matter to an Appeals Court in a favoured jurisdiction, such as the UK. We need to think about ways that we may possibly overcome this drawback.
- No real funds have been made available for the marketing of the jurisdiction for many years. If there is a true commitment to taking off and growing the jurisdiction then commitment to spending significant money on the marketing of Vanuatu must be made. The direction of marketing must be carefully considered, but bearing in mind that many of us regard Asia as the most appropriate target market, (China and India, the emerging giants), then that gives us a starting point.
- We should acknowledge the level of effort and expense that is put into the marketing of jurisdictions such as BVI; Caymans; Jersey; even Labuan, by their respective equivalents to VFSC. They not only act as regulators, but as the driving forces behind the jurisdiction's promotion.
- We acknowledge the need to avoid direct confrontation with our critics or foes and therefore concede that maybe we have to consider taking steps toward implementation of some agreements such as TIEA's or similar. Although we consider Mr Grandcolas' paper to be flawed in many many ways, he does state that we should look towards one of the OECD countries to take steps forward in this regard. We suggest that consideration be given to approaching a country that is least likely to do us harm so we can at least be seen to working on this matter. Some OECD countries to consider include:
 - Switzerland
 - Czech Republic
 - Ireland, or,
 - Iceland
- We consider that there should be a mutuality of interest in any agreement that is considered. We should avoid one-way traffic. At all times we should stay aware to the fact that we do have the prospects for due process to take place through Vanuatu courts, where a criminal act has taken place, and, there is evidence available to prosecute.
- Remember that the four basic tenets of an Offshore Finance Centre are:
 - No (or minimal) tax;
 - Confidentiality of information;
 - Ease of transactions; and,

- A legal system that engenders confidence

That is what we should be working towards.....

PROPOSED ACTION

1. Establish a Working Group comprising of Government and Industry members to take this matter forward now.
2. Working Group to prepare a Memorandum of Agreement between Government (and it's constituent bodies) and the Finance Centre Association that sets out such matters as:
 - Policy support to move the Finance Centre (Offshore and Onshore) industry sector forward
 - Intent and commitment to work together on a continuing basis
 - Intent and commitment to market and properly promote Vanuatu as a Finance Centre
 - Intent and commitment to ensure that Industry is represented on key boards and committees, such as VFSC; RBV (perhaps); Ministerial Advisory Group; and so on.
 - Ensure that appropriate level of funding is made available for that marketing effort
 - Agreement to involve the industry in setting goals and priorities for legislative development
 - Agreement that Industry should be consulted and involved when setting parameters for new or revised legislation that have a bearing on the ability of the Finance Centre to effectively operate, locally and globally

This Memorandum of Agreement should be signed off by Minister of Finance; Chairman of VFSC; and Chairman of FCAV. (That is also the time when we should bring media attention to this critical initiative.)

3. Working Group to prepare a strategy for review and assessment of the various strengths of competing jurisdictions and determining if and how they may be applied for the benefit of Vanuatu. (examples: BVI; Jersey; Caymans; Hong Kong; Singapore; etc) Then implement that strategy.
4. Working Group to identify priority areas for growth and a plan to achieve that.
5. Set a realistic timetable to achieve goals and objectives, but Action Item 1 must be started now, and 2 must be completed no later than 30 July 2008.
6. Others to be developed

Mark Stafford

Chairman FCAV

June 6 2008