

## **Treasury Committee Inquiry into Offshore Financial Centres April 30 Questions with answers provided by the Association of Bermuda Insurers and Reinsurers (ABIR)**

### ***1. To what extent, and why, are Offshore Financial Centres important to worldwide financial markets?***

2. International Financial Centres like Bermuda provide an essential service to developed economies. Bermuda, Switzerland, Dubai, Hong Kong, and Singapore, amongst others, provide essential financial services to meet a demand that can not be met in the major economies.

3. Bermuda particularly provides an unparalleled ability to deploy capital quickly to meet insurance market capacity needs. Without this “speed to market” businesses – and consumers -- would find it more difficult to meet some of their critical insurance needs. The inability to manage this risk would damage the underlying economy.

4. Bermuda’s insurers have been formed largely to fill market gaps created when other insurers were unable to provide coverage. Thus Bermuda’s insurers have played a key role in providing critical capacity and creating competition in markets which were constrained.

5. Equally important as competition is diversification. Bermuda’s reinsurers afford insurers the opportunity to diversify their counterparty credit risk by being able to utilize additional reinsurers. Without the Bermuda reinsurers, more risk would flow to a handful of larger players putting insurers at a greater risk of default in the event of financial calamity with these few, larger reinsurers.

### ***6. To what extent does the use of Offshore Financial Centres threaten financial stability?***

7. Well regulated International Financial Centres like Bermuda make a positive contribution to the global economy and strengthen the insurance market and the global economy – Bermuda contributes stability -- not instability -- to global financial markets.

8. Sophisticated business consumers and insurers do business with Bermuda insurers because they have confidence in the financial standing of the insurers domiciled here and the government that regulates them. This point has been attested to by independent observers. In 2006 a private, not for profit, international body composed of senior representatives from the public and private sectors and academia – called the Group of 30 -- published its report on reinsurance regulation and financial markets, its Executive Secretary Geoffrey Bell noted the following: “Worries about regulatory standards in offshore centres don’t apply to Bermuda, the world’s largest offshore reinsurance centre and the top source of non-US reinsurance for the US. . . Regulatory standards are high in Bermuda.”

9. Policy makers look to the International Monetary Fund (IMF) to conduct the Financial Sector Assessment Program (FSAP) to evaluate the performance of regulators against international standards. A revised IMF FSAP of Bermuda’s insurance regulatory system is expected to be released in late June. It is expected to show compliance in Bermuda with the insurance solvency regulatory standards set by the International Association of Insurance Supervisors (IAIS).

***10. How transparent are Offshore Financial Centres and the transactions that pass through them to the United Kingdom’s tax authorities and financial regulators?***

11. Bermuda has a tax information exchange agreement in effect with both the United States and the United Kingdom. The agreement between Bermuda and the United Kingdom was signed in December 2007. The OECD noted this as “marking another step forward in international efforts to implement the principles of transparency and exchange of information for tax purposes developed by the OECD’s Global Forum on Taxation.”

12. Furthermore the OECD added: “This arrangement confirms Bermuda’s commitment to high international standards and its stature as a responsible international financial centre. Bermuda was an early participant in the

OECD's initiative to improve transparency and exchange of information in tax matters. OECD warmly welcomes this move by Bermuda.”

13. In a companion press release issued by HM Revenue & Customs, the Financial Secretary to the Treasury, the Rt. Hon Jane Kennedy MP welcomed the arrangement, saying: "these new arrangements represent a significant step in our efforts to counter and prevent tax evasion and avoidance. I commend the Government of Bermuda for its willingness to implement the high standards of transparency and exchange of information to which it is committed and for its continuing leadership in this important global tax policy area."

14. Further to this point, in May 2007, the US Treasury Acting International Tax Counsel John Harrington, in testimony to the US Senate Finance Committee, lauded two examples of Bermuda's cooperation with the US in enforcement of tax compliance matters – cooperation made possible by the US/Bermuda Tax Information Exchange Agreement.

15. The financial services regulator in Bermuda (the Bermuda Monetary Authority – BMA) also has in place memorandums of understanding that allow information sharing with insurance regulators in other jurisdictions. Bermuda's government has been recognized by both the Organization for Economic Cooperation and Development (OECD) and the US Treasury as a “cooperative” jurisdiction. Bermuda is in the midst of implementing substantial improvements in its anti-money laundering laws, regulations and oversight as recommended recently by the IMF in an FSAP dealing with those issues.

**16. *To what extent does the growth in complex financial instruments rely on Offshore Financial Centres?***

17. International Financial Centers like Bermuda have played a key role in product innovation allowing capital markets to more directly assume insurance risk. Positive examples of specific products include catastrophe bonds, weather derivatives and index triggered reinsurance products. New products are more easily developed and sold in a regulatory environment with a principal based

approach to regulation, such as is found in Bermuda. Marketing of these products, then proceeds to more established financial centres where the sophisticated buyer is also subject to regulation (such as the US Securities and Exchange Commission – SEC). Consumers worldwide have benefited from the development of such risk transfer products, as have been developed in Bermuda.

18. The current “credit crisis”, which at the very least was exacerbated by the complex financial instruments such as mortgage backed securities, had nothing to do with international financial centres; in fact the calamity seems to be centered in the large, well established financial centres in Europe and the United States.

19. It is interesting to note that international insurance regulators have recognized that insurance companies carry neither undue insurance nor investment risk in respect of these products.

***20. How important have the levels of transparency and taxation in Offshore Financial Centres been in explaining their current position in worldwide financial markets?***

21. Bermuda has thrived as an international financial centre with the full light of disclosure and transparency as requested by our trading partners. Bermuda’s solid reputation, cooperative stance, and transparent regime have allowed this jurisdiction to flourish. Transparency is very important to establishing credibility with international financial centres. Without a commitment to transparency a jurisdiction can not succeed as an international financial centre because our customers demand the same transparency that regulators seek in order to build confidence in the market.

***22. How do the taxation policies of Offshore Financial Centres impact on UK tax revenue and policy?***

23. Taxation policies of International Financial Centres may have an impact on tax policy in the UK but it is unlikely to be the most significant, factor. We are aware that there is an ongoing debate on how UK headline tax rates compare with others in the European Economic Area

and with Switzerland and we understand that the UK government is focusing on this issue.

24. The tax regimes of Ireland and Switzerland have sometimes been considered by businesses to be better aligned with the needs of international business and we are aware that work has been done that suggests that the UK headline tax rate and the complexity of the UK tax law creates an incentive for UK businesses to relocate elsewhere.

25. In its March 2008 report entitled “UK Business Tax: A Compelling Case for Change”, the Confederation of British Industry makes the case for tax reform in the UK. Charles Alexander, Chairman of the CBI Tax Task Force, said in that report: “Our corporate tax system has become too burdensome, too complex and too changeable to provide the right environment for British Businesses.” Further the Executive Summary of that report notes: “An uncompetitive tax system not only erodes the competitiveness of those businesses under its jurisdiction, it also risks driving economic activity offshore.” Bermuda, of course, lacks an international treaty network, has a limited infrastructure and is far removed from Europe. It does not offer the tax competition (nor does it seek to do so) that Ireland and Switzerland, amongst others, may present to the UK.

26. It must also be remembered that ABIR members are substantial employers in London with, in addition to 1,700 employees in Bermuda, some 2,300 employees in the UK. They are for the most part employed in UK subsidiary operations (regulated by the FSA) with all the staffing requirements and tax obligations that apply to any UK business.

***27. Are British Overseas Territories and Crown Dependencies well-regarded as Offshore Financial Centres, both in comparison to their peers and international standards?***

28. Bermuda is well respected by the international insurance sector and the regulatory community. Bermuda’s peers with regard to insurance are not other “offshore” financial centres, but the United States and the

United Kingdom. These three jurisdictions are the world's three largest commercial specialty insurance and reinsurance centres.

29. Of course international standards are regularly revised and the bar continues to be raised. There may be a time lag in adoption of those standards and there is also a time lag between the time the jurisdiction is evaluated and when a report is published.

30. However, Bermuda has consistently been applauded by international bodies, including the US Department of Treasury and the OECD, as a "cooperative" jurisdiction with regard to international financial transactions and is not considered a domicile where money laundering is a problem.

**31. *To what extent have Offshore Financial Centres ensured that they cannot be used in terrorist financing?***

32. Many "Offshore" Financial Centres (OFCs) have made significant progress in addressing both the issues of combating anti-money laundering (AML) and countering terrorist financing (CTF).

33. The IMF OFC Assessment program includes a detailed assessment of the AML/CFT regimes. In addition, the Financial Action Task Force (FAFT) is assessing and promoting AML/CFT measures. At its March 2005 meeting the Financial Stability Forum (FSF), in acknowledging the progress in the assessments of OFCs conducted by the IMF, withdrew its 2000 listing of OFCs.

34. By the end of 2003, 41 of the 44 contacted OFC jurisdictions had completed some form of an IMF assessment and in addition, at least 19 jurisdictions had received technical assistance as it relates to their AML/CFT regimes. OFC jurisdictions continue to be monitored as part of the ongoing IMF OFC assessment program which for the large part makes its findings public. As FAFT adopted its 40 recommendations with respect to AML in 2003 and additional special

recommendations with respect to terrorist financing in 2004, OFCs had moved to enact legislation and implement regimes that meet international best practices.

35. Bermuda is an International Financial Centre, distinguishable from OFC's and is in the midst of a comprehensive review and update of its AML/CFT program.

**36. *What are the implications for the policies of HM Treasury arising from Offshore Financial Centres?***

37. International Financial Centres like Bermuda's insurance market are complementary to the longer established UK insurance market. Each market works with each other to meet global market needs, each market has its own strengths.

38. The Lloyd's of London market particularly has made substantial improvements in efficiency and regulation that has improved its competitive position. It's global licensing network is unique and makes it well positioned to serve global insurance market needs. Bermuda owned companies now provide an estimated 25% of Lloyd's insurance capacity (2007 data). The Lloyd's model affords capital efficiency that is unique in the world. This capital efficiency (ability to operate with reduced capital because of an ability to rely on the Central Fund for financial support) makes it the most efficient insurance capital platform in the world, as cited by Professor Tim Congdon in his July 2007 research entitled "How Profitable is Lloyd's Underwriting?"

39. The regulatory reforms of the UK Financial Services Authority have also been recognized by insurance markets. The regulatory reforms have put the UK in the leadership again within the EU in the development of harmonized insurance regulatory standards that can be applied on a global basis thus creating certain regulatory efficiencies for global insurance groups.

40. As for tax policy, as previously noted, we refer to the recommendations of the Confederation of British Industry (UK Business Tax: a Compelling Case for Change, March 2008). Further the Executive Summary of that report

notes: “An uncompetitive tax system not only erodes the competitiveness of those businesses under its jurisdiction, it also risks driving economic activity offshore.”

**41. *What has been and is the extent and effect of double taxation treaty abuse within Offshore Financial Centres?***

42. Bermuda does not have a tax treaty with the United Kingdom, other than the tax information exchange agreement. Therefore there are no double taxation treaty problems with Bermuda.

**43. *To what extent do Offshore Financial Centres investigate businesses and individuals that appear to be evading UK taxation?***

44. Evading income taxes is illegal. Tax information exchange agreements are intended to assist tax authorities in overseeing compliance with tax law. Since Bermuda is a cooperative jurisdiction, and a British Overseas Territory, we believe there is an effective spirit of cooperation between the UK and Bermuda governments.

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