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The merits of a flexible approach

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January 2000 saw the birth of St. Lucia's International Financial Services Industry with the coming into force of seven pieces of legislation designed to make the jurisdiction a modern centre for carrying out international financial services at acceptable international standards. The first licenses to practice in the industry were issued in March 2000, so the centre did not start to operate until about June of that year. The past 18 months have therefore focused on establishing a solid foundation for the future development of the jurisdiction. This has been achieved by putting in place sound anti-money laundering legislation and enforcement procedures that meet the standards set out by the Financial Action Task Force, a strong regulatory department – the Financial Services Supervision Unit – headed by a Director of International Financial Services, and by implementing a licensing regime for service providers operating in the jurisdiction. As part of its strategic plan for the development of the industry, the government of St. Lucia has also given the highest priority to the sensitisation of practitioners to due diligence processes, programmes relating to the “know your customer” principle and anti-money laundering programmes. These measures have enabled St. Lucia to keep off the “blacklists” of the Financial Action Tasks Force.

The initial set of legislation that launched the jurisdiction includes: the Registered Agent and Trustee Licensing Act; the International Business Companies Act; the International Trust Act; the International Banks Act; the Mutual Funds Act, the International Insurance Act and the Money Laundering (Prevention) Act. The legislative package is innovative, flexible and designed to meet the ever-changing requirements of the international financial community.

The Registered Agent and Trustee Licensing Act provides that no person shall engage in the business of providing international financial services representation in St. Lucia unless that person is licensed by the government. Applicants must be professionals such as lawyers or accountants or must be qualified persons with relevant experience. They must also be of sound reputation and meet tests to ensure they are fit and proper. Once approved they must have in place adequate professional indemnity insurance and must submit annual audited financial statements to the Regulator.

One of the pillars of St. Lucia's international financial services packages is the International Business Companies Act. This piece of legislation offers a wide range of competitive advantages. International business companies are exempted from income taxes, duties and exchange control restrictions. However, an international business company may elect to pay income tax at the rate of 1% of its net profit, if this will better meet its specific requirements. Asset security is provided through the ability to transfer domicile. Confidentiality is provided by there being no requirement to file particulars of shareholders and directors or accounting information with the Registrar of International Business Companies. Whilst some names are not allowed without consent of the Minister of International Financial Services, which portfolio is presently held by the Prime Minister, a St. Lucian international business company can have the words “trust” and “fund” in its name.

A St. Lucian international business company offers ease of operation, maintenance and control. The company can re-acquire and re-issue its own shares; issue shares for consideration other than cash; have only one shareholder; have a single directorate; have corporate directors or shareholders; hold shareholders or directors meetings and maintain books of accounts, records and minutes outside of St. Lucia; and hold shareholders or directors meetings at the discretion of shareholders and directors. The International Business Companies Act provides for an international business company to be continued into and out of St. Lucia. The annual fee for the company is US\$300.00, which is pro rated per quarter. In the first 18 months of operations the jurisdiction was able to register over 350 international business companies.

The International Trust Act governs the establishment and operations of international trusts and is an amalgamation of the more progressive international trust legislation of various jurisdictions, combined with innovative provisions to form a totally unique product. The Act provides for the creation of several types of trust including purpose, charitable and spendthrift or protective trusts.

The International Banks Act provides for the establishment of international banks with a Class "A" general licence or a restricted Class "B" licence. This Act has a strong built-in regulatory framework to ensure that the banks licensed under it can be properly monitored to safeguard depositors' funds, ensure that the banks maintain acceptable accounting standards and satisfy expected capital requirements. The capital requirement for a Class "A" bank is US\$1,000,000.00 and for a Class "B" bank is US\$250,000.00. Banks must maintain a statutory deposit of US\$100,000.00 at an approved institution. The annual license fee for a Class "A" bank is US\$25,000.00 and for a Class "B" bank is US\$15,000.00. These fees are pro rated per quarter. During the year 2000, St. Lucia was able to attract one major offshore bank to the jurisdiction. In addition most of the international and local commercial banks that were operating on a domestic level opened up separate departments to provide international banking services to entities formed under the legislation.

The provisions governing the establishment of insurance companies are very attractive and the 18 months saw the establishment of six captive insurance companies with a number of pending applications. The International Mutual Funds Act provides for setting up of Public Funds and Private Funds in St. Lucia. Public funds must be licensed and must have a licensed fund administrator with the usual audit requirements for licensed entities. Private funds do not need to be licensed but must be registered with the Director of International Financial Services.

Perhaps the most innovative aspect of St. Lucia's international financial centre is the on-line international business companies registry, Pinnacle St. Lucia - "the world's only public on-line IBC registry". The on-line system enables a client to carry out a name search, make a name reservation, communicate incorporation instructions to a Registered Agent in St. Lucia, complete the incorporation application and view the particulars of a company incorporated on his behalf, from anywhere in the world using the Internet. The client can also request certificates and certified copies of documents from the Registry using the on-line system.

Registered Agents can incorporate international business companies on-line with relative ease, speed and efficiency. Security and privacy are achieved and ensured by the use of the best and latest technology in firewalls and data encryption transfer security.