Narrative Report on Cayman Islands

PART 1: NARRATIVE REPORT

Cayman Islands: history of a tax haven

Overview and background

Cayman is ranked fifth on the 2015 Financial Secrecy Index, based on a fairly high secrecy score of 65 and a large global scale weight for the size of offshore financial services, almost five percent of the world total. Cayman's secrecy score has improved substantially since we last published the FSI in 2013, based substantially on its decision to embrace some important global transparency initiatives[1].

The Cayman Islands, known locally just as "Cayman," is an Overseas Territory of the United Kingdom (see The British Connection). As such, it operates with considerable political and economic autonomy from the UK, but with a strong degree of support and oversight from the UK. This UK link provides a crucial reassurance for skittish owners of global financial assets that they have recourse to the British courts system, and that the UK will ensure the islands' political stability. The British Queen is Head of State, and her Privy Council is responsible for oversight of all laws emanating from the Cayman Parliament. The Cayman Governor, appointed by London, presides over the Cayman cabinet and appoints members of the judiciary and the police commissioner. The UK has responsibility for defence, foreign affairs, internal security, the police, the civil service and 'good governance'.

Formerly a rather lawless turntable for drugs smuggling and money laundering, Cayman has steadily moved upmarket and much of its business today comes from the world's biggest banks, corporations, hedge funds and other entities and arrangements. In general terms Cayman offers a low-tax, regulation-light environment for financial players from around the world, particularly Europe and the United States.

Cayman is now the world's sixth biggest banking centre, with banking assets worth US$1.4 trillion in June 2014; and it hosts over 11,000 mutual and other funds with a net asset value of $2.1 trillion. It has 200 banks; over 140 trust companies (managing numerous trusts and other arrangements); and over 95,000 registered companies. It is by far the world's leading domicile for hedge funds, and the second leading domicile for captive insurance companies. Financial services account for well over half of gross domestic product. The dangers that emanate from Cayman are now less about money laundering and criminal activity – though it hosts plenty of that embedded in its high-value activities – and increasingly about the risks these activities pose to global financial stability and public finances.

Rank: 5

Chart 1 - How Secretive? 65 Secrecy Score

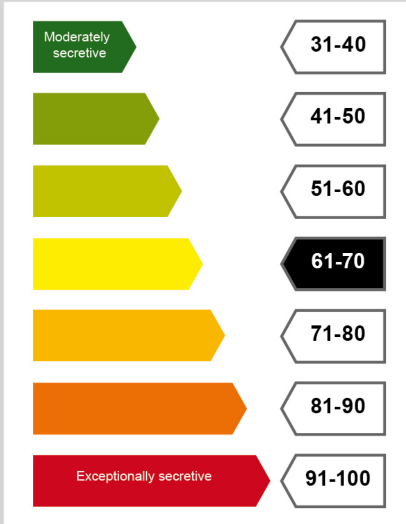
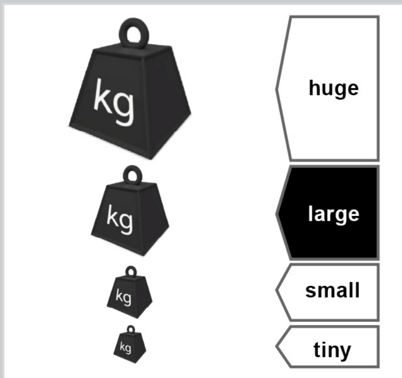


Chart 2 - How Big?



Cayman Islands accounts for slightly under 4.9 per cent of the global market for offshore financial services, making it a large player compared with other secrecy juridictions.

The ranking is based on a combination of its secrecy score and scale weighting.

Read more
→ Full data
→ Cayman Islands on TJN Blog
→ Full Methodology

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Despite some improvements to its secrecy regime, however, it still offers many harmful secrecy facilities including a law that can lead to prison terms not only for handing over information to unauthorised parties, but merely for *asking* for it (5(1)b).

The story: how Cayman became a tax haven

Early beginnings

Like many islands in the Caribbean, the Cayman Islands served as a minor "offshore" pirate sanctuary as early as the 18th Century: a tradition that is now celebrated annually. Yet it was not until the middle of the last century that the first seeds of the modern tax haven (or secrecy jurisdiction) were sown.

In the early 1950s Cayman was still a backwater dependency of British-ruled Jamaica. It had no telephone service, limited electricity supplies, no piped water, a heavy reliance on seaman's remittances, and no banks. According to the Cayman Financial Review, mosquitoes were sometimes thick enough in the air to suffocate cows.

But by the late 1950s, offshore activity was beginning to develop nearby, notably in Curaçao (see here for details) as a tax haven for U.S. corporations, and in the Bahamas, which the Chicago-based mobster Al Capone and his associates were using as an offshore centre for avoiding scrutiny by the U.S. authorities. An academic account explains:

> Caymanians began to consider a model based on Bermuda and the Bahamas' nascent tax and exchange control avoidance businesses, Curaçao's "ring-fenced" tax regime . . . and the tax structuring business in the Channel Islands and Europe generally.

Still, any change to the status quo faced stiff resistance from the existing merchant class: a letter from Britain's resident Commissioner in 1956 had estimated that of a population of 8300 people at the time there was a maximum potential electorate of 750 (women could not vote then) and the "the Dependency is in fact one rotten borough." (p 1310)
However, with the support of the British Administrator, Jack Rose, and the Cayman Vanguard Progressive party, Cayman pushed towards more autonomy from Jamaica. "Thus," wrote Tony Freyer and Andrew Morriss in their history of the Cayman offshore financial centre, "both a British official and local Caymanians collaborated on this initial step in establishing the OFC [Offshore Financial Centre.]"[2]

Strikingly, the promise of offshore financial service revenues seemed to have been a spur to Cayman's decision to separate from Jamaica in 1959:

> For Cayman to enter this business would require new legal infrastructure, however, and as Caymanians explicitly feared, legislation at the [Jamaican] Federation level could prevent it, should Cayman join the Federation.

The Companies Law of 1960

The Cayman Companies Law in 1960, which was written by a Jamaican law firm and passed "as written" by the UK Colonial Office (p1327), was very much the work of expatriate professionals – the start of a pattern of Cayman rubber-stamping legislation effectively written by offshore financial interests. Indeed, as Cayman official Benson Ebanks remarked at the time, the law was "the beginning . . . of a conscious effort to go after the off-shore business."

The new law freed companies and individuals from direct taxation, and it also allowed the possibility for companies to be separated from the individual so that owners could be shielded behind nominees. The combination of secrecy with zero taxes on corporations is a tax haven classic. Administrator Rose sold the plan to the politicians and the population by promising to earmark funds from company registration fees to the mosquito eradication programme. The law, which was revised several times in the intervening years, would prove to be successful on its own terms:

Year	1986	1996	2002	2014
No. of registered companies	16,791	37,919	64,495	95,000
No. of banks and trusts	456	575	-	210*
Assets $bn	202	507.8	800+	1,500*
No. of captive insurance cos	107	378	542	760
Mutual funds	0	1379	3648	11379

*banks only

Source: Tim Ridley, www.cimoney.com

Cayman's thoroughly British constitutional set up meant that City of London firms were immediately familiar with the legislation, and could quickly start creating strategies for tax avoidance and evasion. Cayman was still a British dependency, however, after its separation from Jamaica, and the Companies Law coincided with demands for stronger self-government. As Morriss and Freyer explain:

> "Cayman's challenge was to secure sufficient legal and fiscal autonomy from Britain while creating a climate of fiscal stability that could attract business and fund the infrastructure necessary for both business and development."

Over time, Britain's colonial powers to directly control economic development in Cayman gave way to a greater degree of constitutional autonomy - in contrast to France, whose post-colonial overseas territories remained integral parts of the French state without the ability to set up their own independent and 'offshore' legislative frameworks. British decolonisation more broadly provided a further push to Cayman, as one account explains:

> The post-war push for decolonization created the political space needed . . . by reducing British control and empowering interests within the British government which focused on the territories' economic sustainability rather than on the impact "tax havenry" might have on the British Treasury.[3]

The impact of 'tax havenry' on other countries, rich and poor, was of no concern - as Bank of England internal correspondence (p108) illustrates:

> "there is of course no objection to their providing bolt holes for non-residents."

Jamaica's independence from Britain in 1962 provided Cayman with an early boost, as many international business interests active in Jamaica shifted to Cayman, attracted by the continued bedrock of the ongoing link with Britain as the mother country, not to mention Cayman's more harmonious politics and race relations. The mosquito control programme had made the islands far more liveable and infrastructure was following in its wake: the electricity and phone networks were updgraded and the airport was expanded to accommodate jet aircraft.

The late 1960s: new personalities, new trust laws

According to Tim Ridley, a top Cayman official, it was a flurry of law-making in 1966 which really got the offshore sector off the ground: notably the Banks and Trust Companies Regulation Law (copied from the Bahamas); the Trusts Law (influenced by Liechtenstein trusts and British laws), and the Exchange Control Regulations Law. All built on the laissez-faire, zero-tax, secrecy-enhancing foundation of the 1960 companies law.

In the words of Sir Vassal Johnson (p150), appointed Cayman Financial Secretary in 1968, the core principles behind the offshore industry was

> "to afford international investors a legitimate expectation of a level of privacy . . . void of tax deductions in the Cayman Islands."

He later described secrecy as "the prime support of the country, of promoting the tax haven business."

A handful of other people are worth mentioning as architects of the early tax haven activity. One influential person who attended the launch of the Companies Act was **James MacDonald**, a Canadian lawyer who became a resident and began aggressively to promote Cayman's tax facilities overseas. From the 1960s onwards Canadian interests played an especially important early role in pushing an 'offshore' model. Royal Bank of Canada was one of the first banks in Cayman (alongside Barclays) with a retail presence; and Cayman's first trust company was the Bank of Nova Scotia Trust Company (Cayman). The Canadian Imperial Bank of Commerce (CIBC) which entered soon afterwards was also influential. Canadian banks in Cayman were particularly helpful to U.S. tax evaders, because U.S. banks were scrutinised more heavily by U.S. criminal, tax and regulatory authorities.

Another early architect of the Cayman offshore financial centre was an attorney called **William S. Walker**, who arrived in 1964 and found it to be "just like the Bahamas, but new and better." Walker helped draft the trust legislation which, as a UK official later said, "blatantly seeks to frustrate our own law for dealing with our own taxpayers." The laws targeted inheritance taxes in particular, contributing to the beginning of a fast rise in inequality in the UK and many other countries.

Walker, who was Cambridge-educated, and the Oxford-educated lawyer **John Maples** (later to become a British Conservative MP) were also instrumental in bringing British clients to Cayman. The Cayman Financial Review summarises:

> "between Walker and Maples, they had access to most of the influential business people in London."

Cayman steadily became more important in helping City of London businesses, and others, escape exchange control regulations – and it also was playing an increasing role in helping spur the explosive growth of the offshore, unregulated Eurodollar markets based out of London (see our UK report for more details, and the "Bigger Bang" chapter on Eurodollars in *Treasure Islands*). As one account put it (p1324),

> "Eurodollar transactions were 'behind much of the financial activity based on Grand Cayman.'
>
> . . . The appearance of the Euromarkets in currencies weakened domestic efforts at financial regulation throughout the world, creating space for offshore business strategies that had not existed under the tighter national control of banking possible when the Euromarket alternative was not available."

In 1967 another external event boosted Cayman when the Bahamas, then awash with U.S. Mob money, elected its first black premier, Lynden Pindling. Skittish financial capital owners, already worried about the Cuban threat nearby, and with rising racial tensions in the Bahamas and the prospect for full independence there looming (it came in 1973), began to shift their attention to Cayman, once again attracted by the reassuring bedrock of the protective, unthreatening link to London. **Milton Grundy**, another architect of Cayman's early trust legislation, explained the psychological impact of Pindling's election on mobile global capital: (p106)

> "It wasn't that Pindling said or did anything to damage the banks," he said, "it was just that he was black."

As Bahamas business moved in, a solidly British (plus Canadian and to a lesser extent U.S.) offshore sector started to attract a more pan-American clientèle, including Latin American elites. Top names in international law, such as Marshall Langer, began to promote the Caymans in the U.S. – helped by the fact that Miami is just one hour's flight away. The decision in 1970 to detach the Cayman currency from Jamaica's (and subsequently to peg it to the U.S. dollar in 1974) helped cement the burgeoning U.S. link.

A new constitution in 1972, entrenching the Privy Council in London as the final appeal court, solidified the British link but also gave Cayman yet more scope for self-governance, providing space to create its own offshore legislation with even less input or 'interference' from London. The authorities in London were only too happy to oblige.

Cayman settles down as a 'captured state'

Cayman's role as a state 'captured' by the offshore financial services was helped, as in many small tax havens, by the fact that there was little local understanding of the offshore sector, which reduced the potential for domestic democratic opposition or debate: a free rein for expatriate or offshore financial interests. One British government team (p107) described a "frightening lack of local expertise," which enabled skilled lawyers and accountants to get what they wanted without any queries from inexperienced local legislators. Financial Secretary Vassall Johnson said in 1973 that the islands did not have a single economist, and added: "we have written away to the United Nations to get one."

While democratic local debate on other legislation was often vigorous, the offshore laws were typically passed with "virtually no debate" (e.g. p41), as we have seen in numerous offshore centres. One common feature of this capture is what has been called, in Cayman's case, "the usual solidarity over measures to protect the financial industry" (p62) and what Michael Austin, one of the first accountants on Cayman, calls "a hugely friendly relationship between the government and the private sector." In essence, the government would create the laws that the private sector practitioners asked for. This is formalised in a "Private Sector Consultative Committee", a structure set up in the 1960s where private sector operators discuss the legislation they needed, and typically write it for Cayman – with relatively little substantive input from Cayman civil servants – and almost never any dissent from London (p120).

The offshore sector was also deliberately ring-fenced from turbulent domestic politics. Morriss and Freyer's political history of Cayman notes how Britain plays a part in this capture:

> "The checks-and-balances maintained through the British Governor and the Caymanian civil service removed much of the regulatory system from direct political pressures. Moreover, the independent judiciary led by the Chief Justice possessed autonomy, with final appellate review lodged, as it had been throughout colonial history, in the Privy Council" (p57)

Captured state becomes a free-for-all, and scandals erupt

In this permissive environment, it is no surprise that Cayman became something of a free-for-all. Drugs profits and other nefarious money flew in by the planeload; if there was enough cash, it would get a police escort to the bank. *Time* magazine in 1973 cited an investment banker who explained the islands' attraction succinctly: "We like the place because it is suitably devoid of law."

In this environment, a succession of major scandals began to surface. There are too many to describe here, but a few choice episodes give a flavour.

One concerns a Canadian banker, Jean Doucet, who set up the International Bank and began mailing out pamphlets about Cayman to tens of thousands of clients worldwide. Chris Johnson, a local accountant, wrote a qualified audit report on Doucet's businesses that he said was "basically telling the government to close the bank down" – but instead Johnson was fired. Doucet became the largest employer on the islands, threw lavish parties and must have felt untouchable. When his financial empire collapse in 1974 he fled to Monaco, from where he was later extradited to Cayman and convicted.

Other countries, noticing Cayman's increasing ability to undermine their own laws and tax systems, began to complain. Cayman's response was always essentially the same: robust denial of wrongdoing, and pointing the finger of blame elsewhere.

In 1976, U.S. authorities at Miami airport served a subpoena on Anthony Field, managing director of Cayman-based Castle Bank and Trust, on suspicion that he had been assisting U.S. clients evade taxes. Before a Florida Grand Jury Field he was ordered to divulge client details – and this was the first time that Cayman's secrecy, then based on common law, had been directly challenged by a major foreign power. Cayman responded with some extremely fast legal drafting to bolster his case, defiantly passing a new law, the *Confidential Relationships (Preservation) Law* under which people can go to jail not only for divulging information, but merely for *asking* for it. As one account puts it (p121)

> "it was a giant, fist-pumping Fuck You aimed squarely at U.S. law enforcement – and it became a cornerstone of Cayman's success."

(The law remains in place today: while there are 'exceptions' where it does not apply, it has had a chilling effect on potential exposures of malfeasance, and penalties can be as high as eight years in jail.)

The breaking open of the Bank of Credit and Commerce (BCCI,) in large part by New York District Attorney Robert Morgenthau and (now TJN senior adviser) Jack Blum in 1991, opened up what was could easily be argued was the most corrupt bank in global history. With its fingers in heroin trafficking, arms dealing to terrorist regimes, trafficking in nuclear materials, global-scale corruption, the bribery and subversion of governments and much more, BCCI concealed its crimes by splitting itself three ways: it had its headquarters in London, and its two main operating subsidiaries in Luxembourg and Cayman. This split evaded centralised regulation - and when the balloon went up -
allowed officials in Cayman and Luxembourg to point fingers elsewhere.

Cayman responds to scandal

As the U.S. and other countries increasingly sought to push back against Cayman's harmful secrecy offerings, Cayman responded with a three-pronged strategy.

The first was to mount a public relations campaign, which was already in full swing by the 1970s. Cayman has routinely described itself as a 'legitimate financial centre' and "not a tax haven." Yet the essential model remained intact: the attraction of foreign money, with plenty of secrecy and few questions asked. "What we sell is confidentiality; they can't match it," a banker said in 1981.

> *"'Finance', in the current era, is not just a sector of the economy; it is at the core of a new social settlement in which the fabric of our society and economy has been reworked."*

The second prong was to concede particular, usually narrow, exemptions to its secrecy. Typically, a scandal or outside pressure would result in incremental reforms, often tailored only to the particular concerns raised, and often designed to address (and then typically only in part) the concerns of the particular (usually powerful) country that had made the complaint. The signature of a narcotics agreement with the U.S. in 1984, then a tripartite U.S.-UK-Cayman Mutual Legal Assistance treaty in July 1986, were early steps in tackling some of the most outrageous drugs (and other) crimes committed via Caymans – though these still left doors open for criminals, particularly from outside the US and UK. Yet over time, Cayman has steadily moved to squeeze out drugs-related business from around the world, as it focused on more lucrative opportunities elsewhere.

The third prong, building on the second, was to move steadily upmarket while seeking to expand its offshore offerings, to become somewhat less reliant on secrecy, and to develop offshore financial regulatory approaches. The focus began to shift beyond private client business towards more institutional investors. A key offering was light-touch (or lax) financial regulation: another classic offshore offering. The setting up of the Cayman Islands Monetary Authority in the early 1990s, a response to the

BCCI scandal, was designed to help remove some of the taint; its independence from local politics has helped insulate it from periodic corruption scandals. Other legislation in the 1990s, notably on money-laundering, helped mitigate the taint from more egregious financial crimes. New legislation allowed foreign authorities to pierce Cayman's Confidential Relationships (Preservation) Law – though still only in limited circumstances.

Instead of drug dealers, Cayman increasingly began to court captive insurance companies, mutual funds, hedge funds and private equity, particularly from the late 1980s. Tax avoidance was increasingly pursued and marketed, as opposed to wholly illegal evasion. The unregulated Eurodollar markets, already long established, remained ripe for abusive activities, with Cayman offering all sorts of opportunities to escape exchange controls and other regulations. This is not to say that these high-society vehicles weren't rife with clients engaging in tax evasion and other misdemeanours – they were and still are – but this was less and less often the prime reason for selecting Cayman as the jurisdiction of choice.

The days of BCCI-styled wholesale criminal activity fuelled by Cayman's secrecy were giving way to something softer – but posing new kinds of dangers for the world.

Scandals return, but of a different nature

As the turn of the century approached, Cayman began to attract more business from U.S. and other banks seeking to evade regulatory controls and engage in risky off-balance sheet trades via Cayman-incorporated Structured Investment Vehicles (SIVs), for instance, which began to pop up like mushroom's away from regulators' (and the general public's) eyes.

Official justification for Cayman's see-no-evil approach was that supposedly 'sophisticated' investors can look after themselves and that 'the markets' always know best. Until the Mutual Funds Law of 1993, for example, there were no laws regulating funds. Eduardo d'Angelo Silva, president of the Cayman Islands Bankers Association, said that in 2000 while Cayman did have laws to curb criminality and money laundering the sectors were, in effect, 'self regulating.' Anthony Travers, later a chairman of the Cayman Islands Monetary authority, explained:

> "the only effective regulatory mechanism with respect to the sophisticated institutional business that Cayman attracted . . . was a *caveat emptor* [buyer beware] system. . . the responsibility of the Cayman government was managed by avoiding the concept of prudential regulation."

Alongside an unwillingness to apply financial regulation to curb risk-taking, Cayman took a similar approach to corporate governance. As described by Matthew Taber of offshore firm Appleby:

> "The Cayman Islands has never placed any limitations on residency, age or qualifications of directors. Instead, for many years, the industry ''self-regulated'', in that, if an investor was unhappy with the performance of management, they could vote with their feet and take their investment dollars down the street."

This willingness to give offshore investors free rein was a version of that generic offshore offering: "we won't steal your money – but we will turn a blind eye if you want to steal someone else's." This see-no-evil approach was hugely attractive to managers seeking to engage in corporate skulduggery, of course – and the implications for financial stability – in other countries – would soon enough become apparent.

The first real public sign of a major financial stability issue – though few noticed it at the time – concerned the U.S. hedge fund Long Term Capital Management (LCTM) whose collapse in 1998 under a $1.2 trillion swaps book threatened the financial stability of the U.S. economy. What was hardly noticed at the time – even in the landmark book about the episode, *When Genius Failed* – was that the swaps were all booked in a Cayman affiliate which, in the words of U.S. regulator Gary Gensler, “wasn’t much more than a P.O. box.” This was, however, but a warm-up for the Global Financial Crisis, which would be found out to have a significant Cayman contribution too.

In the 2000s a raft of other scandals, all linked to lax oversight, implicated Cayman.

The discovery that the fraudulent U.S. energy company Enron had used hundreds of unregulated Cayman subsidiaries to keep billions off its balance sheet caused severe market disruption for a while when the company collapsed in 2001 in a blaze of publicity and recriminations. The collapse the following year of the U.S. telecoms giant MCI/WorldCom was found to have involved the use of Cayman companies to hide losses. Hot on its heels came the Parmalat scandal, which involved a Cayman structure used to create a veil over fictitious assets that it supposedly held to offset huge liabilities elsewhere.

When the global financial crisis hit, Cayman was once again behind a lot of the big collapses. When Citigroup suddenly reported massive losses from its subprime activities, it turned out that it had set up SIVs, based in Cayman, to move the positions off its balance sheet and shield them from regulation – these were responsible for *two* separate taxpayer bailouts. When Bear Stearns collapsed, it turned out that two of the biggest hedge funds it had bailed out in 2007 were incorporated in Cayman. The collapse of Lehman brothers was found to have involved the parking of tens of billions in off-balance sheet toxic assets in Cayman.

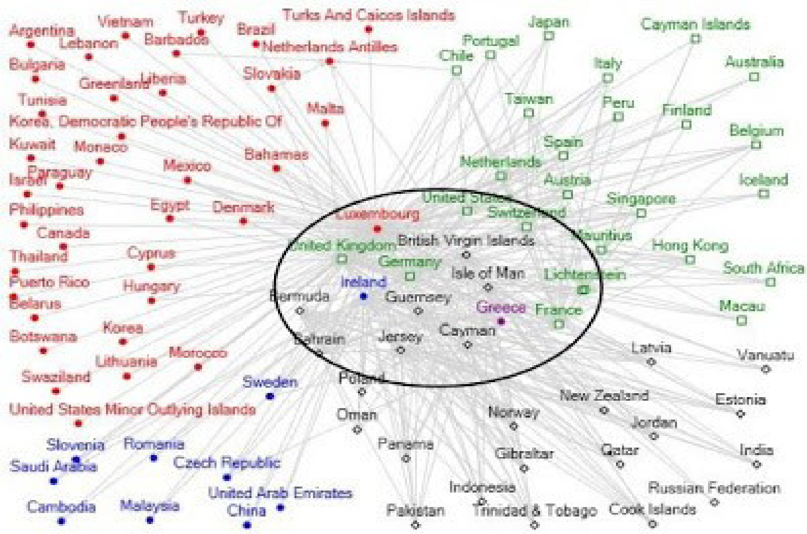
In all of these cases the Cayman Islands creamed off significant fees from these companies’ activities while the going was good, and when crisis came the losses were shouldered by others, elsewhere. As Gensler put it:

> “The U.S.'s largest banks each have somewhere between 2,000 and 3,000 legal entities around the globe. Some of them have hundreds of legal entities just in the Cayman Islands alone. . . . when a run starts on any part of an overseas affiliate or branch of a modern financial institution, risk comes crashing right back to our shores.”

Again, this has been core to Cayman’s business model.

What is more, after the ‘hot’ period of the crisis, studies suggest that Cayman, along with a number of other classic tax havens, remains core to the ‘contagion’ from subsequent crises, such as those emanating from Greece. An IMF report from 2010 is suggestive of the role the offshore system plays:

Figure 10. Cross-Border Exposures: Greece’s Interconnections



Sources: Lipper (Thomson Reuters); and Fund staff calculations.

Cayman officials have long responded to scandals such as these with what might be described as a fourth prong to the public relations strategy: deflecting blame elsewhere. In the case of BCCI, it was the Bank of England’s fault. In Parmalat’s case, Italian auditors were blamed. In the multiple U.S. scandals, it was the fault of U.S. regulators. Regulation in places like Delaware and the City of London is often worse than in Cayman, they say.

These defences contain a degree of truth. But ultimately, these crimes and misdemeanours take two (or more) to tango. The unmissable fact is that Cayman carries a joint share of the blame. And the fact that Cayman has *still* failed to put adequate safety mechanisms in place since these disasters, as explained below, shows that it continues, true to half a century of past form, to turn a blind eye to the problems.

Cayman today: a clean-up – but only front of house

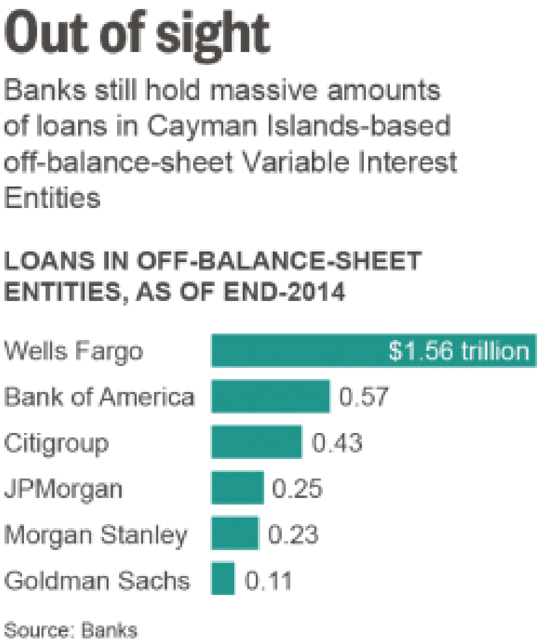
Every offshore financial centre strives to portray itself as a 'clean', cooperative and transparent jurisdiction – and Cayman is no exception. Its officials repeat this claim routinely and point, among other things, to Cayman's "white listing" by August bodies such as the OECD, the IMF and others. Cayman is undoubtedly 'cleaner' than some other secrecy jurisdictions, and its secrecy score of 65 in the 2015 FSI is both a significant improvement on 2013, and better than others on our list, including the Bahamas.

Since the global financial crisis, a flurry of new regional and global initiatives have emerged to tackle the problem of international financial secrecy, and Cayman's response has been, while mixed, better than many. At the time of writing, these initiatives come in four main areas.

- **The U.S. Foreign Account Tax Compliance Act (FATCA**: see our USA narrative report: this is primarily about the U.S. seeking information about its own taxpayers. Cayman is among 94 jurisdictions that have engaged on this, signing an Intergovernmental Agreement (for which it has got credit on the 2015 FSI).
- The **European Union Savings Tax Directive**, a mechanism for automatic information exchange among 43 European and affiliated countries, including Cayman which was one of relatively few classic tax havens to opt for the "automatic information exchange" option, giving it further transparency credits. Nevertheless, the EUSTD was very narrowly focused and full of loopholes and hardly impacted Cayman: when the EU began bringing in much stronger Amendments to the Directive in 2012, one account drawn from official documents summarises Cayman's approach as: "an aggressive strategy of negotiation and threats of litigation to secure the best terms it could with respect to the Directive." (p53) The EU STD is currently being replaced by a new global standard, the OECD's CRS: see below.
- The OECD's Common Reporting Standards (CRS), the emerging global standard of automatic information exchange. As of July 2015 Cayman was, to its credit, one of only 20 jurisdictions that had signed the agreement committing it to the initiative, with implementation due to begin in 2018, a year after Jersey and the BVI. Even so, information will only be exchanged with selected jurisdictions.
- Cayman has reacted less enthusiastically to pressure from the United Kingdom for improved transparency. From June 2013 the UK government began politely requesting its Overseas Territories and Crown Dependencies to create an open register of beneficial ownership for companies – something that would profoundly affect Cayman., which in response has publicly rejected the concept of a public registry. By August 2015 the British government had softened its stance, partly due to pressure from Cayman.

Yet despite these improvements, many things have not changed. When David Legge, publisher of the Cayman Compass, criticised widespread Cayman-based corruption in the wake of the giant (again Cayman-related) FIFA scandal, Premier Alden McLaughlin described it as 'treasonous' and Legge fled the country in June 2015, saying he feared for his safety. Bucket shops offering hardly-supervised corporate directorships for hire remain common, with some corporate directors 'overseeing' hundreds of companies, and facing many conflicts of interest. New legislation in 2014, responding to negative publicity, has addressed some of the worst concerns but in reality has left the most *laissez-faire* aspects in place.

At the time of writing (Sept 2015) it seems that risks associated with off-balance sheet behaviour of U.S. banks are again building up in Cayman. Reuters reports that just six U.S. banks are holding a total of US$3.3 trillion of securitised loans in off-balance sheet entities in Cayman, as this graph suggests



Though this is anecdotal, it does point to Cayman continuing to be an offshore jurisdiction of particular concern. The nature of the hazards created by the Cayman have changed, but they are no less important than before.

Read more:

- Full data for Cayman Islands
- Cayman Islands on TJN Blog
- Full Methodology
- History of the Cayman Islands, in six parts, Cayman Financial Review.
- Creating Cayman as an Offshore Financial Center: Structure & Strategy since 1960, Tony Freyer, Andrew P. Morriss, Arizona State Law Journal, 2013. While almost wholly uncritical and pro-tax haven, it nevertheless contains a wealth of interesting data, analysis and original source material.
- Treasure Islands, particularly pp103-121 in the UK edition, which provides much political context, and explores some of the subtleties of the relationship with Britain.
- The UK narrative report provides background about the Overseas Territories and Crown Dependencies.
- The Cayman database report for our index provides more on the secrecy jurisdiction.

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[1] There have also been some methodological adjustments to the index, so the scores aren't fully comparable.

[2] Morriss' and Freyer's history is fascinating but extremely pro-Cayman: it should be noted that Morriss has reportedly served as a consultant to Cayman Finance. Morriss was also the co-author of a subsequent paper attacking the Tax Justice Network, discussed here.

[3] See *Creating Cayman as an Offshore Financial Center: Structure & Strategy since 1960*, Tony Freyer, Andrew P. Morriss, Arizona State Law tJournal, 2013, p4.

PART 2: CAYMAN ISLANDS'S SECRECY SCORE

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Cayman Islands

1 *Banking Secrecy: Does the jurisdiction have banking secrecy?*
Cayman Islands partly curtails banking secrecy

2 *Trust and Foundations Register: Is there a public register of trusts/foundations, or are trusts/foundations prevented?*
Cayman Islands partly discloses or prevents trusts and private foundations

3 *Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies?*
Cayman Islands does not maintain company ownership details in official records

KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Cayman Islands

4 *Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for free, or for less than US$10/€10?*
Cayman Islands does not require that company ownership details are publicly available online

5 *Public Company Accounts: Does the relevant authority require that company accounts are made available for inspection by anyone for free, or for less than US$10/€10?*
Cayman Islands does not require that company accounts be available on public record

6 *Country-by-Country Reporting: Are all companies required to publish country-by-country financial reports?*
Cayman Islands does not require public country-by-country financial reporting by companies

EFFICIENCY OF TAX AND FINANCIAL REGULATION – Cayman Islands

7 *Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents?*
Cayman Islands does not require resident paying agents to tell the domestic tax authorities about payments to non-residents

8 *Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information efficiently, and is there a large taxpayer unit?*
Cayman Islands does not use appropriate tools for efficiently analysing tax related information

9 *Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments?*
Cayman Islands does not avoid promoting tax evasion via a tax credit system

10 *Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses?*
Cayman Islands does allow harmful legal vehicles

INTERNATIONAL STANDARDS AND COOPERATION – Cayman Islands

11 *Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations?*
Cayman Islands partly complies with international anti-money laundering standards

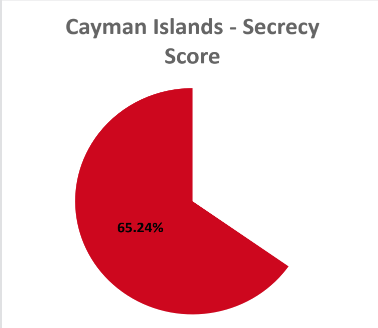
12 *Automatic Information Exchange: Does the jurisdiction participate fully in multilateral Automatic Information Exchange via the Common Reporting Standard?*
Cayman Islands participates fully in Automatic Information Exchange

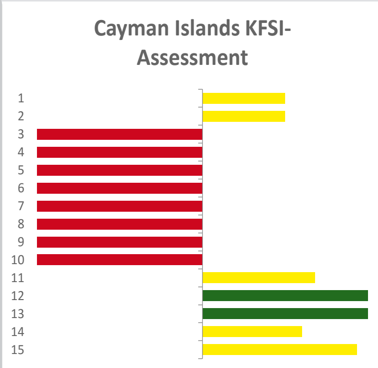
13 *Bilateral Treaties: Does the jurisdiction have at least 53 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD convention?*
As of 31 May, 2015, Cayman Islands had at least 53 bilateral tax information sharing agreements complying with basic OECD requirements

14 *International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?*
Cayman Islands has ratified less than five of the most relevant international treaties relating to financial transparency

15 *International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?*
Cayman Islands partly cooperates with other states on money laundering and other criminal issues

Secrecy Score





Notes and Sources

The ranking is based on a combination of its secrecy score and scale weighting (click here to see our full methodology).

The secrecy score of 65 per cent for Cayman Islands has been computed by assessing its performance on 15 Key Financial Secrecy Indicators (KFSI), listed on the right. Each KFSI is explained in more detail, here.

Green indicates full compliance on the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); and yellow indicates partial compliance.

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 31.12.2014 (with the exception of KFSI 13 for which the cut-off date is 31.05.2015).

Full data on Cayman Islands is available here: http://www.financialsecrecyindex.com/database/menu.xml

All background data for all countries can be found on the Financial Secrecy Index website: http://www.financialsecrecyindex.com