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The Future for Offshore Financial Centres

By L Burke Files, Tarsus Trust Company, Nevis (01/09/2010)

The economics of offshore financial centres (OFCs) are shaped by classical competitive advantage. The OFC banks have been more innovative, and the OFC's laws more flexible. OFCs were never low or no tax jurisdictions. When you pay 35 to 300 per cent import duty, you know you're not in a no tax jurisdiction; OFCs simply tax differently than other jurisdictions. These differences allow an attractive competitive financial centre to emerge.

In traditional banking and finance, these differences are disappearing. Consortia of powerful and less competitive nations are forcing OFCs to adopt their 'world class' regulations, saddling the OFCs clients with onerous compliance measures while disallowing many advantageous features of their structure. This places increased economic friction on the OFC models to make them less competitive. I know we're all aware of this - but it needs to be restated as a foundation.

Differentiation is the key.

What are the sources of creative economic disruption? The first is the Internet.

Business on the Internet

Internet businesses are subject to a host of difficulties when they deal internationally. Can a Cuban buy items from an American hosted site that will be shipped from Columbia to Cuba? Answer: No, violation of the OFAC embargo.

Can an EU company allow free downloads of computer software to sites in Myanmar? Answer: It depends. Each and every program and its upgrades or modification must get a separate approval from the EU.

The opportunity is clear. There is a need for an Internet based business infrastructure that is located in an OFC, and that infrastructure will provide the OFC a competitive advantage. Hurdles that need to be cleared include reliable connectivity, server farms, banking, and technology support. Anything less than state-of-the-art services in any of these areas will block Internet based businesses from migrating to a given OFC jurisdiction.

Intellectual Property

Why does it average six years in either the US or EU to litigate intellectual property disputes? Answer: Inefficient courts. The Dutch have courts in their legal system that hear nothing but IP cases, and seek resolution in six to eight weeks -- not years. They have accomplished this through enabling legislation as well as specialisation. They are specialising in IP.

Eighty-five per cent of the value in modern companies is intangible. OFCs need to work with the IP community to determine what differentiation will make them an attractive destination for the domicile of IP.

Medicine

Why does the average treatment for Breast Cancer in the US cost US\$50,000 while the same treatment, performed by MDs trained in the same hospitals, using the same equipment and medicine, cost US\$17,000 in Mexico and US\$11,000 in India? And in the EU, you can not get the treatment without a substantial wait. Answer: In the US there is too much regulation and litigation. In the EU there is rationing of access to tests and medical equipment.

On a darker note, the FDA has just voted 12-1 to revoke the approval of Avastin® for advanced breast cancer treatment. Their decision was based upon "cost effectiveness". If revoked, insurance companies are unlikely to authorise its use, and public medical

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insurance is sure not to authorise its use. It's cheaper overall for the government for the government's medical system to let you die.

OFCs already have many medical schools, why not pass enabling legislation to aid in establishing the OFC as a destination for treatment? Medical tourism is not just for elective surgery, its future is in corrective healing. Medical insurance can be offered for those who can afford it. Insurance that lets the doctor and patient choose the course of medical treatment, not a party whose financial interest is in your death (a potent moral hazard). Exploring new treatments or insurance options that are not acceptable in other locations is not much different than financial products not acceptable in another jurisdiction. Help create the jurisdictional differentiation.

Education

All colleges and universities use the same accreditation process; why is a Harvard degree more valuable than any other? Answer: The difference is in the quality of social networking available, not in the quality of the education. If you are getting an online degree, and do not wish to be part of the social network, does it matter where you go? This is an example of how the Internet is changing the world and creating new opportunities. Every OFC should be working to establish online colleges and universities, and be recruiting top-notch talent and students. Seek accreditation at every turn, and produce excellent students for the world.

An OFC prospers by differentiating itself from its competition, but the barriers, both physical and economical, that used to permit OFCs to exist are quietly being eroded by the Internet. The Internet will continue to creatively destroy through the reduction of economic friction middlemen, wholesalers, VARs, and banks as the sole payment processors. The OFC will need to evolve into an OOC, an Offshore Opportunity Center, and exploit the opportunities created by countries too mired in their own regulations and legislation or witness their demise. The OOC will require clear rules of commerce that are efficiently enforced, and must remain flexible and nimble to gain advantage from (rather than fight) the emerging world of Internet commerce.

Since, the OFCs have chosen not to form their own consortium to fend off forced financial legislation imposed by the developed nations, they are left with a battle of legal attrition - which they are losing. On the other hand, they can recognise that there are few creative borders to their competitive advantage, and use their maneuverability to exploit that advantage. It's simply a choice.