



TRUST SERVICES, S.A.

30th
Anniversary
1981-2011

*Professional Business Services to
Firms, Institutions and Individuals.
Small by Design. Built on Expertise.*

OFFSHORE PILOT QUARTERLY

Commentary on Matters Offshore

CorporateINTL
GLOBAL AWARDS
WINNER 2014

December, 2014.

*Volume 17
Number 4*

Dwarfs and Dictators

I wrote about Brazil's criticism of Israel's actions against Palestinians when hostilities broke out between them in July of this year in my September Private Client Adviser blog ("Small Talk") and I mentioned how Brazil thought that the force used was "disproportionate". Israel's response to the use of that adjective was to describe South America's largest country as "a diplomatic dwarf". Politics and countries aside it would not surprise me if that adjective is increasingly applied well beyond the Middle East - and not diplomatically - as the fine mess that is the transparency policy now espoused by developed nations progresses. Hopefully its shelf life will not be too long ("the elephant in the room" has, thankfully, almost left it, as has the 800-pound gorilla), but meanwhile we still have people "reaching out" to us; we're told about "the prism of opportunity" and those who like "crystal balling"; presently there is a rash of references to "pivotal" by both politicians and businessmen (I only hope that the rash will clear up quickly). It is much like the tendency to avoid original thought and substitute trite words and phrases, condemned by George Orwell in his essay "Politics and the English Language" when he wrote about "gumming together long strips of words which have already been set in order by someone else, and making the results presentable by sheer humbug".

On the issue of humbug, members of Britain's House of Lords have fallen foul of the heightened due diligence now being applied by banks in

relation to their customers. Cries of being treated like "deposed dictators or political pariahs" have echoed in the second chamber of Parliament in the Palace of Westminster. Treasury Minister Lord Deighton has said that when members try to open accounts the banks, in relation to due diligence, were acting "disproportionately" in their case. Currently, the parliamentarians are not classed as politically dependent persons - although new emerging global standards will change all that. Lord Deighton referred to box-ticking exercises on the part of the banks; but this robotic approach, devoid of judgement, is not confined to Britain nor banking.

It is regrettable but true that when applying due diligence procedures, most compliance departments - connected with banking or not - bounce their thoughts no further than the boundaries of the polyhedron on the page before them; venturing beyond and allowing common sense to intrude is a no-go area. 2015 is the Year of the Sheep in China; they've been bleating in compliance departments for years now. Quantitative easing is one thing; bankers appear to have embarked on a staff qualitative easing programme years ago.

This failure to exercise judgement has only added to the burden of conducting business which is already stifled with ever-lengthening lists of requirements to comply with tax, terrorism and transparency policies. And whilst a whole compliance industry has been created to address these concerns, it is not too indelicate to ask: what



is the general level of skill of those enforcing the rules? You can tell me of his or her academic degree; but first tell me about his or her degree of experience.

Last month celebrations took place in Germany as it was the 25th anniversary of the fall of the Berlin Wall; that same month leaders representing 85 per cent of the world's gross domestic product, 75 per cent of the world's trade, and 65 per cent of the world's population gathered in Brisbane, Australia. This mix of 20 of the world's largest, advanced and emerging economies, collectively known as the G20, want to "knock down the walls of corporate secrecy" spurred on by the drive in Europe towards public disclosure of the most sensitive information about companies, trusts and foundations.

But no serious thought, however, has been given to the unintended, and damaging, consequences this can bring. Certainly, some of the G20 leaders live in countries where such steps would especially expose people to extortion, kidnapping and perhaps death; citizens in at least 8 of those countries are, in my view, particularly vulnerable. The British prime minister says that "the more eyes that look at this information, the more accurate it will be". And I say the more dangerous it will be as well.

The Bermuda Angle vs. Triangle

Can you really envisage the United States of America falling into line with such ideas? Bermuda has told the British prime minister that when Britain, the US and Canada introduce a public register it will follow suit; the Atlantic island is the richest British overseas territory and I happen to think that it's on safe ground with this argument. But I expect the end result will be a patchwork of truly transparent countries, enticing some business to move elsewhere. On this very point, we now see that Britain and 50 other countries that are members of the Organisation for Economic Co-operation and Development have signed an agreement on a new standard for automatic exchange of information, known as the Common Reporting Standard. But when will such reporting become common in the US, the OECD's flag ship?

The invisible man of business is still safe in Delaware which earns more than US\$860 million in revenue from corporate filings and taxes that provide an estimated 25 per cent of its budget.

I understand the need to be able to determine and deter criminal activity in all its various forms; it is just the methods by which this is to be achieved that I question. Revealing tax evaders is right, but what costs should be brought to bear on the finance industry? America's FATCA, familiar immediately by its acronym, has caused utter confusion and still the ground hasn't settled under it. Industry leaders have reminded the US Congress and the Executive Branch that it is not for the private sector to assume the role of tax police: this outsourcing is outrageous.

The latest to complain has been the Securities Industry and Financial Markets Association which is a US industry trade group representing securities firms, banks, and asset management companies, all of which object to being "required to step into the shoes of the government" by assuming a reporting, collection and enforcement role. A survey by SIFMA shows that financial firms have spent more than US\$1 billion during 2013 and (so far) 2014 on compliance efforts. It points out that this is only a fraction of worldwide expenditure by non-US entities (mainly banks). By one estimate this suggests that the final cost of the exercise could reach tens of billions of US dollars, which would be not far off the US Internal Revenue Service's current US\$11 billion annual budget. According to *Economia*, the British Chartered Accountants publication, a survey has shown that over half of financial organisations believe they will exceed their budget to meet the new rules under FATCA. Just under 30 per cent expect to spend between US\$100,000 and US\$1 million in 2015.

SIFMA also found that 67 per cent of finance executives surveyed saw the complexity of FATCA requirements as the biggest business challenge to being compliant. And just to add to the confusion for a compliance officer (who may have negligible practical knowledge of commercial operations in general), at the moment it appears that a majority of those executives involved directly in finance are



uncertain as to which of their departments, and who in them, should be responsible for FATCA compliance; some thought the Chief Financial Officer (24 per cent), others the Chief Risk Officer (22 per cent) with just 13 per cent opting for the Chief Compliance Officer. But 27 per cent – the highest percentage – freely admitted that they just didn't know who was responsible.

Now that the Republican party holds sway in the US congress and senate, it is possible that the architecture of FATCA might change. Republicans argue that the US Treasury had no authority to enter into the Inter-governmental Agreements that underpin FATCA and which are vital to its effectiveness.

Speaking of effectiveness. Does America's IRS have the capacity to enforce FATCA? It will need a large increase in its budget and the agency has been described as being in crisis. Perhaps some 600,000 foreign financial institutions need to be recorded in a system which has had 20 hard-drives in 82 computers tracking e-mails crash; the Commissioner speaks of information technology being 15 years old, on average. Under its current budget the agency can hire only one new employee for every five it loses; the Republicans are planning to cut the budget.

Herrings and Hot Dogs

Ordinarily when one speaks of empires, ancient Rome often comes to mind as an example. Monarchs and emperors, however, are not necessarily part of them and when Winston Churchill argued that "The empires of the future are empires of the mind" I am sure he had neither of these titles in his thoughts. Certainly, empires in the strict, traditional sense were rightly thought to span centuries and yet, still, they are never permanent whatever form they may take and John Milton, the seventeenth-century English poet, rightly refers to those "hatching vain empires" in his epic poem in blank verse "Paradise Lost". I have quoted Percy Bysshe Shelley before whose poetry underscores this, especially when he writes of the ruler Ozymandias, a mystical figure probably

inspired by Egypt's history, whose centuries-old monument is found to be slowly disintegrating:

"... Round the decay
Of that colossal Wreck, boundless and bare
The lone and level sands stretch far away."

The Byzantine empire survived for 1,123 years against which Britain's former empire pales into insignificance and which puts into focus, by comparison, the relative fleeting presence of today's solitary superpower which some argue bears a close resemblance, if only in influence and strength, to an empire of old. One last example can even put Byzantium in its place: Shelley's Egypt. The pharaohs ruled for nearly 3000 years. When Cleopatra VII committed suicide in Alexandria in 30 BC, Tutankhamun (some of whose magnificent treasures I have seen in Cairo's museum) had already been dead 13 centuries.

By the end of the last century the description "empire" was a derogatory word – historically, it had always been one for the US – and French writers in the 1960s, in Churchillian terms, wrote of a new American empire seeking cerebral, rather than physical, conquest through cultural subversion and not arms, with the aid of Hollywood films. In 1950 Walter Wanger, the producer of Stagecoach, a western film classic, described Hollywood as a "celluloid Athens" carrying American values across a world that he believed was not even aware of it. About this time, of course, Britain was dealing with the remnants of its empire (see my November Latin Letter column "Crumbling Empires and Dreams"), and as long ago as the 1930s George Orwell had written that if Britain lost its empire the end result would be "a cold and unimportant island where we would all have to work very hard and live mainly on herrings and potatoes."

Hollywood has had free rein in projecting American ideology on screens across the western world and shaping, to a very large degree, political thinking along the way. Celluloid has also been wonderful for perpetuating national myths. English national identity, for instance, was created mainly by the



endless conflicts with the French and the triumphs of brave Englishmen; less highlighted is the fact that the Hundred Years War ended in triumph for the French with the loss of English control of royal lands in France. During Scotland's recent referendum on independence, nationalists used inaccurate former Hollywood blockbusters about Scotland to substitute for proper historical fact. Kilts and claymores substituted for substance.

Are we about to see the rise of the Chinese eastern, as opposed to the American western? The classic role played by John Wayne was on the wane a long while ago. China's film industry would seem to be where America's was in the 1930s; however, where power has been in the hands of the studios in Hollywood, it is the state in China with control and it wants to project two images: one for domestic consumption and the other for export to the world; Chinese patriotism, not American, will be the emphasis. Hollywood in the past saw little difference between the two markets. Didn't everyone want to wear a baseball cap and chew gum?

China has its own idea of what it wants to plant in everybody's mind and it is well on the way to having the economic clout to make its mark. It has the largest film studio in the world and in 2013 it replaced Japan to become the number two film market in the world. Rob Cain, a film producer involved in co-productions between the US and

China, expects the latter to have 60,000 domestic screens in 10 to 15 years.

In 1823 the Monroe Doctrine was a cornerstone of US foreign policy towards Latin American countries. It declared that any further efforts by European nations to interfere with states in North or South America would be seen as acts of aggression that would call for US intervention. In the twentieth century there was a Marilyn Monroe Doctrine, this one in the shape of a Hollywood sex symbol (born Norma Jeane Mortenson) who also once enjoyed the ear of an American president, and who served as a symbol (one of many) of the set of beliefs America wished to saturate the world with.

Nil desperandum. Britain which lost an empire is far from being an unimportant island and the choice of food is not between herrings and potatoes, no matter how many visitors may think that the fare on menus is often dull. The American president assures us he is neither a king nor an emperor, but whether you construe his country as an empire or not, America will retain its importance too; and speaking of food, we're a long way from spring rolls replacing hot dogs at the food counter in cinemas.

Celluloid or otherwise, however, we all know what eventually happened to ancient Athens; the curtain came down on it. Goodbye Norma Jeane; but not just yet.



Offshore Pilot Quarterly (independent writing for independent thinkers) has been published since 1997 by Trust Services, S. A. which is the British face of trust business in Panama where it is licensed under the fiduciary laws. It is written by Derek Sambrook, our Managing Director, who has been Treasurer of the British Chamber of Commerce Panama, a member of the former Latin America and Caribbean Banking Commission as well as an offshore banking, trust company and insurance regulator. He has over 45 years private and public sector experience in the financial services industry about which he has written extensively and our website provides a broad range of related essays including his Latin Letter column which appears in every issue of Offshore Investment, a British professional journal published since 1986. You can also read his Latin American blog on www.privateclientadviser.co.uk.

Engaging an offshore representative is an important decision and we advise all persons to seek appropriate legal and tax advice from professionals licensed to render such advice in the appropriate jurisdiction before making offshore commitments.

Local Bankers
Banco Panameño de la Vivienda, S.A.

Auditors
Deloitte

©2014
Trust Services, S.A.
All Rights Reserved