

SAVING THE DREAM FOR ALL

*Prepared Remarks of
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*Thursday, 19th November, 2015
9:00 a.m.
Eileene L. Parsons Auditorium*

Ladies and gentlemen

Welcome to our 2nd MTR forum for 2015.

As always, we at the Commission are grateful for the opportunity and privilege of engaging and having meaningful dialogue with you on matters of significant importance to the continual well-being of the BVI financial services industry.

I have a confession to make. When I was preparing my remarks for this forum, I was tempted to re-read my address *The Urgency of Now*, presented at the May 2014 MTR forum.

I was tempted to re-read it not because I thought that it fell on deaf ears, but because many, if not all, of the issues and solutions I articulated then are still relevant and urgent today.

But I won't re-read that speech today. Instead, I would encourage you to do so as a reminder of what we need to do now:

- Of the urgency we face in moving the BVI financial services industry forward on a more sustainable path towards prosperity and growth;
- Of the need to improve transparency while protecting against undue invasions of privacy;
- Of the need to refresh, revitalise and reengineer the BVI financial services model to ensure its compliance and compatibility with the heightened international standards against which our financial services industry's modalities, practices, protocols and programmes will be measured in 2017; and
- Of the need to demonstrate through effective implementation of those standards that the BVI is a credible, cooperative and compliant jurisdiction capable of responding to legitimate requests for exchange of information in criminal law enforcement, taxation and regulatory matters.

I also urge you to re-read the speech to remind yourselves of how high the risks are of taking too little action – and that the time for action is now.

I know that our industry has withstood a hostile geopolitical international environment over many years. It has faced up well to challenges and pressures both external and internal.

But the past is only a guide to the future, not a guarantee.

When I think about the issues that must be addressed urgently today if we are to continue to thrive and flourish as an international financial centre, I find myself increasingly reminded of a poem called “The Embattled Dream” by the African-American poet Langston Hughes.

*There is a dream in the land
With its back against the wall
By muddled names and strange
Sometimes the dream is called.*

*There are those who claim
This dream for theirs alone—
A sin for which we know
They must atone.*

*Unless shared in common
Like sunlight and like air,
The dream will die for lack
Of substance anywhere.*

*The dream knows no frontier or tongue,
The dream, no class or race.
The dream cannot be kept secure
In any one locked place.*

*This dream today embattled,
With its back against the wall—
To save the dream for one
It must be saved for all.*

The BVI’s dream of being a resilient and vibrant top-tier international financial services centre is one we all share. Yes today, it is embattled and at risk more than ever.

Urgent action is needed not just to retool the model but to ensure that the BVI model evolves, adapts and adjusts to capture new opportunities so that the dream can continue.

This action must be taken not just by a few of us but by us all. If we do not act together, we will suffer together. As Langston Hughes says, “*To save the dream for one / It must be saved for all.*”

At its most obvious, the urgency of now is to ensure both individually and collectively that the BVI remains a compliant, transparent, cooperative, competitive, vibrant and clean financial services centre.

Inaction now must be considered an unforgiveable gamble that imperils the BVI's dream and puts at risk the economic fortunes of yourself, your fellow industry practitioners and the territory as a whole.

Today as always, the challenge we face both on a firm-by-firm basis and as a jurisdiction is to assess the issues and consider the appropriateness of our response – to prepare thoroughly. We cannot allow the greatest threat to our long-term success to be our own failure to prepare properly for the future.

If we prepare as we should, we can ensure that while it may be bruised and battered, the dream is kept alive.

So each of us must look into the mirror and ask ourselves, *“What am I willing to do to build a stronger, more resilient and more vibrant industry, an industry better prepared to compete, to prosper and to prevail in the years ahead?”*

As a first step, we must recognise that there are still fractures in the strong foundation we have built over the years. If we do not attend to these with immediate dispatch and with all our energies, they will reverse the dramatic progress we have made as a top international financial centre.

Now, more than ever, we are all required to act decisively and pragmatically to keep moving the BVI financial services industry forward.

And we all share the responsibility of ensuring that in this less hospitable environment for international financial centres, the future of our territory as an international financial centre is not threatened or placed at risk.

Navigating the constantly changing and evolving regulatory landscape continues to be an arduous challenge for governments, industry practitioners and regulators around the world.

Here in the BVI, we have not been immune from the challenges, nor can we expect to be. On the contrary, we can expect the constant scrutiny of, and pressures on, the activities of international financial centres such as the BVI to get more intense in the years ahead.

The regulatory environment will become yet more demanding in terms of the initiatives we will face, the peer review evaluations we will have to endure and the details of what is expected of us.

One aspect of the BVI dream has long been to become a smart financial services centre:

- A jurisdiction that marries compliance with international standards and innovation;
- One which utilises business-friendly industry legislation and harnesses information technology to increase efficiency, effectiveness, productivity and performance;
- Which subscribes to high standards and is committed to doing what is right, and doing so transparently and responsibly; and
- Which will not provide a safe harbour for the ethically challenged.

The Commission remains fully committed to playing its part in building this dream and in consolidating the BVI as a stable, credible and trustworthy financial centre for transacting legitimate cross-border financial services business.

We believe that effective regulation attracts the type of business we wish to see conducted from our shores. So as a regulator, we seek to:

- Apply sound but purposeful regulation which is sensitive and appropriate to the associated risks;
- Be aware of and apply the best international standards in a manner appropriate to the circumstances of the domestic market;
- Calibrate responses, interventions and enforcement according to the risk profile, culture and impact of individual licensees; and
- Focus more on outcomes than on prescriptive checklists, implementing our supervisory and regulatory modalities in a risk-based way that minimises onerous compliance burdens.

The Commission also believes that how the jurisdiction navigates the challenging international financial services landscape depends on us all.

We believe that we achieve more working collaboratively and cooperatively together than by working in isolation on our own or in silos. That each one of us in the industry shares a responsibility for preserving and safeguarding the competitiveness, resilience, integrity and reputation of the financial services sector upon which the fortunes of the BVI depend.

I am concerned that, in the face of ongoing global rebalancing initiatives, if we are not collaborative, the BVI risks becoming collateral damage.

Unless we have a joined up, “all hands on deck” approach, we will be unable to adapt, evolve and remain a relevant global player in cross-border financial services.

So we must find the courage to do what is right, not what is expedient or what we have always done.

The Commission seeks to play its part by pursuing a grown-up and facilitative regulatory approach.

In the future, we will continue to be relatively conservative, tending to be early rather than late adopters of new and relevant standards.

And we will continue to place a great deal of importance on international standards because these have become the language of jurisdictions, regulators, the standard-setting supranatural bodies and organisations and the international media.

If the BVI is to continue to be a relevant player in the international financial services industry, we must all constantly be alert to risks and be responsive to the continuing external expectations as regards reputation and regulatory responsibility. Our jurisdiction will have to learn to adapt and evolve better in line with the latest market developments.

I am fully aware that there exists among your ranks a considerable amount of jitteriness and anxiety about the future. You are worried about the resilience of the industry in the face of this incessant and relentless wave of external pressure. Some of you feel we are moving too fast to comply with international demands.

I wish to reassure you that the ability to deal successfully with changing, sometimes adverse circumstances is part and parcel of the resilience and nimbleness which are the very DNA of international financial centres.

We must remain alive and alert to the impact of the reforms – but we also cannot be on the wrong side of the argument around standards of control and transparency.

In this respect, maintaining and safeguarding our hard won, good reputation is of paramount importance. Without it, we cannot begin to gain positive traction with, and endorsement from, the international regulatory and law enforcement authorities, the supranatural standards-setting bodies, the risk management departments of international financial institutions and even the corridors of power in Whitehall and the like.

This good reputation should not be tainted by lapses and failure to prevent, deter and properly assess risks, or by indifference, inertia, ignorance or ineptitude on the part of anyone associated with the BVI financial services industry.

As an industry, we cannot merely treat symptoms without identifying and undertaking the pathology. We must understand, appreciate and come to grips with the root causes of whatever assails us. We must recognise the concerns of the so-called “*enemies of offshore*” and deal with them responsibly and effectively.

While many individual firms have taken major steps to address issues of governance, controls, transparency and the intermittent abuse of our corporate structures, we cannot pretend these problems have been universally addressed. Those that continue to leave them unaddressed are storing up trouble not only for themselves but for the rest. This is not just dangerous but selfish.

As threats and technologies evolve, policy makers, industry practitioners, law enforcement officers and regulators here in the BVI must always be agile to confront them. Our regulated community must consistently enhance risk governance systems to facilitate effective management and mitigation of risks.

If this does not happen, individual businesses will suffer first, followed by our jurisdiction as a whole. So you must play your part in ensuring that government, industry, law enforcement and the regulator act in concert to do all that is needed. When we cooperate, every individual firm benefits. *“To save the dream for one / It must be saved for all”*.

The National Risk Assessment (NRA) exercise that is currently being undertaken to prepare the jurisdiction for its 2017 mutual evaluation by the CFATF has entailed a comprehensive review of our regulation, law enforcement, AML/CFT, taxation and international cooperation laws, rules, codes, protocols, practices and modalities.

This massive and all-embracing exercise has been done to strengthen our regime by identifying gaps, challenges and risks that could affect the effective implementation of the relevant international standards.

The government is studying the NRA’s recommendations to ensure greater compliance with standards and improved and more efficient and effective mechanisms for international cooperation and exchange of information.

Moving forward, the agencies involved in the NRA will continue working together to address all recommendations comprehensively.

Yet our efforts not just to refresh the BVI model but to reform it where needed will be rendered ineffective if industry practitioners do not make the same effort and also undertake to address identified shortcomings.

The NRA may seem onerous but it is no more than sound practice to review a regulatory regime from time to time, particularly where it has been subject to rapid change. It is only common sense to review whether regulatory and supervisory processes are rigorous, transparent, fair and consistent.

So the NRA exercise has been an opportunity to take stock of our regulatory framework – to step back and review where we have gotten to. It helps us make sure that the reforms we have already introduced and those soon to be introduced meet the intended objectives, are efficient and do not create misplaced incentives or large compliance costs that outweigh their broader benefits.

The outcome should be a more sound, stable, vibrant, dynamic, efficient, compliant and resilient industry in the BVI.

The Commission will have a role to play here, of course. We constantly seek to facilitate improvements in conduct and culture in the firms we regulate through the supervisory and enforcement tools we use.

We strive to act when there is good reason, and to do so in a manner proportional to the risk or harm that we believe may arise as a result of – or lack of – a practice, behaviour or governance issue.

Yet there are limits to what a regulator can do directly. Much of our success depends on getting someone else – you – to take action. To a systemic extent, the future of the industry lies in your hands and you have a major role to play in ensuring that the industry – both you and the others around you – conducts itself properly.

As regulators, we prefer to spend our time at the end of the spectrum where we enjoy willing compliance and just have to describe and explain the outcomes we want. When we are forced to spend a disproportionate amount of our time at the other end of the spectrum in enforcement, something is wrong.

So we expect to see evidence of a framework of discipline, prudent management and strong governance. This is fundamental good practice.

This means that if we ask you for something or we make enquiries, there is usually a very good reason for our doing so – a harm to be avoided or mitigated, or an outcome that can be improved. I hope you will accept that we are acting in good faith and for good reason.

Time and time again, you have heard me say that no jurisdiction can win business or friends by just talking about the excellence of its rules, laws, codes or regulations. If practitioners do not actually obey the rules – if even a few don't comply – the welfare and reputation of us all are threatened.

I hope this helps you understand why the manner in which you respond to our compliance concerns may influence our enforcement response. It must be understood that changes in rhetoric are insufficient – specifics are what matter to us.

We need to see demonstrated change in the underlying business practices, structures, systems and controls to support what management says. If we feel you are making genuine, good faith attempts to reach desired outcomes, we will be supportive and pragmatic in our response.

Finally, let me turn to the challenging issue of new technologies.

As industry practitioners, government and regulator, we need to be proactive in taking preventative measures to mitigate technological risks. We want to be sure that technology continues to support, power and facilitate our financial sector's development and the efficiency of our service offering.

Fundamentally, technology is an enabler of financial services – a source of competitive advantage. But it can also be a double-edged sword if not managed well.

As use of technology grows, so too have the risks associated with it. All the evidence suggests that it is not a question of if but rather when you will be exposed to some form of cyber-attack – whether fraud, virus or malware from, say, staff or a competitor, and whether deliberately or through inadvertence.

Just because technology presents risks does not mean that we should limit its use. That would be impractical and self-defeating. Technology can be both a source of competitive advantage and an agent for efficiency, effectiveness and productivity, enabling real-time access to pertinent information.

As with regulatory and compliance risks, mitigating our vulnerability to cyber-attacks requires joined-up action. Private sector, government and regulator must all take cyber security seriously and implement counter-measures and protocols to preserve the confidentiality and integrity of sensitive data.

We must conduct regular vulnerability assessments and penetration tests to evaluate the robustness of our cyber defenses. I know this sounds daunting but its importance cannot be overstated.

That is why I am delighted to have Mr. John Trundle of Euroclear UK & Ireland here with us today to talk about the constantly evolving cyber-security risks that we face. I trust you will find his presentation of tremendous help as you prepare and plan to tackle this ever-present threat in the months ahead.

Thank you.