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FEATURED Q&A

Are Caribbean Offshore Tax Havens Losing Their Appeal?

Q Cayman Island-based insurer ACE Ltd. will leave the Caribbean region to become a Swiss company, a move to a more "stable" regulatory climate and in the face of "reputational" issues in its Caribbean home. Are Caribbean offshore tax havens losing their appeal for financial services companies? What's the outlook for financial service companies' operations in the Caribbean, and what does the departure of ACE or others mean for the local economy?

A Guest Comment: Bruce Zagaris: "The proposed redomiciliation by ACE Limited from the Cayman Islands to Switzerland does not adversely impact the outlook for financial service companies' operations in the Caribbean. ACE's move is a logical outcome of its evolution from a monoline excess insurance company providing coverage to its shareholders to a major global insurer. The move enhances its corporate structure and should lead to further growth and expansion due to Switzerland's solid legal and regulatory environment. Most importantly, Switzerland affords ACE the security of a network of tax treaties. The move indicates that attracting financial services in the Caribbean and worldwide depends on the business environment. The latter requires a strong tax treaty network. While ACE goes from a tax-free jurisdiction in the Cayman to a taxable jurisdiction in Switzerland, it will benefit

from the Swiss 'participation exemption,' which generally eliminates tax at the holding company level on income earned by non-Swiss operating subsidiaries, as well as dividends paid to the holding company by non-Swiss operating subsidiaries. ACE will avoid many of the highest costs incurred by businesses from withholding taxes, reducing them from a statutory 30-40 percent to 5-10 percent or even zero under a tax treaty. For example, Barbados' tax treaty network and even Bermuda's mini-tax treaty with the US have helped them attract insurance businesses. The proposed move

Continued on page 4



Brazil to Commission Three Nuclear Plants Over 12 Mths

Brazilian Energy and Mines Minister Edison Lobao said Monday his government will commission three new nuclear power plants over the next 12 months. See story on page 2.

Photo: Agencia Brasil.

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NEWS BRIEFS

Colombia to Increase Oil Taxes

The Colombian government plans to increase taxes on oil production amid soaring crude prices, but will not take more than 50 percent of revenue, Mines and Energy Minister Hernan Martinez said Monday, according to Reuters. Colombia currently taxes oil firms on 30 percent of output when oil is above \$30 per barrel, but with oil now near \$140, the government is working on a formula to raise the rate to reflect higher prices in all new contracts for companies looking to produce oil, Martinez said.

Central Bank: Mexican Bank Lending Rose in May

Bank lending to individuals and companies in Mexico grew 18.5 percent in May from the same month of 2007, the central bank said Monday, according to Reuters. The bank said mortgage lending rose 18.1 percent in May, while loans to businesses increased 27.3 percent. Healthy lending is seen as key to sustaining economic growth in Mexico, especially amid an economic slowdown in the US, which buys 80 percent of Mexico's exports.

EU Relaxes Restrictions on Beef Imports From South America

The European Union said Monday it would relax restrictions on imports of fresh meat from Brazil, Argentina, and Paraguay after those countries took steps to meet EU health requirements, Reuters reported. "Recently, the competent authorities of Argentina, Brazil, and Paraguay have made considerable efforts to improve the animal health situation in their respective countries, and in particular as regards foot and mouth disease," the EU's executive commission said in a statement.

Economic News

US Imports of Venezuelan Crude at Five-Year Low

US imports of Venezuelan oil and oil products fell to a five-year low in the first four months of this year, the Associated Press reported, citing US government data released Monday. According to the US Energy Information Administration (EIA), the US imported an average 1.13 million barrels of oil and oil products per day (bpd) from Venezuela in the January-April period, down 11.7 percent from about 1.28 million bpd during the same period last year. Imports were at their lowest level since 2003, when Venezuela's oil industry was devastated by a two-month strike by workers at national oil company

The decline in exports to the US comes as the government of Venezuelan President Hugo Chavez moves to reduce his country's reliance on the US and boost ties with other countries, such as China.

PDVSA. US imports of Venezuelan crude oil fell 7.4 percent to an average of 990,000 bpd in the first four months of the year, while imports of oil products fell 32.7 percent to an average of 144,000 bpd, the EIA said, according to the AP. The decline in exports to the US comes as the government of Venezuelan President Hugo Chavez, a fierce critic of what he calls the US "empire," moves to reduce his country's reliance on the US and boost ties with other countries, such as China. In April, Venezuela began exporting 250,000 bpd to China, and aims to increase exports to 500,000 bpd by 2010. However, the decline in Venezuelan crude exports to the US is also attributed to a drop in Venezuelan production. PDVSA says it produces an average 3.2 million bpd, but the International Energy Administration estimates production at about 2.4 million bpd. PDVSA's total exports fell by 6.2 percent last year, according to the AP. In 2007, PDVSA sent nearly 60 percent of its total exports to the US, up 3 percent from the previous year.

Brazil to Commission Three Nuclear Power Plants Over Next 12 Months

The Brazilian government will commission three new nuclear power plants in the next 12 months, Energy and Mines Minister Edison Lobao said Monday, according to Reuters. "We are projecting three more nuclear power plants that should be licensed within one year or slightly more," Lobao was quoted as saying. One of the plants, Angra 3, will have a capacity of 1,300 megawatts, while the other three plants' capacity has not yet been defined, the minister said. Currently, Brazil has two nuclear plants whose combined capacity is about 2,000 megawatts. The new plants would be located in Brazil's northeast and center-south regions. A year ago, the government announced plans to invest \$540 million in

its nuclear energy program over eight years. The government has indicated four to eight nuclear plants could be built in the country by 2030. Building Angra 3, whose construction has been delayed since the 1980s because of a lack of funds, would cost about \$3.6 billion.

Political News

FBI Statement: Chavez Involved in Argentine Suitcase Scandal

Venezuelan President Hugo Chavez was personally involved in covering up his country's role in an Argentine election scandal last year, according to witness statement made to the US Federal Bureau of Investigation and cited Monday by Bloomberg News. In papers filed last week, Franklin Duran, one of five men charged by US authorities in Florida with acting as unregistered agents of the Venezuelan government, said an FBI statement by one of the other men implicated



Chavez and Fernandez meeting in Argentina on Monday.

Photo: ABN.

Chavez in the scandal, which erupted last year after a Florida businessman, Guido Antonini Wilson, was caught trying to smuggle \$800,000 in cash into Argentina from Venezuela. In early August, Antonini was caught by Argentine customs officials trying to bring the cash, contained in a suitcase, into the country while accompanying a delegation of officials from Venezuelan national oil company **PDVSA**. The five men charged in US court allegedly offered to pay Antonini's legal expenses in Argentina in exchange for his silence about the origin of the money, and were working at the behest of high-ranking Venezuelan officials. The cash seized from Antonini was purportedly destined for the presidential campaign of Argentina's Cristina Fernandez, who took office in December. The FBI statement alleges Chavez was personally involved in covering up the the origin of the funds, and put the head of his country's intelligence service, DISIP, in charge of the operation. Venezuela and Argentina have dismissed the accusations, accusing Washington of "dirty tricks" and waging political wars against their countries.

Peru Recalls Ambassador From Bolivia Over Morales Comments

The Peruvian government recalled its ambassador from Bolivia after Bolivian President Evo Morales accused Peru of having a secret US military base and called on Peruvians to rise up against it, Peru's foreign ministry said Monday, according to Reuters. Peru's foreign ministry said it called Ambassador Fernando Rojas to Lima to "evaluate the sum of Peruvian-Bolivian relations" following what it called

interference by Morales. The Bolivian leader made the comments during a speech on Saturday, Peru said. An unnamed official at the US State Department cited by Reuters said Monday the US has no plans to establish a military base in Peru after its lease on an air base in Ecuador used for counterdrug missions expires in 2009, but said it does help Peru's army with infrastructure improvement and conducts humanitarian programs there. Tensions between Peru and Bolivia have increased ever since Peru signed a free trade agreement with the US late last year. Bolivia has condemned the agreement and urged the Andean Community, trade bloc, which includes Colombia and Ecuador, to do the same.

Legal Briefs

Skadden Arps Counsels in Financing of Peru's Massive LNG Export Project

A team of Washington, DC-based **Skadden Arps** lawyers counseled the financing of the largest private-sector energy project in Peru's history, which closed on June 26. The agreements provide more than \$2 billion in loans to finance construction for Latin America's first liquefied natural gas export project. The firm represented a consortium—consisting of **Hunt Oil Company**, **Repsol YPF**, **SK Energy**, and **Marubeni**—that will invest an additional \$1.6 billion of equity. When completed, the project will produce 4.4 million metric tons of LNG per year and generate \$1 billion in annual sales and add 0.8 percent to Peru's gross domestic product, according to Skadden Arps.

Tew Cardenas Wins Civil Racketeering Case Against Dominican Financier

Miami-based **Tew Cardenas** announced last week that its client won affirmation of a \$176 million judgment in a US federal civil racketeering case against Luis Alvarez Renta, a prominent financier from the Dominican Republic. Matias Dorta and Bryan West, partners at Tew Cardenas, represented the Liquidation Commission of Banco Intercontinental (Baninter), the plaintiff in the case. In October 2005, Renta was found liable by a Miami federal jury based on civil claims under federal racketeering laws and Florida fraudulent transfer laws. The case involved a conspiracy to loot Baninter, which at the time was the third-largest bank in the Dominican Republic. Renta subsequently raised 10 arguments on appeal, all of which were rejected in the latest appellate court ruling.

Davis Polk & Wardwell Elects Mauricio Blanco to be Partner

New York-based **Davis Polk & Wardwell** announced Monday that Maurice Blanco has been elected a partner of the firm. Blanco recently advised on the initial public offering of **BM&F** (the Brazilian futures exchange), one of the largest ever in Latin America, the firm said in a press release. He is a corporate lawyer concentrating on capital markets transactions and is a member of the firm's Latin America and Spain practice group.

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Featured Q&A*Continued from page 1*

also shows that businesses and regulators must constantly re-evaluate the mix of regulation and business environment. Caribbean jurisdictions with a strong business environment and treaty network will be competitive in attracting financial services."

A Guest Comment: Bobita Rambrich: "The increased emphasis on compliance and regulatory requirements is causing the Caribbean to lose its appeal as a tax haven for financial services companies. I think, given the perception that once a transaction is not open for scrutiny it is deemed to be suspicious, companies will continue to encounter increasing difficulties in accessing financial services and support in regions outside of the Caribbean. Financial services companies will find themselves having to invest significantly in anti-money laundering systems, and of course having to divulge information on clients and transactions that would have previously not been required. It is my view that this approach will continue to create uncertainty in the minds of their clients and will ultimately lead to the contraction of the industry. The whole process of satisfying know-your-customer requirements becomes rather difficult when there is a diversion of interest ... the customer wants to protect his interest, and the financial institution wants to fulfill regulatory requirements. If this industry is to survive, creative techniques will need to be developed to satisfy both the needs of the customer and the financial institution, and be acceptable to regulators."

A Guest Comment: Thomas Morante & Yani Contreras: "Redomestication of ACE Limited (the holding company of the ACE group of companies worldwide) from the Cayman Islands to Switzerland, once approved at ACE's

annual general meeting, should have minimal impact on the attractiveness of Caribbean offshore jurisdictions—which should continue to appeal to financial services companies. The redomestication appears to be driven by the need to accommodate expansion and specific regulatory concerns rather than a lack of appeal of, or concern relative to offshore jurisdictions ... The outlook for financial services companies operating in the Caribbean remains positive and quite favorable. In fact, ACE Limited has not expressed a desire to diminish its presence or discontinue its operations in Bermuda, or to relocate its Bermuda subsidiary, but rather is simply changing its incorporation from the Cayman Islands to Zurich. However, the redomestication of Ace Limited could serve as an additional 'wake up' call for Caribbean jurisdictions relative to the need to foster an even more transparent regulatory environment, thus ensuring regulatory certainty and enhanced reputational benefits. This transparency may prove to be as important as the benefits traditionally associated with offshore jurisdictions. Thus, while there might be future corporate redomestications for particular businesses, it is likely that Caribbean jurisdictions will continue to play an increasingly important role in financial [services]."

Bruce Zagaris is a Partner at Berliner, Corcoran & Rowe, LLP.

Bobita Rambrich is Manager of Worldwide Money Transfers at Laparkan.

Thomas Morante is Chair of the Insurance, Banking, and Financial Services Industry Group and **Yani Contreras** is an International Attorney at Jones Walker LLP.

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