

Cayman Islands

Chamber of commerce:

PO Box 1000

George Town

Grand Cayman

Cayman Islands

Tel: +1 345 949 8090

Fax: +1 345 949 0220

Professional bodies:

Cayman Islands Law Society

PO Box 309

Ugland House

South Church Street

George Town

Grand Cayman

Cayman Islands

Tel: +1 345 949 8066

Fax: +1 345 949 8080

The Caymanian Bar Association

PO Box 10264 APO

Grand Cayman

Cayman Islands

Email: info@caymanbar.org.ky

Grant Stein and Robert Duggan

Walkers

George Town

The legal system of the Cayman Islands is an important factor in the creation of a stable business environment for international financial transactions and the local economy. Key features of the Cayman Islands legal system are freedom from direct taxation and flexible, innovative legislation. These factors, in tandem with the high quality and responsiveness associated with the professional services providers in the Cayman Islands, contribute to the islands' reputation as a favoured place in which to do business.

Investment funds, international asset financing and securitization

The Cayman Islands has many attractions for the structuring of investment or mutual funds, financing transactions and synthetic securitizations of pools of bonds or loans (collectively known as collateralized debt obligations – CDOs).

More than 6,000 open-ended funds are registered with the Cayman Islands Monetary Authority (CIMA) under the Mutual Funds Law, and the jurisdiction is now regarded as the world leader for hedge funds. Numerous closed-ended funds, which are not regulated, have also been formed. Both types of fund can be established as a company, a partnership or as a unit trust. Segregated portfolio companies (SPCs) allow ring-fencing of the assets and liabilities of each segregated portfolio from those of each other portfolio and from the general assets and liabilities of the company. Originally designed for the insurance industry, any exempted company can now register as an SPC, and the structure is gaining currency as an investment fund vehicle.

Asset finance transactions typically involve the transfer of ownership of an asset to a special purpose vehicle (SPV), which will acquire it with a loan from the lender. The SPV then leases the asset to a third party, such as an airline, through an operating lease. For the lender, the off-balance-sheet structure has several advantages, and the structure set up in the Cayman Islands is entirely tax neutral.

The SPV is usually structured as an orphan company, the shares held on trust either for a charitable purpose or for the benefit of the transaction itself. By separating the beneficial interest in the shares

from their legal title, the SPV's accounts do not have to be consolidated in the accounts of either the share trustee or the originator.

Setting up a partnership or company in the Cayman Islands is flexible, quick and relatively inexpensive. The entity can be formed in as little as 24 hours, which can be considerably quicker than other offshore jurisdictions, where there can be a need for an "in principle" consent from the local regulator.

Legislative flexibility

The Cayman Islands is essentially an English common law jurisdiction, so the central issues of corporate power, directors' fiduciary duties, corporate personality, limited liability and corporate benefit are substantially the same as the position under English common law.

At the same time, the islands' commercial legislation benefits from being much less cumbersome in many of the areas that have caused considerable difficulty and uncertainty under the corresponding English statutes. For example, Cayman's Companies Law provides that shares are redeemable not only out of profits of the relevant company but also from the credit balance on the company's share premium account, thereby giving an equity instrument much of the economic character of debt.

Creditor-friendly jurisdiction of choice

The insolvency laws of the Cayman Islands are generally recognized as being creditor-friendly. There is no system of corporate rehabilitation (such as the English administration procedure or US Federal Chapter 11 proceedings) whereby a debtor can effectively freeze the rights of creditors. For example, secured creditors are not prevented from enforcing their security in the liquidation of an SPV, liquidators cannot disclaim onerous contracts, and fraudulent preference rules only apply when a disposition is made with a view to preferring one creditor over another. It is not enough that an asset or payment was made in circumstances that resulted in one creditor losing out.

Sound foundations

The Cayman Islands is a jurisdiction in which an innovative and constructive legal system has been developed upon the sound foundations of English common law. The business-friendly legal system is enhanced by high-quality professional service providers and a flexible regulatory regime that is applied constructively by the CIMA.

Corporate and commercial

Recommended firms

Tier 1

Maples and Calder

Walkers

Tier 2

Appleby Spurling Hunter

Ogier & Boxalls

Tier 3

Quin & Hampson

Tier 4

Charles Adams Richie & Duckworth

Solomon Harris

Stuarts Walker Hersant

Tier 5

Campbells

Mourant du Feu & Jeune

Truman Bodden & Co

Turner & Roulstone

Maples and Calder

Maples and Calder specializes in British Virgin Islands, Cayman Islands and Jersey law. As well as these jurisdictions, the firm also has offices in London and Hong Kong. The firm opened a Dubai office in June of this year, a move that further expands this leading offshore firm's international reach – Maples and Calder already owns Maples Finance Jersey and maintains a South American practice group overseen by partner Simon Firth. The new Dubai office will be headed by partner Tahir Jawed, who will oversee a team dealing with corporate law, private equity and funds work.

The firm employs 125 lawyers, and saw one senior departure this year – leading lawyer Andrew Moon left Maples and Calder and promptly set out on an expedition to the South Pole.

Leading lawyers

Charles Jennings
Graham Lockington
Adrian (Gus) Pope

Key contact partner

Henry Harford

Walkers

Walkers is generally regarded as one of the top two firms for corporate and commercial advice in the Cayman Islands. There are 14 partners and 42 associates working in the firm's Cayman office, and the firm has additional offices in the British Virgin Islands, London and Hong Kong. The firm is also a member of Lex Mundi, the international network of independent law firms, and has been described as one of the top providers of financial services in the islands.

Among its clients, Walkers boasts a range of international hedge funds. These include those allied to large financial institutions as well as independent funds, including one large

multinational company for which Walkers set up funds marketed primarily to Japanese investors. Another fund was aimed at European investors. Walkers has also acted in a number of restructurings, and on the development of a series of financial instruments.

Private equity funds work is booming in the Cayman Islands, and Walkers recently set up a closed-ended Cayman corporate investment fund operating in Hong Kong and investing in high-growth private utility companies throughout Asia. Another client instructed Walkers to help set up entities investing in internet and e-business technology businesses in the US and across the Pacific rim. The firm also assisted in setting up and listing a fund on the Cayman Islands stock exchange, as well as working on the largest Japanese leveraged acquisition to date.

Walkers has developed a niche maintaining a steady stream of Islamic investment projects in the Middle East, which in one instance led to advising on an Islamic property financing transaction. It also provides ongoing advice to Middle Eastern banks on investment funds and on principle protected *Sharia* law-compliant funds.

Several new partners have come to the team over the last 12 months. Among these, Ian McMurdo and Kevin O'Connor were both appointed to carry out private equity and hedge fund work. On the structured finance side, meanwhile, Heather Bestwick was made up as a partner, and Hugh O'Loughlin was recently appointed on the asset finance side. Bestwick has been noted as a leading lawyer, one client describing her as "extremely knowledgeable and service-oriented."

Leading lawyers

Ian Ashman
Heather Bestwick
Guy Locke

Key contact partners

Ian Ashman
Guy Locke

Appleby Spurling Hunter

The corporate and commercial practice at Appleby Spurling Hunter is headed by Bruce Putterill and consists of three partners and seven associates. The firm has gone on something of a recruitment drive over the past 12 months. Four senior personnel have joined the team, including associates Sabrina Leacock, Sherice Arman and Paul Greven, and partner Stephen James, who joined the firm from Appleby's Bermuda office.

The firm has certainly benefited from its merger, and has recently provided advice to a number of leading law firms, including Irish firm A&L Goodbody and US leaders Akin Gump Strauss Hauer & Feld and Skadden Arps Slate Meagher & Flom. Kleinberg Kaplan Wolff & Cohen and XL Capital have also turned to the firm for advice over the past year.

Key contact partner

Bruce Putterill

Ogier & Boxalls

Since 2004, eight attorneys have joined Ogier & Boxalls, a firm that bolstered its market position in the Cayman Islands with a 2004 merger.

The firm has recently advised the Canadian Imperial Bank of Commerce (CIBC) in relation to setting up First Caribbean International (the product of a merger of Barclays Bank and CIBC in the Caribbean and Belize), and represented Deutsche Bank on the Cayman aspects of several collateralized debt obligations, securitizations and repackagings. Credit Suisse First Boston also turned to Ogier & Boxalls for advice on a range of structured finance deals.

The last 12 months have also been busy for Ogier's fund management practice. The firm continued to advise Arden Asset Management, a New York-based fund with \$7 billion under management, acted for Canyon Capital Advisors, a San Francisco fund firm that has \$9 billion under management, and represented an undisclosed multibillion-dollar hedge fund on various matters, most recently on the establishment of a real estate fund.

The firm also maintains a strong litigation practice, which specializes in advice relating to trust disputes and on cross-border asset tracing and recovery matters.

Leading lawyers

James Bagnall
James Bergstrom
Peter Cockhill

Key contact partner

James Bergstrom

Quin & Hampson

Neal Lomax is the head of Quin & Hampson's corporate department, which is comprised of three partners and three associates. All partners are UK-qualified, and one associate is US-qualified. Clients have included the Dundee Bank, Melamed & Associates, Clarion Management, Mintz Levin and Lowenstein & Sandler. Lomax comes in for much praise from the market; one client commented on his "excellent efficiency and excellent knowledge," while another said that he is "very professional ... I very much like his business manner, and the way he saves time ... he does everything for you where paper work and documentation is concerned."

Among the firm's deal highlights of the past year, it recently advised the Sol Group as Cayman counsel in connection with its acquisition of Shell's businesses across the eastern Caribbean, Guyana, Surinam and Belize. Lomax oversaw the deal, which also involved input from Shell, Clifford Chance, and Walkers. Quin & Hampson also won a role acting on HedgeWorld's restructuring, which resulted in HedgeWorld's acquisition by Lipper, a subsidiary of Reuters.

Leading lawyer

Neal Lomax

Key contact partner

Neal Lomax

Solomon Harris

Solomon Harris' corporate and commercial department is headed by Sophia Harris and Paul Scrivener, who oversee a team of two partners and four associates that is, in the words of one client, "extremely proactive ... the team often went beyond what was asked of it." Another client also praised the team, saying it can "handle anything you throw at it" and that it "adheres to tight deadlines, always delivering on time."

The firm's client base is drawn from large financial institutions, high-net-worth individuals, advisory and accounting firms. This year, Nick Reid joined the firm as an associate from Collie & Company in Scotland, but the firm lost Alistair Stones, who moved to Simcocks in the Isle of Man. One market commentator commented that the firm was "well-placed to grow." The recruitment last year of specialist capital markets lawyer, Remo Dalimonthee (formerly of Allen & Overy, Cadwalader Wickersham & Taft, and Slaughter and May) should also allow the firm to bolster its presence in the capital markets arena. And the continued presence of Scrivener is also a large asset for the firm: one client described him as "commercial and customer-focused ... he provided excellent service in the face of their adverse and inclement weather conditions" and another stating that "when he answers queries he looks beyond the question and always delivers a quick response."

Solomon Harris recently advised UK publicly quoted insurance group Jardine Lloyd Thompson when it acquired a Latin American operation from another UK entity. Paul Scrivener oversaw the deal, with Freshfields Bruckhaus Deringer and Walkers providing further legal advice to the other parties.

Another client that benefited from the firm's advice was Wafra Investment Advisory Group, which the firm advised in connection with setting up a number of multimillion-dollar real estate investment funds for a New York investment advisory agreement. The firm also advised Société Générale when it needed advice in relation to the complex restructuring of leveraging arrangements for several Cayman funds using derivatives. Dalimonthee acted on the deal for Solomon Harris, which was completed in mid-2004.

Among the other landmark deals, Laura Hatfield headed a team that advised the joint official liquidators of Beacon Hill Master and Bristol Fund on issues arising out of the initial collapse of the value of these funds and their consequential winding up.

Solomon Harris boasts an impressive investment funds practice that, terms of instructions, is geographically split fairly evenly between the US and Europe, and features an increasing amount of work from Asia.

Leading lawyer

Paul Scrivener

Key contact partners

Sophia Harris
Paul Scrivener

Stuarts Walker Hersant

Stuarts Walker Hersant appears for the first time in the *IFLR1000* rankings this year. Formed as an offshoot of Walkers, the firm was mentioned by numerous interviewees as being a reliable and solid choice for corporate and commercial advice.

The corporate and commercial department is headed by Chris Humphries, and this year has seen two additions to the team – Richard Annette, who joined from White & Case, and Sophie Dilbert, who moved over from rival Cayman Islands firm Maples and Calder. Both join Stuarts as associates, bringing the total number of corporate and commercial practitioners to three partners and three associates.

Stuarts acts as private counsel for one of the largest private companies in the US, and several US investment managers that control assets valued at \$10 billion each. The firm also served as counsel to Herring Overseas during the establishment of a \$150 million note programme, advised the Cayman Islands trustees on restructuring a \$200 million commodities fund, and acted for a series of private equity firms setting up acquisition vehicles in the Caymans.

The firm's banking practice, headed by Andrew Hersant, has had a particularly busy year. A sample of the firm's banking deals include assisting with the set-up of a subsidiary vehicle for a European banking group in connection with raising \$400 million of Tier I capital, advising on an International Finance Corporation loan to finance a domestic company's acquisition of a power project in China, and acting as Cayman Islands' counsel to a European bank in relation to trust structures connected to bridge facility agreements granted to finance the construction of an offshore oil platform. Stuarts has also advised on a \$50 million revolving credit facility for a European bank through a Cayman unit trust structure, and acted as counsel to a Brazilian bank concerning offshore structured finance transactions.

Key contact partners

Andrew Hersant
Chris Humphries