

TECHNICAL ASSISTANCE AND CAPACITY BUILDING

**Remarks for panel session by Robert Mathavious,
MD/CEO, BVI Financial Services Commission**

**IFC Forum, Commonwealth Secretariat conference,
“Small IFCs: Sharing Perspectives and Meeting the Challenges”**

London, 20 October 2011

Ladies and gentleman

I am delighted to be talking at this timely conference. The IFC Forum, Commonwealth Secretariat and World Bank are all to be congratulated on their joint effort to bring us together to develop effective responses to the challenges facing small IFCs.

In this session, I have been asked to address five specific issues, those of democratising the standard-setting process; of enhancing public understanding of the role of IFCs; of technical assistance; of whether good regulation is sufficient to counter negative stereotypes; and of how effective use can be made of limited government resources.

I hope that what I have to say will help stimulate your thinking and your questions.

1. Democratising the standard-setting process.

Looking first at the matter of democratising the standard-setting process, there can be no-one who would disagree – not publicly, at least – that transparency and fairness should be the hallmark of standard-setting in international financial regulation. Yet it is sadly the case that some of the standard-setting bodies are worryingly undemocratic. Many small IFCs are either unable to be members of these bodies or they find it hard to be active participants. As a result, they end up being obliged to comply with standards that they have had no say in shaping.

The Financial Stability Board (FSB) in particular stands out. As Article 1 of its Charter states, the FSB was set up to *“coordinate at the international level the work of national financial authorities and international standard setting bodies in order to develop and promote the implementation of effective regulatory, supervisory and other financial sector policies.”*

The problem with the FSB lies not with what it seeks to achieve – far from it – but with how it operates. As matters stand, it is made up of rich and powerful countries who shape standards that the majority of the world is required to comply with even though it has had no say in shaping them. Although the FSB is in the process of establishing regional bodies, it is still unclear how these will feed regional perspectives into the FSB’s work in any meaningful way.

Even where international bodies have moved towards being more equal and democratic, there is considerable room for improvement. Take the Organisation of Economic Cooperation and Development (OECD). Its commitment to operate

on the basis of a level playing field and the formation of a Peer Review Group within the OECD's Global Forum were welcome.

But the cost of participating in three or four Peer Review Group meetings a year in far-flung places can prove prohibitive for some smaller jurisdictions. There is also the ever-present danger of cronyism, with Steering Group members serving for three years at a time. And a nagging feeling remains that European countries who are not members of the Peer Review Group may be viewed more favourably than non-European finance centres in developing countries.

Even the IAIS and IOSCO, perhaps the most democratic of the standard-setting bodies, do not fully meet the criteria of transparency and fairness. In IOSCO, the most active small IFCs in geographic terms are denied independent votes despite making the same monetary contribution towards the organisation as developed countries.

Yes, there is much still to be done before all IFCs get a place at the table where the decisions that affect them are taken. I would be most interested in learning from you of any further examples of undemocratic failings among standard-setting bodies. It might help promote our case if we could compile a dossier of unfairness.

If we are to take the moral high ground, of course, we must be sure that we have a good record of our own when it comes to putting the global financial standards in place in our own jurisdictions. This requires a national commitment, one on which industry practitioners, government officials and regulators are all agreed.

Together they must not only talk the talk, but walk the walk too. Signing TIEAs is one example of this.

Equally, if we are to win further opportunities to participate equally in the process, we must ensure we treat those opportunities that we already have with intelligence and respect, and devote adequate resources to them.

For example, jurisdictions should be prepared to invest their own money in covering the costs of attending international standards-setting meetings. And their delegations need to prepare fully for those meetings. Maintaining a joined-up partnership between the public and private sectors will be crucial to their success here.

Finally, I would say that both to win further democratisation and to make the most of where we are now, IFCs have to become more effective in taking a common approach towards international organisations. They must accept with an open heart that you need an alliance to make a difference. That in large bodies like IOSCO and the IAIS, no single jurisdiction acting in isolation can influence how a particular standard is shaped.

2. Enhancing public understanding of the role of IFCs

Turning to how we can improve public understanding of the role of IFCs, within our own jurisdictions, it is clear that our own people must have belief in the role that financial services plays in underpinning the economy. They need to understand why we do what we do and how it affect their lives.

They should also realise the employment opportunities that the industry offers for those among them who want to raise their skills and increase their earning power.

In the BVI, the Financial Services Commission operates a financial education programme which is mandated by statute. Such a programme may not normally be thought of as falling within the regulator's remit, but in a small jurisdiction the regulator may be the only body with the capacity to undertake it.

The programme improves local people's core understanding of financial products and concepts; it provides information, instruction and objective advice; it develops skills and confidence; and it helps people make informed choices.

At the same time as this practical support, the programme educates the public about the BVI Financial Services Commission and about the importance of financial services to the BVI economy. This aspect of the programme is essential in building our own citizens' support for the financial services industry.

As regards enhancing the global public's understanding of IFCs, I would say that if we are to offer an alternative, more positive view of our role to the one presented so ably by anti-offshore NGOs such as Christian Aid, ActionAid and the Tax Justice Network, we can only do so by coming together and speaking with a common voice in the media.

Acting individually and seeking to make a special case in the media for our own jurisdiction by and large does not succeed, while any unconsidered remark by one IFC can reflect badly on us all.

There is so much more that all IFCs can and should do to support each other – so much more that we can offer to, and gain from, each other. Sadly, offering mutual assistance is often low down on our list of priorities.

Too many IFCs still fail to develop strategic alliances. They still try to win special concessions for their own jurisdiction. They make the mistake of thinking that competition excludes cooperation. And rather than trying to build a bigger market for us all, they wrongly believe in a zero-sum game in which, for them to succeed, another IFC must fail.

3. Technical assistance

Talking of helping each other brings me to the third theme of this session, technical assistance, the non-financial, expert support offered to IFCs largely by international bodies or developed countries.

While it does have some advantages, I would be reluctant to counsel this as the basis of a business strategy for a jurisdiction, especially at a time when budget deficits in developed countries are forcing more and more countries to cut or curtail development and technical assistance programmes.

Yes, technical assistance can help to develop a jurisdiction's regulatory, compliance and international cooperation modalities. But if the objective is simply to deal with a particular micro-issue and not to transfer technical know-how and develop capacity, the benefits may be short lived.

For such assistance to have a long-term value, it needs to be accompanied by guidance on implementation, by staff development and sound training. It is essential that it be sensitive to each jurisdiction's particular situation.

However, too often, especially in the case of emerging IFCs, legislative measures may be drafted and handed straight over without an assessment first being made of local circumstances, market forces, levels of competition, governance capacity, human resources and finances.

Emerging IFCs may also make the double mistake of thinking, first, that they have to provide the full gamut of financial services from the start, rather than developing a niche and expanding gradually, and, second, that they should expect to receive technical assistance to do so.

Relying on technical assistance is not a healthy starting point. And not just because there are questions about the quality of some of the technical assistance on offer. We already know that an over-reliance on organisations such as the Caribbean Regional Technical Assistance Center (CARTAC), which may not have the requisite range of specialist skills available, can put smaller jurisdictions at a significant disadvantage.

Governments who want to engage in the financial services business should realise that the only secure route to success is to start with an honest assessment of the range of challenges and options before them. This means educating themselves not just about the rigours of complying with international standards but also about the risks associated with less-than-satisfactory compliance.

And, not least, it means accepting the requirement to make adequate resources available from their own coffers.

I am well aware that meeting all the many international requirements for being a respected finance centre does not come cheap. But to become successful and to remain successful, all IFCs, whether long-standing or new to the game, have to put their money where their mouth is.

They have to be prepared to cover the vast majority of the costs themselves. It is simply no longer a viable, long-term proposition for any jurisdiction to expect the developed world to fund them to develop and operate an offshore industry.

Instead, all IFCs should expect to make their own, consistent investment in building their reputations as serious players whose regulation and supervision meet international standards and who fulfil their international commitments.

This will include ensuring that their regulators have sufficient, guaranteed funding to resource their own, independent organisations and to carry out their wide range of functions, employing the right number of the right sort of people and investing fully in maintaining, developing and upgrading skills, technology and systems.

There are also benefits that developed countries can offer besides technical assistance. For example, regulatory staff from IFCs can profit from attachments within selected onshore jurisdictions.

I would also argue that what IFCs particularly require from developed countries is often political support. Once we meet our international obligations, we need and expect the international community – from officials to politicians – to recognise this publicly and not to indulge in negative stereotyping.

4. Is good regulation sufficient to counter negative stereotypes?

Regulating to a high standard and being publicly recognised as doing so is an essential part of overcoming such stereotypes. Good regulation is the building block of any IFC.. Without it, reputation suffers and business falls away.

Before turning to the question, however, of whether good regulation is sufficient to combat negative images of IFCs, let me ask you another question: do you think there is enough good regulation in the offshore world to begin with?

Do all regulators draft and then enforce the necessary laws and standards appropriately? Do all IFC governments ensure that legislation is put in place in a timely fashion? Does the private sector ensure it complies fully with requirements?

We all know that the answer is no. There are still too many people in government, regulatory bodies and the private sector who pay lip service to regulation rather than introduce or police or observe the international standards as they should.

As long as this attitude exists and as long as the ethically challenged remain free to abuse a jurisdiction's structures, negative attitudes towards IFCs will persist.

We have to recognise that the same things which make our structures attractive to legitimate businesses also make them appealing to connen and fraudsters.

I sometimes wish that practitioners would spend even half the time on introducing effective compliance systems that they spend on complaining that international bodies are behaving unfairly or that proposed regulations and legislation will be too onerous and drive away business.

If we are ever to hope to counter the negative comments, we need to be sure that regulation and compliance are as good as they could be across our industry as a whole. Otherwise it becomes too easy for our critics to paint all IFCs with the same brush.

Of course, there is more than a little self-serving hypocrisy involved in the criticism. How else can we explain the failure of certain commentators who urge IFCs to raise their game but then fail to draw a distinction between those centres that are well regulated and those that are not?

You and I all know that jurisdictions with weak regulatory mechanisms are found in the developed as much as in the developing world, in large countries as much as in small ones. We know that IFCs' standards can outstrip those found onshore.

Only recently, a new book called *The Money Laundry* by Jason Sharman, a political scientist at Australia's Griffith University, stated: "*In practice OECD countries have much laxer regulation on shell corporations than classic tax havens. And the US is the worst on this score, worse than Liechtenstein and worse than Somalia.*"

Equally, back in 2005, in its Progress Report on Offshore Financial Centres, the IMF noted: *“Compliance with standards in the OFCs is, on average, better than in other jurisdictions assessed under the FSAP.... Results on cooperation and information sharing principles, which play a key role in cross-border supervision, show a similar pattern”*,

But this is a world run by the big, not the small. As result, no matter how unfair it is, the spotlight of the world shines fiercest upon small IFCs. We have to work harder than onshore jurisdictions at being compliant and at avoiding the consequences of gaining a bad reputation.

I would also say we have to work harder than is currently the case at ensuring we rebut the attacks effectively. By effectively, I mean accurately, objectively and consistently.

There is little value in losing your rag and attacking the political ideology or the morals of those who criticise IFCs. Such behaviour is foolish. It persuades no-one and only serves to feed the self-righteousness and even the credibility of our attackers.

No, we should respond to criticism, no matter how ill-informed it is, with a level head and a cool mind. We must remain calm and factual. And we must remain united.

5. Effective use of limited government resources

This brings me to my final subject: how government resources, which are of course always limited, can be used most effectively.

Within each jurisdiction, there is much that can be done. It will come as no surprise that in the first place I would urge proper resourcing of the regulator. Without adequate regulation there will be no reputation and thus no long-term future for any IFC.

Governments should also maintain an effective tripartite partnership with regulators and the private sector so as to develop market-driven legislation that responds intelligently to international requirements.

They should know and understand their industries' financial services products and be aware of current and emerging standards of regulation. Equally, legislators must pass the necessary laws in a timely fashion.

Governments further need to resource their marketing activities sufficiently, not only to promote their financial services sectors but also to respond effectively to negative or unfounded criticism. This assumes, of course, that they have already put in place the necessary compliance regimes, without which they will inevitably be permanently on the defensive.

Not least, as I have already touched upon, governments must ensure that their officials are properly prepared for international meetings and don't waste money flying people half way around the world to discuss documents they haven't read.

At the international level, too, there is a great deal that can be done to employ resources better than now.

To return to my earlier theme, the most effective and efficient action that IFC governments could take is to band together and respond with a united front to the attacks. Cooperation, the sharing of resources and the forging of joint regulatory, political and media strategies would give IFCs a collective clout that far exceeds what any jurisdiction can wield on its own.

Many of you will be aware of a now moribund organisation called the International Trade and Investment Organisation (ITIO), which brought together over a dozen IFCs to coordinate political activity, speak with one voice in the media, offer each other technical support and develop common regulatory responses to the OECD's original harmful tax competition initiative.

I must pay tribute to the Commonwealth Secretariat for the tremendous support they gave here.

The ITIO proved very effective at lessening the impact of the OECD. It is a great shame that too many of its members mistook winning the battle for winning the war and allowed it to lose momentum. The ITIO also suffered from not involving the private sector.

Nonetheless, the lesson the ITIO teaches us today is that when we forge a united front, we are capable of great things.

Today more than ever, small IFCs would benefit from having their own international body, one that enabled them to speak with one voice and gain a proper hearing from the standard-setting bodies and their political masters.

This new body would also provide the technical expertise to help the smaller IFCs raise their game. I would be delighted if this was something that the IFC Forum and the Commonwealth Secretariat were interested in helping to get off the ground.

Yet if such an organisation is to succeed, the other lessons that the ITIO teaches us are, first, that it must involve the private sector too, and, second, that member governments have to make a tangible commitment to it by putting their own hands in their pocket.

This should not be seen as just another expense but as a way of investing their limited resources wisely in the future of their economies by spreading the cost of gaining the technical expertise, media clout and other assistance that they so badly need. It has to matter to them.

Ladies and gentlemen, in the face of criticism and scrutiny on multiple fronts, we need a new joined-up approach to manage the challenges confronting our industry. If it provides the impetus for this to happen, I believe this conference will be of lasting benefit to all of us here gathered here and to IFCs everywhere.

As a final thought, remember that the world has long predicted the demise of IFCs but we are all still here. How much longer will depend on ourselves.

If IFCs are to have a long-term future, we have to act in concert and reject divide and rule with our deeds as much as with our words.

We must realise that we are all our brother's keeper, if only because every one of us that is allowed to fall leaves the rest more exposed. Together, we must take practical steps towards the future.

I look forward to our discussion and thank you for your attention.