

Mediterranean briefing

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Celebrating 50 years A memorable half-century for Moore Stephens Monaco and the Principality

On the day Prince Rainier III married his Princess fifty years ago on April 18th, John Church arrived in Monaco to set up a correspondent office for Moore Stephens London. In the half century which followed, both the Principality and Moore Stephens Monaco SAM have undergone something of a revolution.

1956 to 1972

Back in the fifties, Moore Stephens London was primarily known for its expertise in shipping accounting, while Monaco was carving out its niche as a tax advantageous territory that was also a beautiful place to live.

Several big Greek shipping magnates, among them Aristotle Onassis, were already established and both they and Prince Rainier's marriage to the Hollywood star Grace Kelly threw a spotlight on Monaco. For Moore Stephens it made sense to set up a local office to assist its shipping clientele, a group which it continues to serve today.

These were interesting times for Monaco. In 1963, Prince Rainier negotiated with General de Gaulle, then President of France, to retain his country's status. Monaco agreed to charge corporation tax and levy VAT at the same rate as France for its own budget. And while most French residents have had to pay income tax to France since then, all other nationalities have remained exempt as they had done for almost a hundred years before.

Meanwhile, the first of several ground-breaking construction projects was underway as the 22 hectare Fontvieille district was reclaimed from the sea.

1972 to late eighties

In 1972, Moore Stephens recruited David Tugman to add new vigour to the task of diversifying the business and establishing Moore Stephens Services as

a SAM (limited company). Its portfolio of services included trustee work, foreign company management and corporate services to foreign businesses.

Meanwhile in Monaco, apartment blocks were springing up throughout the state to accommodate those attracted by the way of life and tax friendly policies of the world's second smallest country. From 1975 to 1990 the population leapt by a fifth from 25,000 to high on 30,000.

1988 to the present

In 1988, Peter Brigham was brought in to help establish a dedicated business services department to manage an expanding portfolio of clients. Today, this is led by Patricia Osborne who joined in 1994. Patricia works closely with Andrew Gallagher who arrived in 1995 and is responsible for providing assurance and other corporate services to a variety of foreign businesses including investment, shipping and technology groups. In 1993, Phillip Evans was taken on to further consolidate and expand the trust management side of the business.

David took up his well earned retirement in 2000 leaving the company in capable hands. Since then, business has gone from strength to strength, and today employs around 40 staff.

And Monaco? The Principality continued to expand its territory out to sea (20 per cent in total). Today, the population stands at over 32,000, with a fluctuating workforce of 40,000, the majority of whom commute in from Italy and France. In 2005, the state's turnover was 10.98 billion euros, up 11.9% on 2004. The railway has gone underground in a massive project which released hectares of precious real estate, and a 250m long new harbour wall is having a big impact on tourism.

When Prince Rainier died on 6 April 2005, after 56 years at the helm, he left a thriving legacy which his son Prince Albert II shows every sign of managing ▶

effectively into the future. His team of permanent advisers – in the Cabinet Prancier - are all in their forties and well qualified, and he has made numerous trips abroad to foster new relations and consolidate the old. In March, he was in London - see the article below – where he had meetings with Prince Charles and the Duchess of Cornwall; Jack Straw, then Foreign Secretary; and a gathering of business men and women in London.

The next 50 years for both Moore Stephens Monaco and its host country look set to be as enterprising and successful as the previous half century. The company has already embraced the challenges of increased regulation and compliance, and will also be taking up the gauntlet laid down by the new Prince to help ensure that Monaco develops as one of the world respected poles in financial engineering.



Banking on business

In two years to January 2006, financial deposits in Monaco have increased by an impressive 22%, despite the outflow of money back into Italy following former Prime Minister Silvio Berlusconi's fiscal amnesties.

For Jean-Claude Eude, General Manager of the Association Monégasque des Banques (AMB), the figure not only represents the fact that "2005 was a good year generally" but that new money is coming into the system.

"Ten years ago, Italy was Monaco's main client," he explains. "Today the banks have diversified, they are recruiting internationally and there is a new dynamism. People with young families are coming here to live and work – not just to retire – and there is a great deal of interest from the UK."

Mr Eude was a member of the delegation that accompanied Prince Albert II and economy and finance

minister, Franck Biancheri, to London in March – see article above. As Mr Eude explains: "The aim was to see how Monaco can help smooth the administrative road into the Principality for high net worth individuals, to identify what they expect and to improve the service to meet those needs."

Part of that mission was to promote the advantages Monaco offers as a financial centre - its diversified economic base, an attractive tax regime, an unprecedented level of personal security, and confidentiality in all banking transactions. Mr Eude is also keen to point out another aspect, highlighted by the Prince, which is that "the legal framework within which the banks operate is extremely rigorous and regulated jointly by the French and Monegasque monetary financial authorities."

Monaco currently hosts 41 banks and 25 asset management companies. Of those, six have established themselves in the last 12 months.

Tax Matters

UK Budget 2006

Britain's Chancellor Gordon Brown's 10th Budget launched a surprise attack on inheritance tax (IHT) regimes and trusts.

With immediate effect, most new trusts in the UK have been brought into the discretionary trust IHT provisions. Briefly, it means they will suffer entry charges of 20% on lifetime transfers that exceed the nil rate band; a "periodic" tax charge of up to 6% on the value of the trust's assets over the nil rate band once every 10 years; and an "exit" charge.

The only trusts to be excluded are:

- those created on death by a parent for a minor child who will become entitled to the assets in the trust at age 18
- trusts created for disabled persons
- trusts created on death for a life tenant, in certain (limited) circumstances.

A window of opportunity is open for conversion of some existing A&M (accumulation & maintenance) trusts until 6 April 2008. For existing interest in possession trusts, the current IHT rules continue to apply until the interest in the trust property at 22 March 2006 comes to an end.

The changes will revolutionise estate planning because gifts into trusts will now be chargeable and the scope for obtaining spouse exemption on death will be limited where the property is held in trust. It's likely that many Wills will have to be completely re-written.

Good news for non-domiciliaries

The existing beneficial set of rules relating to taxation of non-UK domiciled individuals residing in the UK (ie "foreigners" resident in the UK) are still under review, but remain in place.

The IHT changes described above do not apply to trusts of "excluded property" ie. non-UK property where the settlor is non-domiciled at the time of making the settlement.

As is now customary, the Chancellor announced a number of complex anti-avoidance provisions targeted at specific schemes and industries. There is also a widening of the disclosure regime for avoidance schemes and international tax enforcement arrangements through multinational mutual assistance.

Isle of Man takes the plunge

A number of changes introduced in the Isle of Man's 2006 budget have come into effect. They include introduction of a 0% "standard rate" of tax. For both resident and non-resident companies, this will apply to all with the exception of licensed banks, who will be taxed at 10% on income from their banking business, as will companies who receive income derived from land and property on the Isle of Man.

Those incorporated outside, but who have a business on the island ('F Register' companies) will either be taxed at the standard rate or 10% of their Manx-source income, depending on the nature of that income.

Companies incorporated outside, but which have their management and control on the island, are normally classed as tax resident and will therefore have their worldwide income taxed at either the standard rate, or 10% .

Companies resident on the island for income tax purposes are now liable to an annual 'Corporate Charge' of £250. This includes special regime companies that were previously able to make use of extra-statutory zero rate concessions, such as shipping companies.

Meanwhile a bill is on its way that will repeal the tax legislation relating to non-resident company duty, exempt companies, exempt insurance companies, exempt managed banks, international business companies and other international regimes. These can continue as they are until 7 April 2007, with the apparent intention that they become tax resident companies.

In November last year, the audit exemption turnover threshold was raised from £45,000 to £1m. However, a further bill is currently in the legislation process that would make a company an 'audit exempt company' if it meets two out of the following three criteria:

1. annual turnover is £5.6 million or less
2. balance sheet total is £2.8 million or less, and
3. average number of employees is 50 or fewer.

These criteria closely match those used in the UK.

While the Budget made changes to personal taxation, lowering it for individuals, the headline grabbing change was the competitive introduction of a tax cap, set at £100,000 per year, to encourage entrepreneurial investment in the economy.

Malta to phase out preferential tax regimes for offshore trading companies

The European Commission has welcomed the notification by the Maltese Government that it has formally accepted the EC's recommendation to gradually abolish the existing aid schemes providing selective fiscal advantages in favour of International Trading Companies (ITC) and Companies with Foreign Income (CFI) by the end of 2010 at the latest. Malta's acceptance renders abolition of the schemes legally binding and will put an end to these long-lasting preferential regimes in Malta. The Commission found that the schemes violated the EC Treaty's ban on state aid liable to distort competition.

Swiss claim withholding tax system works

A recent report released by the Ministry of Finance in Switzerland claims that the system for collecting withholding tax revenues under the European Savings Tax Directive is working. The agreement on the taxation of savings

income between Switzerland and the EU has been in force since 1 July 2005. For the 2005 collection period (1 July 2005 - 31 December 2005), the Federal Tax Administration received approximately CHF138 million, of which some CHF103 million will be transferred to the EU member states concerned. Switzerland will receive around CHF34 million. The country is one of several EU states, namely Austria, Luxembourg and Belgium, alongside non-member states such as Monaco, that have opted for the withholding tax. An alternative is to declare the interest payments to the country of residence of the interest payment recipient.

The withholding tax rate is set at 15%, rising to 35% in 2011.

Offshore Focus

Dubai milestone on collective investment schemes

Dubai took another step in April 2006 towards its goal to becoming the region's hub for financial services. The country enacted their Collective Investment Law 2006 which allows operators based within the Dubai International Finance Centre (DIFC) to create and manage two types of Domestic Fund products. They are:

Private Funds – privately placed and limited to 100 qualified investors

Public Funds – generally attracting a higher level of regulation than a private fund, as they demand that an independent committee be appointed to review the operations.

Both funds are required to appoint an auditor and arrange for the legal title of the fund's assets to be placed with an eligible custodian.

A number of other specialist funds are covered by the new law, including Property Funds, Hedge Funds, Private Equity Funds and Venture Capital Funds. Each is covered by type-specific regulations.

As the DIFC is a tax neutral environment, Domestic Funds will not be taxed at fund level.

Meanwhile, separate laws have been updated allowing DIFC-based operators to manage funds located in jurisdictions outside the DIFC. Foreign funds may also be marketed within the DIFC subject to certain additional disclosures and that the firm marketing the funds is authorised.

Amendment to trust law in Jersey

The most significant amendment of the Trusts (Jersey) Law since it was introduced in 1984 has been given ministerial approval. Amendment No 4's purpose is to clarify and simplify the existing law and to bring greater certainty to key questions concerning the validity of Jersey trusts and the powers that may be retained by the settlor of a Jersey trust. A key alteration which is likely to encourage the development of private trustee company business is the repeal of Article 56. This provided that in the event of a corporate trustee being found to be in breach of trust, the directors of that trust are deemed to be guarantors of that trust company's liability in damages.

Money laundering and compliance

Another EU Directive

Member states of the European Union have until 15 December 2007 to act on the Third Money Laundering Directive that was adopted last September. In May 2006 the following technical measures to implement the Directive were agreed after consultation:

- Definition of the term "Politically Exposed Person (PEP)". Generally, the view is that an official list needs to be established and be limited to a national/federal level.
- Criteria allowing the extension of situations in which customer due diligence procedures may be simplified, particularly relating to "low risk" clients, products or transactions (where adequate controls exist elsewhere). These include standard retail banking products, contracts on capital-forming investments, consumer loans, dealing in foreign exchange with own customers and so on.
- Criteria allowing persons/entities who conduct financial activities on an occasional or very limited basis to be excluded.

We strongly advise clients to look out for additional legislation in each country as this directive rolls out.

FATF compliance

As at 17 February 2006, Myanmar and Nigeria are the two remaining countries on the list of those considered to be not sufficiently compliant with the

recommendations issued by the Financial Action Task Force (FATF). Nauru was de-listed in the last quarter of 2005.

Jersey issues new regulation

In May, Jersey Financial Services published a consultation paper on a new Money Laundering (Jersey) Order and Handbook to replace the existing Guidance Notes for the Finance Sector. The paper brings Jersey into line with standards set by FATF. It highlights the importance of focusing resources on high risk customers, and the need to include certain activities conducted by lawyers, accountants and estate agents, and the sale of high value goods for cash.

Jersey court sets international precedent

In November last year, the Royal Court imposed fines totalling £100,000 on a financial services business, a trust services provider and the director, in the first prosecution ever to be brought under Article 37 of Proceeds of Crime (Jersey) Law 1999. The crux of the case was that no steps had been taken to verify the identity of the disclosed principal. The court's decision confirms that even an isolated failure to comply with client identification procedures can amount to a criminal offence. The conviction was upheld by the Court of Appeal on 27 January 2006.

AMPA Code adopted in Monaco

A new Code of Conduct for the management of foreign trusts and companies in Monaco was issued in January by AMPA. This outlines best practice recommendations on the prevention of money laundering and terrorism financing, and on business practices. AMPA is the Monaco Association of Corporate Service Providers.

Yachting News

At a meeting organised by the Chambre de Commerce et d'Industrie Nice Côte d'Azur in February 2006, Customs clarified the situation regarding the definition of a commercial yacht, vis-à-vis a pleasure yacht. The former enjoys a number of fiscal advantages, but as was clearly explained, they must fulfill three conditions:

1. The vessel must be registered for commercial use. For a French-registered craft that means it will have a "livret bleu" as opposed to a "livret orange" for pleasure boats.

2. When the vessel undertakes a voyage, be it by the major shareholder or owner, it must be covered by a properly drawn up charter agreement at current market prices.
3. There must be a permanent professional crew on board.

Company and Staff News

Moore Stephens doubles in size in USA

Moore Stephens International (MSIL) has doubled the size of its representation in the USA. It follows the combination of Moore Stephens North America with the Global Alliance, a \$330million network of eight US independent firms. MSIL is currently represented in 90 countries around the world and has a worldwide income of \$1.25 billion.

The combination has provided MSIL with a US network of 34 member firms, with gross revenues of over US\$600 million. Commenting on the transaction, Richard Moore, London, UK-based chairman of MSIL said that it was the first in a series of strategic developments to grow the network: "We are delighted that the member firms of the Global Alliance have decided to join Moore Stephens North America, which is now one of the most substantial US networks outside the Big 4," he said.

Activities expand in Belgium

MSIL has acquired three more offices in Belgium following a merger with Verschelden & Partners and Maryns Van Bockstaele & Partners. Renamed Moore Stephens Verschelden, the company now has nine offices and has become a major player in the Belgium market with a presence at the port cities of Antwerp and Ghent.

Obituary: Mary Magagli

It is with a profound sadness that Moore Stephens Monaco reports the untimely death of Mary Magagli. Her passing, so soon after she celebrated her 50th birthday, came as a great shock to all of us here, and to her many clients and friends.

Mary was a big personality, always the first on the dance floor at a party, and she successfully combined a demanding job with her role as mother of three children. Mary qualified as a barrister in Gray's Inn London in 1982, and first came to Monaco in 1984 where she fronted the legal and

administrative department of a Corporate Service Provider, before joining us as a Senior Trust and Company Manager in 2000.

Our thoughts are with Mary's husband, Michel, and her children Spike, Mélodie, Jonathan, and Oliver. She is greatly missed by us all.

Professional development

Congratulations are due to Cecile Marcon who passed papers 2.2, 2.3, 2.4 of the ACCA exams, to Amanda Lowe who passed papers 2 to 5 of her Accounting Technician exams, and to Daniela Tabury and Frank Walters who passed the STEP International Diploma module on Trust Administration & Accounts.

Encryption services now available

Moore Stephens Monaco now has the capability to communicate with clients using the highest standard of encryption services. For more information, please contact the office direct.

We believe the information in Briefing to be correct at the time of going to press, but we cannot accept any responsibility for any loss occasioned to any person as a result of any action or refraining from action as a result of any item herein.

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