

ROUTE TO THE CARIBBEAN

The Caribbean is a hub of tourist activity, its 7,000 beautiful islands attracting a myriad of travellers every year. Many visitors regularly return to enjoy the unique history and culture that each individual island has to offer. The development of the tourism market ignited indirect growth in several sectors such as construction and many other related enterprises. The tourism industry is now the most important service sector in an economy which was once defined by sugar beet and slavery. One in four people are employed by the industry which contributes to a very large portion of Gross Domestic Product (GDP).

Eggplant, flowers, sugar and bananas are exported by many of the islands, all of which are open to free trade. Also rum, the islands most famous product, is distilled and exported on a large scale. Offshore banking is another important part of Caribbean commerce, particularly in The Bahamas and Aruba. St. Croix has one of the world's largest petroleum refinery facilities, as does Aruba. Though, mostly all of these industries rank below tourism in profitability.

The private equity and venture capital market is an area with enormous potential for economic growth in the Caribbean. In 2010 global interest in Latin American and Caribbean private equity and venture capital market is extraordinarily high, creating many opportunities for fund managers who are active in the region. This can be attributed to solid macroeconomic management and political stability in key markets and to growing international demand for the region's resources. While PE/VC investments decreased from 2008 to 2009 as a result of the global economic downturn, in 2010 activity is picking up and many global firms are establishing offices and launching strategies targeting Latin American and the Caribbean.

The Latin American Venture Capital Association (LAVCA) is the leading network of regional industry professionals. It unites investors, fund managers, policy makers and experts through events, research and analysis and advocacy in order to advance private investment in Latin America and the Caribbean. Cate Ambrose, president of



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LAVCA commented:

"LAVCA's membership is comprised of over 70 firms, from leading global investment firms active in the region to local fund managers from Mexico to Argentina. Member firms control assets in excess of \$20 billion, directed at capitalising and growing businesses in Latin American and the Caribbean."

Ms. Ambrose said that although it is a good moment for PE and VC in Latin America, with the exception of Brazil, most of the PE and VC markets are still in their infancy, with relatively few fund managers with established track records. This is particularly true in the Caribbean, although more investors are looking at strategies that might incorporate Central America and the Caribbean into part of a larger regional effort.

"As a result, it is difficult to measure a decrease in activity in the Caribbean as a result of the economic downturn. One challenge is that the Caribbean is more dependent on US consumer demand and remittances than most of the markets in South America," she added.



TRUSTS & ESTATES

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The firm has advised on these areas for more than 50 years and is a recognised leader in this area of practice at the Bahamian bar. Further, its litigation department is fully equipped to provide the necessary representation before the courts on any matters affecting the interpretation, administration or enforcement of any relevant trust.

With regards to Graham, Thompson & Co.'s client base, Ms. Hanna noted that the trust clientele of the firm is drawn from all over the world, including the UK; Continental Europe; North, South and Central America; the Far East; Australia; the Middle East; and Africa.

She added: "Typically, the firm's trust clients are either trust companies or high net worth individuals who are keen to develop appropriate structures for multi-generational wealth generation and planning in a highly disciplined and reliable format."

Ms. Hanna also said that the economic downturn has intensified concerns over the investment management of trust funds and, increasingly, settlors are wanting to either keep the investment powers for themselves, or place them in the hands of close and trusted investment advisers over which they (the settlors) will exercise close vigilance and monitoring.

She added: "The Bahamas is a particularly attractive destination in this regard because of our generously accommodating legal framework that permits settlors to maintain maximum control over trust assets without thereby running the risk of having the trust declared a sham. Moreover, the trust law is about to be amended further to create a special protected regime for 'settlor directed trusts'."

According to Tanya R. Hanna, partner at Graham, Thompson & Co. based in Nassau New Providence in The Bahamas, the country boasts an impressive array of estate and wealth management structures including foundations, companies, exempt limited partnerships and – most especially – trusts. "Indeed," said Ms. Hanna, "The Bahamas has for long been on the cutting edge of product innovation in this particular area of the international market."

The menu of trusts for The Bahamas includes asset protection trusts (which are subject to a debtor-friendly two year limitation period), anti-forced heirship trusts (which insulate trust assets against the forced heirship claims from other jurisdictions); non-charitable purpose trusts (which are particularly useful for various commercial purposes); as well as the most conventional type of trust that is set up for the usual estate planning purposes and which provide an alternative to the vagaries of testamentary succession.

Graham, Thompson & Co. has extensive experience, not only in helping to craft the legislation that was created for trusts of the various kinds just described, but also complex trust structures (complete with underlying corporate asset holding structures) for the firm's international clientele. The firm's expertise extends not only to the crafting and preparation of trust documentation, but also in advising settlors on a wide range of attendant issues including domicile, residence, the increasing impact of tax information exchange agreements, confidentiality, the need for expert tax planning in the jurisdiction where the settlor is subject to tax, and a wide range of other important considerations that go into the analysis of each settlor's special trust structuring requirements.