

LAVECO[®] since 1991.

NEWSLETTER

The power of the banks over offshore companies

In the first LAVECO Newsletter of 2008 I tried to outline the tendencies which could be expected this year. These were the procedures which would have an effect on the offshore world which I considered to be the most important. Anyone who read that article may remember the statements I made in regard to banks, and particularly the most important one: the banks will decide who they want to work with and open accounts for, and who they don't.

We could say that this is only natural, as this is a business agreement, where two independent and "equal" partners are signing an agreement. I can imagine your wry smiles as you read this. Equal? Is this really an apt term when talking about a bank and client relationship? Based on the knowledge of clients' demands acquired over the last 17 years, I can say that the majority imagine the banks to be like large shopping centres, where you can just walk in and buy everything from vegetables to the latest fashion accessories.

This is what they want from the banks, too. It must be possible to open current accounts, transfers must be easy and convenient to make, preferably through an Internet banking service, the bank should offer clients various bank cards, and, for good measure, competitive options for those hard-earned savings. This list clearly involves a fairly wide range of different banking "products". If we look at an actively operating offshore company, however, they are all required for the management of the company's day-to-day transactions.

On the other hand, what is actually on offer doesn't meet these requirements, and, to be frank, I'm afraid it doesn't even come close. At LAVECO, we are constantly trying to develop relationships with various financial institutions, while the number of such institutions prepared to work with offshore clients is very limited. So, what



is the real situation, and what are we up against?

1. If someone is looking for "private banking" services from their banking partner, the list is almost limitless. Clients with 200 000 to 500 000 euros to deposit in an account and leave there long-term can choose from a vast number of institutions, and the account-opening process is also relatively straightforward. The same can not be said, however, for the management of the account once it has been opened. It must be borne in mind that this is a deposit account, not a current account. The bank requires that the balance on the account should not fall below a pre-set minimum, there are restrictions on daily transactions, generally there is no Internet access, and very high deposits are required for bank cards. If clients accept all this, then there are hundreds of banks in Europe who will welcome them with open arms.

2. Finding a bank capable of offering the problem-free performance of commercial activities and everyday transactions is becoming more and more difficult. The majority of the banks in Europe are afraid of offshore clients. More precisely, the risk assessors consider companies with no business partners or physical presence in the given country to be of a much higher risk. Trying to open an account alone, without the help of specialists, may take days, weeks or even months, with no guarantee that



the project will end successfully. Every week we are approached by clients who have formed their offshore companies through other service-providers, but have then been unable, either through their service-provider or independently, to open a bank account. Unfortunately, we can not help them either. At LAVECO Ltd. we only help open accounts for clients who have formed, or maintain, their companies through our services.

3. We also have to face up to the "nightmare scenario" of banks which have worked well until now closing the accounts of offshore companies. We do not know the exact reasons behind this decision, and the banks are not prepared to reveal such information. The only explanation they may offer is that there is an increased risk of money-laundering, the financing of terrorism and other criminal activity in the opening of accounts for offshore companies, as offshore companies offer better possibilities for the performance of such activities. And if the bank became involved in such a scandal, this would have a significant effect on the bank's share price, its standing in the banking world, and ultimately on its long-term profits.

4. The account-opening process is becoming more and more complicated. Even if we find a suitable banking partner, it is by no means certain that everything will run smoothly, even if the client is a long-standing and respected customer of the given bank. The banks now require numerous documents for the opening of accounts, such as bank and lawyer's references, utility bills, business

plans, taking a considerable amount of time to investigate the potential customer. So we need to be patient, and not think "oh, this is nothing", or "10 years ago it only took one hour". That is now in the past, a little piece of history. If we react impetuously to the questions and requirements of the bank, then the opening of the account will almost certainly end in failure. Do you remember my statement at the beginning about being equal partners?

I know that once again I have failed to serve up a cloudless, easy to read article. In my opinion, however, it is better to be realistic; in

the business world, everything can be measured in money, including the wasted time which could have been saved if we had approached the matter correctly from the outset. Despite the difficulties, LAVECO Ltd. still has trained experts at your disposal for the bank account opening process. And even though you have to pay for our services, the savings in time and anxiety will make it well worth it. Count the cost yourself, and count on us!



László Váradi
Managing Director
LAVECO Ltd.

Bearer Shares: the pros and cons

Not including the increasingly more popular Limited Liability Companies (LLCs) registered in the USA, the majority of offshore companies are formed as share companies. Share certificates are issued regarding the ownership rights, and in most cases this is one document covering the total amount of shares due to each owner. In the case of a company formed in the Seychelles, for example, the maximum number of shares which can be issued is usually 100 000 shares of 1 US dollar each. Naturally, if there is only one owner of the total 100 000 shares, then Share Certificate no. 1, will be issued for 100 000 shares with a par value of 1 dollar per share.

The company law of most Offshore Financial Centres (OFC) is based on the English company and commercial law, or an Americanised version of it. Originally – and formally still today – according to English law, shares could be issued as either bearer shares or registered shares. The difference between the two, as the names suggest, is considerable. In the case of registered shares, the name of the individual or company which owns the shares appears on the share certificates, whereas, in the case of bearer shares, the identity of the owner does not appear in print. All that is stated is that whoever can produce the share certificate (the “Bearer”) is the owner of the shares.

Consequently – and understandably – everyone asks the question: Can bearer shares be abused? The very nature of bearer shares dictates that whoever bears (is in possession of) the shares, is the owner, as no concrete name appears on the document. As such, that person is entitled to enjoy all of the shareholders rights which are set down in the company’s Memorandum & Articles of Association and the legislation regarding such companies. It is very important, therefore, to make sure that the share certificates are kept in a suitably secure place, to ensure that they, and the shareholder rights they represent, do not fall into the wrong hands.

There are, however, two important factors which tend to receive less emphasis when talking about

bearer shares. Bearer shares are like a “red rag” for international organisations such as the OECD and the relevant EU authorities. We saw this years ago with the anonymous bearer securities, which have been abolished in just about every EU member state. The main objection to these anonymous papers, is that they can not be tied to anyone, and the company structure is not transparent. And transparency is one of the major requirements placed on the OFCs; in the future every offshore jurisdiction will almost certainly be forced to harmonise its legislation, and this will probably mean the end of the road for bearer shares.



The other forgotten aspect, the question of bank accounts, basically follows on from this. An offshore company without a bank account is worth precious little. When opening a new account, just about every serious bank in the world will ask the question, one way or another: who is the real beneficial owner of the company? At this point it is not possible to indicate another offshore company. The banks are now required, through international recommendations and the international anti-money laundering laws, to identify the beneficial owner of the account.

And with this, basically, the gate has been closed. Although the issue of bearer shares is still possible in the Seychelles, Panama and the Marshall Islands, when it comes to the bank account, the individual or individuals behind the company must be revealed.

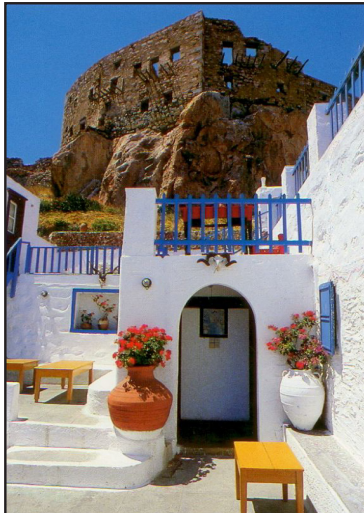
CYPRUS: the ideal intermediary



Companies registered in Cyprus can be used very effectively for the performance of so-called triangular transactions involving trade between three countries, A, B and C. Cyprus has been a full member of the European Union since May 1st 2004, and as a result, companies formed in Cyprus can obtain EU VAT numbers, which are an important requirement in such triangular transactions.

But what exactly do we mean by triangular transaction. Goods from country A – let's say Germany – are sold to country B – for argument's sake, Italy – with the help of an intermediary from country C – in this example, Cyprus. The goods are sent directly from country A to country B, without actually going to country C, as this is only technically involved in the deal. If all companies have EU VAT numbers, and the movement of goods actually takes place, then VAT only needs to be added by the company in country B when it sells the goods in country B, even though the goods have not actually left the EU.

If we add figures to the above model, then it can be seen that the lion's share of the profit can remain with the company in Cyprus, which only pays tax at the very



attractive rate of 10%. This is currently the lowest legal rate of tax on profit of all the EU member states. LAVECO Ltd. provides its clients with a full range of services in the formation, administration and account-keeping of Cyprus companies. We also undertake the provision of EU VAT numbers, though the process is by no means automatic, and differs considerably from the usual EU practice. If you would like up-to-date information, please contact our staff in the LAVECO offices mentioned in this Newsletter.

New banking partner for LAVECO Ltd.: LOYAL BANK

LAVECO Ltd. has recently entered into an agreement with the LOYAL BANK, which operates out of St. Vincent



& The Grenadines. In accordance with the terms of the agreement, companies incorporated through LAVECO Ltd. can open accounts with the LOYAL BANK. This is particularly attractive to those numerous clients who have expressed an interest in opening an account outside the EU. The LOYAL BANK is also recommended for clients who do not wish to deposit large sums in their accounts, but do wish to perform daily transactions, while also accessing their account via the Internet. The bank card services offered by the bank are also worthy of note.

For full details, please contact our staff, who will be happy to help, or visit our website at www.laveco.com.

THE LAVECO GROUP

UNITED KINGDOM LAVECO LTD.

Third Floor, Blackwell House,
Guildhall Yard, London
EC2V 5AE United Kingdom
Tel.: +44-207-556-0900
Fax: +44-207-556-0910
E-mail: london@laveco.com

HUNGARY LAVECO KFT.

33/a Raday street,
1092 Budapest
Hungary
Tel.: +36-1-217-96-81
Fax: +36-1-217-44-14
E-mail: hungary@laveco.com

CYPRUS LAVECO LIMITED

Despina Sofia Complex
Apartment 202, United Nations 8
Drosia 6042, Larnaca, Cyprus
Tel.: +357-24-636-919
Fax: +357-24-636-920
E-mail: cyprus@laveco.com

ROMANIA OPTITAX CONSULT S.R.L.

59 Buzesti Str., A5 Block
1st Scale, 1st Floor, 62nd Flat
1st District, Bucharest, Romania
Tel.: +40-21-311-61-76
Mob: +40-747-595-132
Fax: +40-21-311-61-82
E-mail: office@optitax.ro

BULGARIA LAVECO OOD

"Porto Lagos" No.1, Ent.2, Floor 5,
Ap.42, 1463 Sofia, Bulgaria
Tel.: +359-2-953-2989
Mob: +359-888-126-013
Fax: +359-2-953-3502
E-mail: bulgaria@laveco.com

WEB SITE: www.laveco.com

The information contained in this newsletter should not be construed as tax, customs, social security or other business advice given in a concrete case. The authors and publishers can accept no responsibility for any financial, legal or moral loss or damages occurring as a result or in consequence of action taken (or not taken) while acting and relying upon information contained in this publication. We apologise for any possible typing, layout, grammar or other errors, and welcome any observations.