THE GLOBAL REGULATION OF
OFFSHORE FINANCIAL CENTRES WITH
REFERENCE TO SINGAPORE

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STATEMENT

This thesis is submitted to Bond University in partial fulfilment of the requirements for the Degree of Doctor of Legal Science.

The thesis represents my own work and contains no material which has been previously submitted for a degree or diploma at this University or any other institution, except where due acknowledgment is made.

Research was carried out up to July 2004.

Dated 18 November 2004

Angelo M. Venardos
Dedicated to my father, Minas Venardos, who came to Australia in 1937 from the Greek island of Kytheria as a young migrant, fought in the Pacific Islands during World War II, raised a good family, and was a proud community and business leader.

I wish to acknowledge the contribution to my lifelong education by my mother, Kate.

And to my daughters, Alexandra and Christina, you are always in my heart and mind.
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List of Abbreviations

ABS  Association of Banks (Singapore)
AC   Appeal Cases (England)
A-G  Attorney General
All ER  All England Law Reports (England)
AML  Anti-Money Laundering
AUM  Assets under Management
BIS  Bank for International Settlement
BFSB  Bahamas Financial Services Board
BSA  Bank Secrecy Act (US)
BVI  British Virgin Islands
CAD  Commercial Affairs Department (Singapore)
CARICOM  Caribbean Community (and Common Market)
CDTSCA  Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Singapore)
CRPA  Closer Economic Partnership Arrangements
CFP  Center of Freedom and Prosperity
CFATF  Caribbean Financial Action Task Force
CFC  Controlled Foreign Corporation
CFT  Combating the Financing of Terrorism
DOJ  Department of Justice (US)
DTA  Double Taxation Agreement
DTA  Drug Trafficking (Confiscation of Benefits) Act (Singapore)
DTRoP  Drug Trafficking (Recovery of Proceeds) Ordinance (Hong Kong)
EC  European Commission
<table>
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<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>ECOFIN</td>
<td>EU Council of Finance Ministers</td>
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<td>EU</td>
<td>European Union</td>
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<td>FATF</td>
<td>Financial Action Task Force</td>
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<td>FAU</td>
<td>Financial Analysis Unit (Panama)</td>
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<td>FIAML</td>
<td>Financial Intelligence and Anti-Money Laundering (Mauritius)</td>
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<td>FIU</td>
<td>Financial Intelligence Unit</td>
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<td>FSAP</td>
<td>Financial Sector Assessment Programme (Mauritius)</td>
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<td>FSC</td>
<td>Financial Supervisory Commission (Cook Islands)</td>
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<td>FSF</td>
<td>Financial Stability Forum</td>
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<td>G8</td>
<td>Group of Eight (Canada, France, Germany, Italy, Japan, Russia, United Kingdom and United States)</td>
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<td>GAO</td>
<td>General Accounting Office (US)</td>
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<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>HCA</td>
<td>Higher Confidentiality Agreement</td>
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<td>IBC</td>
<td>International Business Company</td>
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<td>IC</td>
<td>International Company</td>
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<td>IFC</td>
<td>International Financial Centres</td>
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<td>IMF</td>
<td>International Monetary Fund</td>
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<td>IOSCO</td>
<td>International Organisation of Securities Commissions</td>
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<td>IRAS</td>
<td>Inland Revenue Authority of Singapore</td>
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<td>IRS</td>
<td>Inland Revenue Service (US)</td>
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<td>ITIO</td>
<td>International Tax and Investment Organisation</td>
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<td>JFSC</td>
<td>Financial Services Commission</td>
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<td>KYC</td>
<td>Know Your Client</td>
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<td>LLC</td>
<td>Limited Liability Company</td>
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<tr>
<td>Abbreviation</td>
<td>Description</td>
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<td>MACMA</td>
<td>Mutual Assistance in Criminal Matters Act (Singapore)</td>
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<td>MAS</td>
<td>Monetary Authority of Singapore</td>
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<td>MDL</td>
<td>Misuse of Drugs Law (Cayman Islands)</td>
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<td>ML/FT</td>
<td>Money Laundering and Financing of Terrorism</td>
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<td>MLRO</td>
<td>Money Laundering Reporting Officer</td>
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<td>MoU</td>
<td>Memorandum of Understanding (Jersey)</td>
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<td>MROS</td>
<td>Money Laundering Reporting Office Switzerland</td>
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<td>NCCT</td>
<td>Non-Cooperative Country and Territory</td>
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<td>OECD</td>
<td>Organisation for Economic Co-operation and Development</td>
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<td>OFAC</td>
<td>Office of Foreign Asset Control (US)</td>
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<td>OFC</td>
<td>Offshore Financial Centres</td>
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<td>OIA</td>
<td>Offshore Industry (Criminal Provisions) Act (Cook Islands)</td>
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<td>OSCO</td>
<td>Organised and Serious Crimes Ordinance (Hong Kong)</td>
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<tr>
<td>PCCL</td>
<td>Proceeds of Criminal Conduct Law (Cayman Islands)</td>
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<td>PRC</td>
<td>Peoples Republic of China</td>
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<td>PW</td>
<td>Price Waterhouse</td>
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<td>RFC</td>
<td>Regional Financial Centres</td>
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<td>RMB</td>
<td>Renminbi, official currency for China</td>
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<td>SAR</td>
<td>Suspicious Activity Reports</td>
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<td>SCA</td>
<td>Serious Crimes Act (Singapore)</td>
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<td>SDE</td>
<td>Small and Developing Economy</td>
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<td>SIMEX</td>
<td>Singapore International Monetary Exchange</td>
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<tr>
<td>STR</td>
<td>Suspicious Transaction Report</td>
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<td>STRO</td>
<td>Suspicious Transaction Reporting Office</td>
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<td>TIEA</td>
<td>Tax Information Exchange Agreement</td>
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<td>Acronym</td>
<td>Full Name</td>
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<td>UBS</td>
<td>United Bank of Switzerland</td>
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<td>United Nation</td>
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<td>United States</td>
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<tr>
<td>USA</td>
<td>United States of America</td>
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<tr>
<td>VFSC</td>
<td>Vanuatu Financial Services Commission</td>
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<td>WTO</td>
<td>World Trade Organisation</td>
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Abstract

This thesis sets out to analyse the regulatory bodies’ initiatives on offshore financial centres (OFCs) in the context of the hypothesis that Singapore is emerging as the new jurisdiction of choice for global wealth management. The focus is on four major areas; harmful tax practices, money laundering, confidentiality and exchange of information. At a glance, these negative factors are the characteristics of solely an OFC. With initiatives made against their exact method of business and trade, how would the OFCs cope with the regulatory bodies’ pressure, and yet not lose their means of survival? They may be facing wealthy and developed nations such as UK and USA, but as a group they have negotiating strength. The OFCs have banded together and made their situations known in several forums with the supranational organisations. The result has been a compromise of the “rules and regulations” laid out in the initiatives, without preventing the major OFCs from functioning as providers of financial services.

Chapter 1 sets out the definitions of an OFC, their scope, influence and their positive characteristics which attract foreign funds and investment.

Chapter 2 introduces the organisations behind the initiatives against OFCs. It reveals the policy approaches towards OFC practices of the Organisation for Economic Co-operation and Development (OECD) and the Financial Action Task Force (FATF) and subsequent developments. On the private sector side, the Wolfsberg Principles have emerged, with a similar approach to the FATF Recommendations against money laundering.
Chapter 3 explores two concerns of the initiatives; harmful tax practices, which includes tax evasion and money laundering. It examines the laws, or the lack there of, to fight tax evasion and money laundering.

Chapter 4 investigates the OFCs' confidentiality and exchange of information positions, both common foundations of offshore financing. It presents the arguments for privacy and confidentiality in OFCs and how they can aid in the fight against money laundering without forgoing the confidentiality principle. Exchange of information can involve co-operation between nations thereby bringing into the picture sovereignty and the comity principle.

Chapter 5 traces the responses of the principal OFCs to the concerns of the OECD and the FATF, as being havens for money laundering and tax evasion. It explores the laws and regulations of several OFCs to fight money laundering and tax evasion, through legal mutual assistance and without compromising too much of the confidentiality promised to the investors.

Chapter 6 introduces Singapore as the newly emerging wealth management centre. It shows how the English common law, regulatory bodies and authorities curb money laundering, participate in mutual legal assistance, and yet provide the same confidentiality and solid banking infrastructure as the leading wealth management centre, Switzerland.
Chapter 7 concludes the analysis of the directives and recommendations of the supranational organisations and the responses of the major OFCs. It demonstrates how Singapore is emerging as another jurisdiction of choice, as it has satisfied the recommendations of the OECD, FATF, FSF and Wolfsberg Principles in terms of harmful tax practices, money laundering, confidentiality and exchange of information. This position is further reinforced by the number of major international banks and financial institutions establishing major presences in Singapore.