

# A meeting of minds



The Funds Platform of the Curaçao International Financial Services Association (CIFA) is pleased to introduce itself together with select members participating in this AFSR Curaçao roundtable. The Funds Platform is an association of professional organisations serving the Investment Fund Industry on and from Curaçao under the auspices of CIFA. Included in the membership are professionals of the highest calibre from the legal, administrative, audit, corporate management and technology fields. The Funds Platform was formed to liaise with legislators and regulators to create an environment specifically tailored to encourage the development of the Investment Fund Industry ensuring the highest standards of practice from both a regulatory and a service provider perspective. Additionally, the Funds Platform seeks to promote Curaçao.

Eric Andersen, chairman, Funds Platform CIFA (pictured)

Greg Fenlon and Robert Mau-Asam, vice-chairmen, Funds Platform CIFA

## At the table

Erik Groeneveld is an audit partner and the hedge fund practice leader at Ernst & Young Netherlands Antilles. He has 23 years' experience in public accounting. Groeneveld started his career in the Amsterdam office of Arthur Andersen and transferred to Curaçao in 1989.

Groeneveld is co-responsible for the audit and business advisory services practice line of Ernst & Young Netherlands Antilles. He is practice leader of the Ernst & Young Hedge Funds Practice, which comprises of a dedicated multidisciplinary team of qualified and experienced staff. Groeneveld is a member of the Ernst & Young Global Hedge Fund Committee comprising Ernst & Young partners dedicated to the hedge funds practice.



Greg Fenlon is managing director of Citco Fund Services (Curaçao) N.V. Citco Fund Services is the largest hedge fund administrator worldwide, with US\$175bn in assets under administration. Fenlon joined Citco in 1997 and has been responsible for the day-to-day operations of the Curaçao office since 2003. He is a Fellow of the Association of Chartered Certified Accountants and prior to joining Citco, he was an audit/tax manager at V.F.

Nathan & Co in Dublin, Ireland. Fenlon is also vice-chairman of the Curaçao International Financial Association Funds Platform.



Robert Chin joined the ATC Group in March 2003 as chief executive of ATC Fund Services. Prior to joining ATC, Chin was managing director of Fortis Fund Services (Curaçao) N.V. for 10 years, where he was responsible for around 75 staff members and US\$22bn under administration. Chin's previous professional experience includes a seven-year tenure as CFO of a Dutch brokerage firm, where he was a member of the European Option Exchange and the Amsterdam Stock Exchange. Prior to that, Chin spent the first eight years of his career as an accountant with Ernst & Young Amsterdam (the Netherlands).



Adriaan de Buck (1965) is an attorney-at-law with approximately 12 years' experience. He started practicing law in 1992 with Pels Rijcken & Droogleeve Fortuijn in The Hague, one of the top-10 law firms in the Netherlands. In 2001, de Buck joined the law firm Wouters Advocaten (Andersen Legal) to become the senior manager of its offices in Curaçao, Netherlands Antilles. After Andersen merged with Ernst & Young in June 2002, he became a director of Ernst & Young Law Offices. De Buck specialises in Dutch and Netherlands Antilles company and insolvency law.



**AFSR: Can you give an honest assessment of the hedge fund atmosphere in Curaçao?**

Greg Fenlon (GF): When the hedge fund industry began in the 1960s, Curaçao was the domicile of choice. Other jurisdictions got their acts together in a significant way and Curaçao fell behind. At this point, from a service provider point of view Curaçao is still a significant player, but for domiciliation, other than the long-established funds Curaçao is now further down the list of choices.

Robert Chin (RC): I believe the atmosphere is positive among the hedge fund players in Curaçao. The main reason for that is the implementation of National Ordinance on Supervision of Investment Institutions and Administrators (NOSIIA) has provided Curaçao with the necessary legislation and supervision that is required in today's hedge fund industry. In terms of hedge funds choosing Curaçao as a domicile, I believe we have to offer an

attractive package to fund managers looking for offshore domiciles. Whereas a few years ago the trend in the industry was the less regulation in the jurisdiction the better, I think that has now changed 180°, and it is increasingly important for managers and investors to have some form of supervision and legislation. Curaçao also offers a flexible legal vehicle which is tax-exempt.

Erik Groeneveld (EG): Curaçao is making its legal and tax framework more attractive for hedge funds domiciliation. The result is an attractive legal vehicle, the Netherlands Antilles Besloten Vennootschap (Netherlands Antilles Closed Limited Liability Company) for funds domiciliation. Hedge funds incorporated in the form of a NABV do not pay company income taxes, but at the same time are not comparable to tax haven vehicles. I believe these initiatives and the resulting adjustments to our legal and tax framework are a clear indication of the importance being given to the hedge funds industry in Curaçao.

**AFSR: On the service side, what would be Curaçao's selling point for funds coming to the island?**

RC: From the service side it is important to note Curaçao has a long history of administrating the traditional offshore hedge fund and the more complex hedge fund. As a result I think the service providers are experienced in servicing these types of structures. Some well-known hedge fund managers have been there for years, such as Soros. It is important to know the experience is there and in comparison with other domiciles Curaçao has a lower cost structure which should result in the service providers offering experienced services at a competitive price.

EG: The Netherlands Antilles is a politically and economically stable jurisdiction. We have a well-developed legal infrastructure. The Netherlands Antilles form part of the Kingdom of The Netherlands and the ultimate court of appeal is the Supreme Court in the Netherlands. Foreign Affairs and Defence Affairs are also Kingdom matters. That provides security. In terms of service providers, we benefit from the presence of hedge funds service providers such as CITCO, Fortis, ABN-AMRO, ATC, SS&C and others. The presence of audit firms such as our firm Ernst & Young and the presence of well-reputed law firms with international affiliations is also a plus.

GF: The domicile's reputation is still strong. Curaçao has a long-standing reputation for servicing the alternative investment industry. There are established and experienced service providers on the island, mainly in administration and accounting, offering the full breadth of services. It is also important to mention the Netherlands Antilles has a single tax regime and does not have the 'tax haven' status often applied to other jurisdictions, although we have structures in place to allow for the development of offshore financial services. With the introduction of the new fiscal framework, we have a single tax framework, while there is an offshore structure offering tax-exempt status which is geared specifically towards the investment funds industry.

Adriaan de Buck (AB): The Netherlands Antilles and especially Curaçao offer a number of specific selling points. There is a strong tradition of providing offshore financial services; the quality of the workforce is excellent with many professionals educated in Europe and the US. Curaçao has an intensive relationship

## Regulatory focus: The Central Bank of the Netherlands Antilles

### Supervision of Collective Investment Schemes and Administrators

In an effort to promote the soundness and stability of the financial sector in the Netherlands Antilles and to continue to pursue high standards and integrity, the National Ordinance on the Supervision of Investment Institutions and Administrators (N.G 2002, no. 137) (NOSIIA) was enacted. This national ordinance governs the regulation of collective investment schemes and administrators and became effective as of 1 January 2003. The objectives of this ordinance are threefold: first, to ensure the interests of the investors are protected; second, to promote the adequate functioning of the financial markets; third, to maintain the reputation of the Netherlands Antilles as a respectable international financial centre. By virtue of the ordinance, the Central Bank of the Netherlands Antilles intends to promote the confidence of investors in the soundness of the collective investment schemes and administrators offering their services in or from the Netherlands Antilles, and in the expertise and integrity of the individuals involved in the management, supervision and operation of the collective investment schemes and administrators. The Bank conducts both off-site and on-site supervision of the supervised collective investment schemes and administrators.

The supervision of collective investment schemes as entrusted to the Bank is not focused on the investment performance or investment policy of the institutions. A characteristic of a collective investment scheme is that investors consciously accepted to take certain risks. Consequently, the Bank's supervision is not aimed to protect the investors against their consciously accepted risks. Rather, the supervision of collective investment schemes is focused on the adequacy of the collective investment schemes' infrastructure, as revealed by the conduct of business, the institution's equity capital, and the competence and integrity of the persons that (co-) determine the institution's policy, based on applicable rules and regulations, as well as the provision of information to (prospective) investors.

Moreover, the Bank's supervision of administrators is focused on the adequacy of the infrastructure of the administrator, as revealed by the conduct of business, the competence and integrity of the persons that (co-) determine the administrator's policy, and the administrator's compliance with rules and regulations.

The Bank also issued Directives on the Supervision of Investment Institutions and Administrators. The ordinance together with the directives provide the basis for the supervision of collective investment schemes offering participating interests in or from the Netherlands Antilles, and administrators that provide administrative services to collective investment schemes in or from the Netherlands Antilles. Furthermore, the Bank has issued Policy Guidelines on Exemption Regulation for both collective investment schemes and administrators and Policy Guidelines for foreign collective investment schemes and foreign administrators. These policy guidelines outline the basis on which the Bank may grant a collective investment scheme or administrator an exemption and the Bank's policy with respect to foreign collective investment schemes and administrators.

A collective investment scheme may either be an investment company or an investment fund. The legal form of an investment company is often a public limited company or a private limited company. An investment fund, on the other hand, is not regarded as a legal entity. In case of an investment fund, the stipulations of the legislation are directed to the management company. Both open-ended and closed-ended collective investment schemes fall under the scope of the NOSIIA.

## “Curaçao has an intensive relationship with the Netherlands and almost all the large financial institutions from the Netherlands are located in Curaçao” Adriaan de Buck

with the Netherlands and almost all the large financial institutions from the Netherlands are located in Curaçao; often these institutions and the other large service providers on the island have offices in New York.

**AFSR: Considering the work that may have to be put in to attract funds on the domiciliation front, has the industry pulled together to attract new business?**

RC: Definitely. The service providers in Curaçao have now set themselves up as the Curaçao International Financial Services Association (CIFSA) and as part of that, the service providers have set up the CIFSA Funds Platform. Its objective is to promote Curaçao as a modern and flexible jurisdiction for investment funds. It will soon start advertising Curaçao in that light. The reason the industry hasn't heard much about it yet is that we want to ensure the proper legislation and supervision is in place, and then we can go out and focus completely on marketing Curaçao and the service providers to the outside world.

EG: I agree. The aforementioned platform aims to promote Curaçao not only as a place for fund administration, but also for domiciliation. This way, we try to prevent a situation in which every individual service provider does its own promotion; instead we are focused on making co-ordinated promotional and informational efforts as a jurisdiction as a whole.

AB: Over the past few years, the combined efforts of the government and the financial services industry have produced a series of specific results. By the introduction of a new fiscal regime, as of 1 January 2001 a special exemption from tax was created for a Netherlands Antilles-closed company (ABV) when it is organised as a fund. This NABV, which was introduced in January 2000, has been specifically designed to serve the offshore industry. The NABV provides maximum freedom in terms of organisation and presentation. Due to its flexibility, a NABV can serve many purposes, for example, as a vehicle for an offshore hedge fund or an international joint venture, whereby the proceeds and control can be structured in accordance with the

participants' objectives. The NABV may also be used as an SPV in repackaging and securitisation transactions.

The introduction of the Ordinance on supervision of funds and administrators in 2003, which puts in place a supervisory regime for the hedge fund and investment fund industry. The supervision is exercised by the Central Bank of the Antilles and funds and administrators have to obtain a licence; however, exemptions can be granted, among others when the fund only deals with sophisticated investors and professional parties or in case a foreign fund or administrator is already subject to adequate supervision in its home country.

At the year-end of 2003 a new ordinance on the supervision of fiduciary service providers was adopted. This ordinance introduces a supervisory regime for the so-called fiduciary companies which are placed under the supervision of, and required to obtain a licence from, the Central Bank. As of March 2004, new legislation regarding Netherlands Antilles company law, known as the second book of the civil code, has come into force. This new legislation brings with it a substantial simplification of company law, in line with the flexible arrangements which have been created for the NABV. As stated, this flexibility in particular relates to the incorporation and capitalisation of companies. Furthermore the procedures for liquidation of companies and transfer of the statutory seat to another country (now called conversion) have been simplified. The mandatory use of Dutch as the official legal language, which was deemed cumbersome and restrictive by foreign investors, has been abolished. By this substantial simplification of the legislation, hopefully the financial services sector will be able to develop new business opportunities.

Last but not least, draft legislation has been developed with respect to the Netherlands Antilles trust as another suitable legal vehicle for the offshore sector. This legislation introducing the trust is expected to come into force shortly.

GF: Most certainly. The industry, together with the regulatory authorities, called for the implementation of a supervisory regime, whose remit would include regulating the existing hedge fund industry and making the

jurisdiction a more attractive one for domiciliation. Within the CIFA, the CIFA Funds Platform is specifically focused on development of the offshore fund industry, to consolidate and promote changes within the jurisdiction which will enable the investment fund industry to grow in Curaçao. All industry players are part of this initiative – while the needs may be different for each company, we all understand the need to pull in the same direction.

**AFSR: And how is the process of renegotiating your tax treaties progressing? How valuable are these to future growth?**

EG: Negotiating and renegotiating tax treaties is a lengthy process. Having considerable tax treaties is important for maintaining and further developing a sound financial services sector in the Netherlands Antilles. Ten years ago, the Netherlands Antilles decided to upgrade and modernise its tax legislation in line with the policies of the OECD and subsequently the EU conduct code group (the Primarolo committee). This new fiscal framework entered into force on 1 January 2001. The NFR was considered a prerequisite for broad acceptance on an international scale and of paramount importance to succeed in expanding our tax treaty network. Right now we are having talks with the US, Venezuela, Mexico, Australia, Spain, Italy and others. The financial services sector is presently forming a tax treaty taskforce that, with a mandate from our government, is aimed at accelerating these talks. In terms of our funds industry, I don't believe having a considerable number of tax treaties is of great importance, although there may be some benefits coming from it. But for the financial services sector as a whole, it is of great importance.

GF: It has been an ongoing process and the financial services industry has banded together and provided the necessary momentum in order to renegotiate the tax treaties. Although the presence of more treaties will not have a direct impact on the hedge fund industry (it is more geared towards the trust funds), the jurisdiction as a whole will benefit. The way forward for investment funds is still by utilising tax-exempt financial vehicles.

The main aim is the more general goal of

re-establishing the jurisdiction as a predominant or primary player in the financial services market, for structuring and holding companies and other purposes. Negotiating new tax treaties will certainly provide an impetus for the financial services industry in general and everyone benefits from that.

RC: In terms of the importance to Curaçao as a domicile for hedge funds I believe the renegotiating of those treaties will prove important. Once we have been successful in renegotiating and signing them, they will contribute to the credibility of the Dutch Antilles as a sound offshore financial centre. I think by far that is the biggest advantage the treaties will provide us with. CIFSA has recently started the process of renegotiating the treaties and the industry has contributed significant capital to finance this project, it will take time and cost money, but you can see the commitment is there because the service providers and the industry are committed to it and see the need for it. As a modern offshore jurisdiction you need the tax treaties with other countries and everyone here has

“As a modern offshore jurisdiction you need the tax treaties with other countries and everyone here has realised that and has put the process into gear” Robert Chin

realised that and has put the process into gear. It won't have an immediate affect, but we are looking at the long term.

AB: As of January 2001, the tax system of the Netherlands Antilles was amended with the introduction of a new fiscal regime. One of the key elements of this regime is the abolition of the offshore tax regime, thereby eliminating the ring-fencing element in the tax system. It should be noted however that the new fiscal regime provides for a transitional or grandfathering period up to and including 2019 for existing offshore companies. As a result, offshore funds registered in the Netherlands Antilles that have a so-called offshore tax regime fund ruling, will be allowed to renew those rulings until 2019. Meanwhile the Netherlands Antilles is determined to renegotiate and conclude tax treaties with Latin American countries and the US, which is being considered essential for future growth of the offshore industry. For starters, the Netherlands Antilles have recently entered into a tax information exchange agreement with the US and the US. Internal Revenue Service have

approved the Netherlands' Antilles status as a qualified intermediary country. Recently members of the financial services industry, organised in the Curaçao International Financial Services Association have resolved to make the necessary efforts to jumpstart a task force. This task force will open negotiations with third countries to eventually conclude new tax treaties. It is anticipated that also the Antillean government will support this initiative.

**AFSR: As one of the originators of the offshore fund administration sector do you feel that you have recently lost ground to other areas?**

GF: I feel Curaçao has lost its cutting edge somewhat for domiciliation of funds. In years past Curaçao was the destination of choice, then other domiciles such as the Bahamas, Cayman and BVI entered the fray and created vehicles and infrastructures that were better suited towards the offshore fund sector while Curaçao continued to rely on the existing regime, which wasn't as competitive as the other islands'. However, recent developments have allowed Curaçao

to re-emerge and we are looking to a bright future. In the specific area of fund administration Curaçao continues to be a strong competitive force globally.

RC: I don't think we have lost ground to other jurisdictions recently, I think Curaçao lost ground on a more gradual and long term basis to jurisdictions in the western hemisphere or elsewhere, but that started many years ago. It goes back to the late 1980s and early 1990s when other domiciles emerged as modern and flexible. One of the disadvantages of Curaçao in comparison to the other jurisdictions in the same time zone is that it is a civil law jurisdiction as opposed to the common law domiciles in the region. So yes, we have lost ground to other centres, but we are in a position to facilitate the changing needs of the hedge fund industry with the NOSIIA and CIFSA and we have to make it known Curaçao has the capacity and ability to do all those things now.

AB: It seems in the past decade we have seen a deteriorating competitive edge of the Netherlands Antilles in the offshore

financial services market. In 1986, when the tax treaty between the Netherlands Antilles and the US was terminated, the Antilles and Curaçao indeed seem to have lost ground. Apart from the emergence of the other jurisdictions, among others, the following reasons for such decline have been identified: the absence of a solid and flexible legal and regulatory framework; the absence of sound legal products like special purpose vehicles such as the limited duration companies and the member managed company, and a lack of positive government involvement, particularly with an eye to new attractive taxation regulations for the offshore sector. Obviously, in the past few years many initiatives to turn around this negative market perception have been successfully processed. The question now is whether these efforts will be recognised by the international investors society.

EG: We are not where we were at the start of the industry. That is widely recognised and has been the reason for the initiatives and resulting adjustments to our legal and tax framework. We have lost ground to other

jurisdictions that focused on developing an infrastructure accommodating the set-up of hedge funds. We have now corrected that competitive disadvantage.

**AFSR: How are you approaching the booming hedge fund sector?**

EG: I believe the growth in the hedge funds industry is there to stay for quite some years. That is why it is so important we communicate the adjustments we have made to our legal and tax infrastructure to the hedge fund world. We are such a great and stable jurisdiction for domiciliation now and we are keen to highlight letting that. There is an alternative for setting up funds and that alternative is Curaçao. Our service providers have invested heavily in systems and know how to and can serve the whole funds spectrum. It is important we get that information to those who are involved in the decision making about where to domicile.

GF: Clearly we see the massive growth as an opportunity for Curaçao. It is for this reason we have sought to put measures in place to regain our pre-eminent status. All

indications are that the current growth levels will continue and we are positioning ourselves to take advantage. From the perspective of service offering, an organisation such as CITCO is constantly examining scalability and we are adapting to both the increasing size of the industry and the changing regulatory environment.

RC: The approach by CIFA and the Funds Platform will be one where we try to explain to the outside world that Curaçao is a modern jurisdiction where regulation is an important part of the domicile. In our opinion, the hedge fund industry has become so popular and institutional investors have been getting more exposure. There is also a trend where some of the hedge funds are trying to go towards the retail sector. Those two factors will require fund managers to offer more transparency and the jurisdiction to offer more regulation and supervision, which Curaçao able to offer all those things. That is how we hope to attract a lot of new business. Five or six years ago the trend was for less jurisdiction, nowadays it has completely changed, whether it's anti-money laundering (AML), Patriot Act, KYC and so on, Curaçao can offer all that to managers.

**AFSR: In the light of a more cautious and transparent approach to this type of investment and the arrival of institutional money, have your administration duties shifted?**

GF: As the global leader in the provision of fund administration services, CITCO follows an progressive and inclusive approach to the demands of the industry and the many participants therein. With transparency being the term most often talked about nowadays, we continue to offer considerable flexibility in our reporting, both to investors and managers, whether via our online reporting tools or otherwise. Ensuring we are continually at the forefront of developments within the industry and maintaining our independence and flexibility is the position CITCO has always taken as a company and we have monitored general developments and initiated any changes we felt were necessary to keep apace with the industry. The support staff from our legal and operational teams constantly ensure we can meet the ever-changing needs of the industry.

RC: I think the industry, and not just alternative funds, is constantly changing. Even mutual funds will probably soon be required to have 75% of their boards of

## Regulatory focus: The Central Bank of the Netherlands Antilles

*Relevancy of the bank's supervision for hedge funds*

Hedge funds domiciled in the Netherlands Antilles or offering participating interests to Netherlands Antillean investors also fall under the scope of the NOSIIA. However, based on article 10, paragraph one of the NOSIIA, many hedge funds may be eligible for an exemption if they offer their participating interests to exclusively professional parties or persons that who comparable skills and competency as professional parties. According to the Policy Guidelines on Exemption Regulation for Investment Institutions, collective investment schemes (CIS) with a minimum initial subscription amount of less than US\$50,000 (or its equivalent in another currency) per investor, are not considered eligible for this exemption possibility.

Furthermore, according to aforementioned policy guidelines, hedge funds are automatically exempt if they meet one or more of the following criteria:

- **Restricted circle:** money or pecuniary means raised and obtained in a restricted circle
- **Investment (research) clubs:** small investment institutions that in practice do not meet the restricted circle criterion
- **Investment as secondary activity:** institutions that have investments as a secondary activity.

If a hedge fund operating in or from the Netherlands Antilles does not meet any of the aforementioned criteria it should apply for a licence from the bank.

directors as independent and that the chairman should be totally independent. So the mutual fund industry, which is a mature industry, is changing and the rules and recommendations of mutual funds will eventually become applicable to alternative invest funds. So if you are active in the industry you have to evolve and go with the changes relevant to you.

Seven years ago no investors did any due-diligence enquiries on the service providers associated with the fund, but these days it is common. Another example is a few years ago, administrators would provide fiduciary services to hedge funds and people now realise there may be a conflict of interest in doing that and the roles are no longer being mixed up. Nowadays administrators are expected to ensure compliance with generally accepted AML procedures. As an administrator you have to be able to adapt and make the correct changes to be accepted as trustworthy.

**AFSR: Do you feel some of these measures have had an impact on performance?**

RC: It's a good question, but I don't think so, even if the administrators will be required to take on more responsibilities, so the costs may go up. With the growth in popularity of the industry, I think the costs will level out as all service providers have to take these measures on, and with big institutional groups such as Citigroup entering the market, I don't think managers' or administrators' performances will be greatly affected. All the costs are passed on and are the same for everyone and the niche players will still be there for the sophisticated investors.

GF: To be honest I am not sure these

measures have had such a profound effect on performance. I think the general growth in the industry has meant money managers are often unable to extract as much out of a position as they used. In other words, there has been a dilution of better opportunities. Calls for increasing sophistication in terms of reporting and greater transparency obviously mean that service providers must tailor their offering accordingly and I think the industry has risen to meet this challenge.

**AFSR: Curaçao is not just a centre for administration. What else can it do for hedge funds?**

RC: In addition to the administration services there are general financial services, with trust funds, holding and financing companies, fiduciary services for international companies. Having said that, those businesses have always been here. I think the tax treaties will prove even more important once they are in place.

EG: Apart from our administrative capabilities, Curaçao is a modern jurisdiction for domiciliation and for exercising the financial transactions that go along with running a fund. Moreover, because our modernised and flexible legal framework which we currently have in place is aimed towards serving both funds with a US as well as an European manager and investor base, we can serve them both well, as both will recognise elements of their respective legal systems.

GF: Aside from the presence of well-established administrators, we have a number of other service providers in Curaçao including the big four accounting firms and firms offering custody services to those allocating assets for investment into hedge

## Regulatory focus: The Central Bank of the Netherlands Antilles

### Summary and conclusion

The Bank, as the supervisory authority of (financial) institutions in the Netherlands Antilles, is committed to continue to promote the security, stability, and integrity of the Netherlands Antillean financial sector. Consequently, the Bank continues to promote a regime that fosters sound prudential supervision of the (financial) institutions as a whole and the fund industry, in particular. As developments in the international financial community are constantly shaping the way the fund industry and investors conduct their businesses, the Bank is committed to maintain a regulatory environment that protects investors, but is also responsive to the changing financial environment.

funds – primarily fund of funds and institutional clients. There are quite a few independent hedge fund consultants offering specific services and expertise locally to the funds industry. Curaçao has a long-established and highly-competent set of professionals and associated infrastructure to support the industry.

**AFSR: How has new legislation, such as the hedge fund supervision legislation, helped your claim to be a complete hedge fund sector?**

AB: Undoubtedly some form of regulatory framework with regard to the financial services industry needs to be in place to give the investors society and fund sponsors the sense of security that the services provided will abide by minimum levels and secure that the service providers comply with requirements as to financial soundness and product knowledge. Supervision in that respect can also be a marketing tool, which seems to be the case, for example, for Asia-based investors.

RC: It's difficult to know what the impact has been so far, as the legislation was implemented only 18 months ago, but I am convinced it will help us in regaining some of the market share we've lost.

GF: It was vital to introduce this legislation which is a necessity in the modern environment. Although it remains to be seen exactly how it will work in practice, it was a huge development for the industry because it allows us to at least stand on the same stage as some of the other jurisdictions, certainly from a regulatory viewpoint. The actual legislation and supervision of the funds will have to play itself out a little bit as we establish more funds on the island. The supervision of administrators is definitely important in offering an additional level of comfort to investors or interested parties in a hedge fund administered licensed administrators. There's a learning curve in this process for all interested parties, and the supervisory regime should help everyone.

EG: I believe in this day and age, having proper supervisory legislation is something you cannot do without when you want to position yourself as a jurisdiction of good standing. I am happy about the legislative initiatives that have resulted in our present supervisory rules, which are exercised by a special department of our Central Bank. They are efficient in their set-up, allowing enough flexibility not to interfere with business initiatives but at the same time providing investors with the security they seek. The rules look upon both the funds itself as well as the service providers. Of course, as these legislative measures were introduced not so long ago, we need some time to evaluate what has really worked out well and what has not. That means that certain adjustments may be needed based on experience with the current rules. I am confident, however, the current efficient and pragmatic approach will remain in tact.

**AFSR: Does the lingering presence of the OECD still worry you and hamper development?**

EG: No, I don't think so. We comply with all the current OECD and its FATF standards and will continue to do so. Actually, having standards and complying with them will only foster our position. There may be differences of opinion from time to time, but we have always been able to work those out satisfactorily and we are committed to stay on that route of operation.

RC: No, if anything it has a positive impact. The Netherlands Antilles and Curaçao has long understood the need to be in compliance with the FATF, the OECD and the Financial Stability Forum. We're not on any blacklist because we've realised the importance of being compliant with the recommendations set by these bodies. If we can continue to be compliant it will only benefit us and will not be a hindrance to our development as a financial centre.

GF: I don't know to what extent it truly

hampers development, but it is always a consideration. Any ongoing developments with the OECD place a certain onus on the jurisdiction from a compliance perspective, but I think its presence can only aid our standing as a financial centre.

**AFSR: What would you like to see happen in the future?**

GF: The fact we have put in place corporate structures and a supervisory regime over recent years shows a commitment to move forward and re-establish Curaçao as a jurisdiction of choice. We have to start educating the industry as to the value of our corporate structures and by proving over time the supervisory regime works, we can begin to make up some of the ground we may have lost on other domiciles.

It is crucial there is clear diversity and competition in the market. By re-establishing Curaçao as a true alternative within the investment funds industry to the now-established alternative jurisdictions we offer the entrants greater options in structuring possibilities. I hope the actions Antillean authorities have taken will complement any service offering we can provide. Now we have given ourselves the tools, hopefully we can start putting the island back on the map in terms of presenting industry players with a complete product.

RC: I would like to see Curaçao be recognised and accepted by the EU so UCITS funds can be domiciled here. In the foreseeable future, with CIFA's efforts to promote Curaçao, I think we will gradually attract business that would normally have gone to other centres. You have to build a track record and we're now in the process of doing that. I am hopeful and it's a case of working away at it and it should be the start of Curaçao re-emergence as a domiciliation centre for hedge funds.

EG: I would like to see our efforts pay off. That is recognition of the valuable alternative we offer for the hedge funds compared with established places of domicile we know today. Curaçao has made a real addition to its financial services sector which traditionally focused on asset protection and tax optimisation structures for large corporations. This is what we have to get across. Finally, I believe just like the developments in the funds industry in Europe we are seeing today, similar developments will take place in Latin America. I would like to see that for those initiators, Curaçao will be the domicile of choice.