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CIMA: Myths, facts, and suggestions

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Despite financial turmoil in the U.S. and other parts of the world, the Cayman Islands financial business has continued to prosper and grow to record levels. Cayman's success is primarily due to an innovative and energetic private financial sector which continues to improve its service so that Cayman increasingly becomes the preferred location for many financial services.

Governments cannot create success, only the private sector can do that. However, governments can enable success by providing the rule of law, competent and honest courts, a non-destructive tax and regulatory environment, and the necessary physical and human resource infrastructure.

The Growth of the Cayman Island Financial Industry

	2002	2008	Percent change
Bank Assets (in billions of USD)	\$950	\$1,921	+102%
Registered Mutual Funds	3,593	9,378	+161%
Class B (Captive) Insurance Companies	600	772	+29%

The Cayman Island Monetary Authority (CIMA) has been a part, an important part, of this success, largely because of its leadership. As its Chairman, Mike Austin successfully completed moving CIMA from a government department to an independent authority in 2002-2003. Chairman Austin retired from CIMA in 2004, whereupon Tim Ridley took over the responsibilities as Chairman. (I was privileged and honoured to serve as a member of the board of CIMA under these fine gentlemen.)

It is no accident that while financial regulatory agencies in the U.S. and other countries suffered from serious mistakes, CIMA did not, primarily due to the exceptional leadership of Chairman Ridley. Under Ridley's leadership, governance and procedures at CIMA, including e-filing, have been both modernised and brought into line with best international practice. While most knowledgeable Caymanians have been properly full of praise for Tim Ridley's outstanding work, a few have made statements - in the press and elsewhere - that are both inappropriate and inaccurate. Thus, having worked closely with him for the past six years, I choose to set the record straight.

It has been charged that Chairman Ridley did not work well with the CIMA staff – not true. Such charges are frequently made against strong leaders who insist upon excellence. No one worked harder than Tim Ridley to make sure CIMA lived up to its legislated and international responsibilities, and as a result he was justifiably critical of an occasional sloppy piece of work by a largely efficient and dedicated staff. At times, he asked tough questions - which again is a major reason the regulatory failures in the U.S. and elsewhere did not occur in Cayman. Tim Ridley was also always generous with his praise for the outstanding work of the staff. As a new independent regulatory authority, we had to develop policies and guidelines that defined the appropriate working relationship between the board and staff. I was the chairman of the sub-committee charged with developing those policies – which we did, and which have worked for some time. The Managing Director of CIMA again assured the board just last week that there were no significant issues or problems between CIMA staff and any board member, particularly the Chairman.

From what I have seen, the only people who have been critical of Tim Ridley are those who have shirked their own responsibilities, been weak in their own performance, or ignorant of the facts. Quite rightly, Tim Ridley has received many accolades and testimonials from former and current staff who appreciated the professionalism and good cheer he brought to CIMA and his fellow board members. Staff turnover has been largely a function of the private sector's poaching of good CIMA employees, which is a situation that every good regulatory authority faces. (CIMA, as a government entity, will never be able to compete with the private sector on salaries – and that is a fact of life that the management of CIMA is forced to live with.)

One of the sillier charges against Tim Ridley is that he "insisted" on his own separate physical office - just not true. Others of us made the recommendation for the separate office. The sparsely furnished office was rarely used by Ridley, but it is utilised by outside directors and by CIMA staff.

A few have criticised Chairman Ridley for being an independent voice for Cayman. He is guilty on this count as charged, because that was part of his job description. If he had failed to speak truth to global power, he would have failed Cayman. His speeches were always tempered, informative, and rational, and there is no reason why anyone in the Cayman government should have taken offence. Tim Ridley has been an exceptional international spokesperson for Cayman. The knowledge, intelligence and good humour he always displayed have enhanced Cayman's world-wide reputation.

It is worth remembering that in the U.S., presidents are always unhappy with the remarks of the Fed Chairman at one time or another. Tim Ridley always conducted himself in a non-partisan fashion, understanding that the Chairman of CIMA should be above local politics. Politicians often don't like having independent government authorities, but they are necessary for good governance. Thus, it took courage for the Cayman political leaders to appoint a group of independent souls to the board of CIMA six years ago.

Almost all important financial centres have moved toward making their financial regulatory authorities independent, and it is considered best international practice precisely because, without independence, the potential conflicts of interest are so obvious. In my judgment, the Cayman leaders need to be more sensitive to potential conflicts of interest (including the appearance) than they have been. (This legacy is probably a result of Cayman's small population.) It is not appropriate for financial regulators to have significant interests in regulated entities. Again, Tim Ridley was very sensitive to this - so, at considerable financial sacrifice, he avoided all potential conflicts.

I expect that one reason conflicts have been tolerated is that the government has resisted paying the local CIMA board members a market wage for their work. Serving responsibly on the CIMA board takes far more time than many may think, and there is a strong reputational risk if something goes wrong. It is not just the attendance at board, sub-committee and other meetings

that takes time, but it is the extensive reading that is required to keep up with not only the issues directly before CIMA, but also global economic and regulatory issues. We foreign directors were paid at internationally competitive market rates, but the local directors have had to make enormous financial sacrifices, which is not proper. It is best international practice to pay local and foreign directors approximately the same remuneration, and pay committee chairmen, and particularly the Chairman of the Board, at substantially higher rates. (Even in a small jurisdiction like Cayman, the Chairman needs to spend nearly full time to do his or her job adequately.) The Cayman government has put itself in a position of needing to find local individuals with both the expertise and sufficient financial resources to be able to spend the necessary time on CIMA, while giving up any potential conflict of interest.

CIMA board terms should be staggered and lengthened to give more continuity. The government should make sure there is at least one board member who has in depth knowledge of each of the major industries that CIMA regulates. At the time of the 2004 hurricane, CIMA was fortunate to have Sir Alan Trill, a world-class insurance expert, as a director, to help Cayman through that difficult time.

It is not appropriate to appoint a full-time government employee to the board of CIMA. The potential conflict of interest is obvious, and both theory and experience have shown that a person with a full-time government job will not have the time necessary to bring the required attention, let alone excellence, to both jobs. This practice should be changed immediately. Given they have the responsibility for performance, the board of CIMA, as with other statutory authorities and best international practice, should have the right to hire and dismiss any employee of the monetary authority.

Some have argued that Cayman does not need foreign directors because there are local people with the necessary qualifications. The point of having foreign directors is to give a small jurisdiction like Cayman more international credibility, both with private sector and international government organisations. Cayman financial service providers have told me that they were able to obtain large clients because they preferred to operate in a jurisdiction with international directors (it gives them more confidence about the independence of the financial regulatory authority).

Fortunately, incoming Chairman Carlyle McLaughlin has the competence and confidence of his fellow board members to continue on the independent and professional course set by his predecessors, and the government has time to make the necessary changes in the way CIMA board members are selected and compensated.

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