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Guernsey fund services 2018



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Guernsey: a laboratory of innovation

Providing stability, security and substance

Why Guernsey is the alternative choice



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Guernsey: A laboratory of innovation

By James Williams

The funds sector has matured and developed into a more sophisticated market than it was 10 years ago. Technology advances and product innovation in new asset classes has deepened the funds industry, creating more complexity as a result. At the same time, over the last decade, demands on jurisdictions have risen in terms of the level of support that needs to be provided, in terms of substance and effective oversight. Guernsey has always been cognisant of this and has evolved in step with those changing times.

“One of the requirements has been to innovate and to develop new products in new markets,” says Dr Andy Sloan, Acting Director of Strategy, Guernsey Finance.

“We are at a global pivot point right now. For Guernsey, I see it as being a catalyst not just for UK/EU issues but potentially having an impact on the way global trade evolves

in the 21st century. It is in our best interests to orientate ourselves to where the global capital pools are growing most, such as China and other growing economies.

“Whatever we do as a jurisdiction, it always harks back to the stability and security we provide, which enables us to service the requirements of global investors and provide a point from which they can pivot to global capital markets.”

From a global macro perspective, it is not inconceivable to suggest that as global trading patterns change there are going to be nodal points, such as Guernsey, which, because of its stability, substance and sophistication, will be well positioned to support global distribution activities. If fund managers want to reach new markets, new parts of the globe, they will be able to do it through a trusted jurisdiction like Guernsey. ▶ 10

Providing stability, security and substance

By Paul Smith

In an era when uncertainty and the unexpected can be relied upon to spoil the best-laid plans, Guernsey is one jurisdiction able to provide a stable, secure base from which to operate, and has the infrastructure and resources to ensure the highest levels of service quality while also being able to provide businesses with true substance.

With 50 years' experience behind us, Guernsey is still a popular destination for investment managers seeking a jurisdiction in which they can establish an office, and which is able to offer them the luxury of a dual regulatory regime, whereby they can launch funds under AIFMD-compliant regulations or Guernsey's own regulations. We have nearly 1,000 funds under management or administration and increasing numbers of fund managers are establishing a physical presence in Guernsey.

As a Crown Dependency, Guernsey operates under a constitutional arrangement with the UK, and this relationship provides Guernsey with the authority and autonomy to create and enforce its own laws and regulations through its own government, the States of Guernsey. Guernsey is therefore able to provide a level of political and fiscal stability that is the envy of many other jurisdictions around the world.

Guernsey is not a member of the European Union and has effectively carried on its business with the EU as a third country ever since the EU came into being. It is well placed to assist the UK with its



**Paul Smith, chairman,
Guernsey Investment Fund
Association**

experience and knowledge of how this could work for the UK post-Brexit and there have been numerous meetings between industry bodies, government officials and government ministers of Guernsey and the UK since the referendum in June 2016. These meetings are ongoing and will continue throughout the negotiation and withdrawal process.

A key concern for everyone these days is security, and that encompasses both physical security and cyber security. Guernsey is fortunate as an island in that physical security is a natural by-product of island life. Guernsey is a lovely, safe place to bring up children and to enjoy an environment in which crime levels are very low.

The digital economy and cyber security are also high on Guernsey's agenda and the island is uniquely placed to be able to provide significant redundancy and security of internet connectivity. Guernsey is a key intersection for the provision of data flows between the UK, Europe and the United States with multiple cables carrying data into, through and out of its data hub. The e-gaming industry that established itself in the Bailiwick was highly dependent upon internet access and the security and contingency of that connection. Considerable investment was made by Guernsey to develop that network, which is now used for other industries, such as the fund sector.

The fund industry has been thriving in Guernsey for more than 50 years and, during that time, Guernsey has

built a comprehensive infrastructure of professional firms capable of providing all the services normally required by an investment manager. Guernsey's law firms are consistently recognised in legal industry awards lists and all the top four accountancy practices have a significant presence in the island.

This provides a strong pool from which businesses new to the island can draw resources, expertise and experience to develop and sustain their service provision. Recent changes to the population management regime have also made it much more straightforward to recruit key staff from outside the island.

Combined with Guernsey's reputation for flexible regulation, innovation and entrepreneurialism, the jurisdiction is a prime location for the establishment of funds and investment managers. With the impending introduction of BEPS (Base Erosion and Profit Shifting) controls and the further scrutiny of the work carried out compared to the revenue earned in a jurisdiction and the unintended consequences that this is having on the funds sector, Guernsey is well placed to be able to demonstrate true substance on island and to provide the added value required to ensure that businesses located here are not seen as part of a BEPS network.

Guernsey is a leading jurisdiction in providing tax transparency and is fully compliant with international co-operation and reporting regimes, which enables it to provide a tax neutral environment that results in taxes being paid in the appropriate jurisdiction, and prevents the double or even triple taxation of investment businesses.

With more than 50 years' experience behind us, Guernsey is one of the leading international finance centres in the world, facilitating investment in businesses by investors from countries worldwide. ■

The Guernsey Investment Fund Association was established 30 years ago as a trade association for the island's fund management industry. It has almost 200 members, including fund managers, administrators, custodians, law firms, accountants, non-executive directors and other professional firms.



Paul Smith on...

His journey

I started in the industry as a junior administrator. The industry itself was still quite young and was growing rapidly. Those were the days before regulation and it was very different in terms of working methods. You worked on one fund – they were generally unit trusts – and did everything on that fund and your relationship was directly with the client. It gave you a very broad foundation.

The changing face of funds in Guernsey

The industry has changed in terms of the products that we have, and the way we work has also changed, led, in part, by the growth of digital and fintech. That change offers an opportunity for Guernsey – we have outsourced labour-intensive back-office functions in the past, but with the use of technology some of that work could effectively come back to Guernsey.

With the pioneering use of blockchain now being seen in the island, I do see a future where we can take back those outsourced administration functions, with corresponding benefits in terms of revenues and greater control. The fund industry faces an ever-changing regulatory environment and in Guernsey we have consistently adapted to the demands placed upon us. In an environment of increasing regulation, monitoring and scrutiny, Guernsey can hold its head high as a good global citizen helping to ensure the free flow of capital around the world.

Guernsey's confidence

The innovation we have always seen and continue to see in our industry and Guernsey's adaptability is a key element of our success. We have always been prepared to listen to new ideas and explore new ways of achieving our clients' goals, which is crucial in this era of technological advancement.

We are a stable, secure jurisdiction, with a responsible attitude towards our international obligations, and an experienced, flexible and efficient industry. Guernsey is still a great place to live and work and once people come here they are often "blown away" when they see the way that we work, the accessibility of all participants in the industry, and the level of interaction between industry, regulator and government.

Emerging fund managers – the benefits of Guernsey

By Andrew Maiden

While well-established fund managers are continuing to grow with the launch of larger and larger funds, there has also been a steady flow of first-time, spin-off and emerging managers setting up their own firms.

This new wave of fund managers has been partly driven by investor demand for the niche, tactical, added-value investment opportunities that the larger funds may pass over or simply not be aware of.

The opportunities and rewards for both approaches continue to fuel interest and demand, and there is therefore a need to make sure that emerging fund managers get it right first time.

As of September 2017, there were more than 590 first-time or spin-off venture capital fund managers raising capital worldwide, up from 470 in 2016. More than 31% of the venture capital funds that reached a final close in 2017 were first-time funds, compared to 25% in 2016. One of the key drivers of this growth was performance as, when comparing the returns generated by 2006-2014 vintage venture capital funds, first-time managers generally outperformed the pool of experienced venture capital managers*.

Investors and managers from the more mature markets of the UK, Europe and the US have a long history of using Guernsey to domicile their funds, especially for private equity, real estate and infrastructure asset classes. The island's track record and enviable reach have also made it well suited to provide managers with a platform to access the Middle and Far East, which are attracting investment because of the emergence of investor demand for yield and higher returns.



Andrew Maiden, director of fund services, Intertrust

Through Guernsey, fund managers can currently reach more than 80% of global wealth so, no matter where investors are based, a Guernsey-domiciled fund allows money to be raised in a large proportion of the global market.

The key areas emerging fund managers need to consider when setting up their first fund are:

- **Fund structuring:** The basis of a successful fund is an appropriate structure which requires a sophisticated understanding and analysis of the options. It is important for emerging managers to consult professional service providers at an early stage to determine what issues may impact on the structure of the fund.
- **Fundraising:** Fundraising can be a very time-consuming process so it is important not to underestimate this alongside the effort and cost involved.
- **Fund administration:** Having the right day-to-day administrative processes, procedures and infrastructure in place is something that many emerging fund managers do not consider as much as other aspects of launching a fund, which can be a crucial oversight. With regard to administration, having a range of related services underpinning the fund can considerably help minimise the risks and maximise success. One strategy frequently adopted by emerging fund managers is to outsource the administration to a trusted third party.
- **Fund financing:** Emerging fund managers need to consider whether they will need to use any financial products as part of their strategy and which provider would be best placed to provide these. It is not just



the financing itself that needs qualifying, but also the range of other financial considerations such as insurance and escrow banking solutions. The financial aspects of running a fund are significant and working with the right partners can help simplify this aspect and free up managers to focus on running a fund.

- **Fund governance:** Investors are increasingly requiring independent oversight of the affairs of their funds, which has driven an increased demand for directors unaffiliated with the manager on private equity and real estate funds. The diversity of directors' skills and experience is of utmost importance.

With this growth in emerging fund managers, Guernsey, with its established regulatory regime and expert fund services providers, can offer emerging fund managers the foundation to set up funds in an efficient, quality way. In safe hands, managers are able to concentrate on the business of managing portfolios and selecting assets.

To allow emerging fund managers to launch new funds in Guernsey, the Guernsey Financial Services Commission has a Private Investment Fund (PIF) classification which is designed to provide fund managers with greater flexibility and simplicity.

Some of the PIF benefits to emerging fund managers are:

- **No prescribed disclosures** – No need for a Prospectus or Private Placement Memorandum, which minimises costs and reduces processing time during launch.
- **Maximum 50 investors** – a PIF can be closed or open-ended and, while there can only be 50 investors, there is no limit

on the number of offers that can be made.

- **Application Process** – A PIF can be registered and processed by the GFSC within one business day.

The route to launching a new fund for an emerging fund manager is challenging and while many new managers will likely be established in their field and have a good degree of relevant experience and insight, choosing Guernsey to domicile a fund can provide comfort throughout the process – from a concept to the launch and ongoing operations of a fund. With expert advisers and quality service providers, new fund managers are in good hands in Guernsey. ■

**Data from a report published by Preqin in November 2017 – Up & Away: Launching A First-Time Venture Capital Fund*

Intertrust offers a full range of tailored and holistic fund services, from setup to administration, for private capital funds including: private equity, debt, real estate, fund of funds, infrastructure and venture capital. They have a dedicated, knowledgeable and global team of specialists, with a significant presence in key financial centres including the Channel Islands, Luxembourg, Ireland, Hong Kong, Cayman and the US. Intertrust's funds client list comprises of some of the largest and most experienced fund managers in the world, as well as some of the most dynamic and skilful venture capital groups.

If you would like further information on the services provided by Intertrust, please contact Andrew Maiden – Andrew.maiden@intertrustgroup.com



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Overcoming the myth of the passport

By Martin Scott

Two years ago, almost to the day, Guernsey was set to receive the Alternative Investment Fund Managers Directive (AIFMD) passport to allow marketing of Guernsey funds across Europe. Then Brexit and politics took over, and the likelihood of the European Union extending the AIFMD passport to third countries now appears remote until the UK and EU have reached a trade agreement with respect to financial services. It therefore appears probable that National Private Placement Regimes (NPPRs) will remain in place for the foreseeable future.

This has actually turned out to be a significant benefit to a jurisdiction such as Guernsey. NPPR has historically made Guernsey popular with asset managers, and the island has continued to attract funds advised by some of the biggest names in the industry, even following the introduction of AIFMD. Using NPPR in key investor jurisdictions, including the UK, Netherlands and Luxembourg, has been viewed by these asset managers as the quicker and simpler option to fundraise.

It is also worth noting that only 3% of alternative investment funds are registered for sale in more than three EU Member States. The indefinite delay in extending the passport has potentially created a real opportunity for fund raising to a jurisdiction such as Guernsey. The uncertainty created by Brexit is making UK asset managers in particular look at ways to future-proof their fund structures - and Guernsey offers an answer.

Asset managers who have funds domiciled in the UK, and are therefore in the firing line, are reviewing their options and considering the benefits of using a Guernsey fund structure. This is of most interest to those who have no requirement to market on a pan-EEA basis, as NPPR means they can continue to target their primary



**Martin Scott, Director,
International Administration
Group (Guernsey) Ltd**

markets in the region on an individual basis, making marketing simpler, and reducing the subsequent costs and disclosure requirements applicable under the directive.

When it comes to AIFMD, asset managers have to consider how to bear the additional costs associated with being a fully AIFMD-compliant fund and even more importantly, who should bear these costs. For example, if the AIFMD reporting costs are apportioned solely to a fund's EEA investors, then they are incurring higher costs than their fellow investors from outside the region. As reporting requirements are lower under NPPR, the associated costs will be less and should result in greater parity in the costs borne by investors across the fund.

At IAG, we have recently seen new business enquiries from both existing and new clients who are assessing their options in light of Brexit. Many are considering Guernsey as the potential domicile for their next structure, in the light of its proven, smarter, faster distribution capability. ■



3 ▶ “Going forward, as a jurisdiction I think we will see more of an alignment of key pivot points such as the Far East, the US and the UK. We want to position ourselves to give investors the products they are demanding,” says Sloan. “In light of global initiatives such as the Paris Accord, one area we’ve focused on, with respect to product innovation, is green investing in the financial services industry. We have developed policies in response to expected demand for green investment products over the next two or three decades; what I mean here is verifiable, certifiable green products.



“Our strategy has been to utilise our regulatory autonomy to create the world’s first green fund product; the Guernsey Green Fund (GGF). We intend to build on this and develop more ESG products. It’s necessary to anticipate what fund managers will want, going forward, and be able to provide them with the product capabilities and wrap-around services.”

The consultation process for the GGF closed at the start of June, incorporating feedback from industry players, and the Guernsey Green Fund was launched earlier this month. This is effectively an entirely new asset class for the jurisdiction where the underlying assets will need to conform to green credentials and will need to be verified by a third party or a licensee.

Sloan explains that an overlay of rules and regulations will be put in place to ensure that the “green” credentials have been verified and accredited. The GGF is applicable to all types of fund, can be compliant with AIFMD, and will be a fully regulated fund product, subject to the rules and regulations of the GFSC.

“Green investing is a trend that fund managers and investors have been pursuing for some time now. We’ve worked with UK policy makers, we are in dialogue with London Green Finance Initiative, we’ve had discussions with the United Nations and the OECD. It is a pretty substantial initiative for us,” adds Sloan.

Dominic Wheatley is Chief Executive of Guernsey Finance. Discussing the drivers of green finance, he points out that when one considers the amount of money one needs to attract into new investment areas, managers have got to find a way to create products that marry up investors with the assets.

“I think the issue around green investing

and other aspects of impact investing is how you provide a product that people can put their money in, knowing that the impact income they are expecting from the investment is part of the regulatory oversight,” says Wheatley.

“Then you might start to see pension funds investing more heavily, as they know the fund is regulated and includes the assurance that it meets green investing criteria. At the moment, a lot of green and impact investments are ‘we do no bad’, but that doesn’t mean to say they are doing any good.”

The GGF is designed to go a step further and for managers to demonstrate that they are indeed making a difference; investing in wind farms, for example.

Ultimately, the *raison d’etre* of a small niche jurisdiction is to do things better than anyone else. To achieve that, it needs to create a business environment where the fire of innovation can burn bright. Over the years, Guernsey has proven its capability at pulling together the right level of regulation and skill sets among industry practitioners to foster a competitive, compact business ecosystem; one where everyone works together and knows each other.

It is possible to walk from one end of the financial district in Guernsey’s main centre, St Peter Port, to the other in approximately 15 minutes. A pleasant coastal environs, along the way you will find the likes of Ogier and other international law firms located cheek by jowl alongside the GFSC, The International Stock Exchange, Guernsey Finance and numerous accounting, administration and trust firms.

Anyone who visits the island can easily spend a day meeting with the GFSC, or the Economic Development Department of the States of Guernsey, while its service provider community are more than willing to open up their diaries.

Moreover, there is a fine selection of coffee houses, which is very much in keeping with the innovation theme. After all, Jonathan’s Coffee House, which opened in Change Alley in London in 1680 was the original site of the London Stock Exchange, and Lloyd’s of London was established from the site of Edward Lloyd’s coffee house in Tower Street in the same period.

“My background is in insurance and

Guernsey highlights the positive over Brexit

By Dr Andy Sloan

Two years on from the UK's Brexit referendum vote and with the recent publication of the UK's White Paper, it is useful to take stock of the potential impact of Brexit on global financial services and Guernsey's trading relationships.

Speaking in Guernsey, Shanker Singham, Director of the International Trade and Competition Unit at the Institute of Economic Affairs (IEA), and the author of the report *Improving Global Financial Services Regulation*, published in May by the IEA, suggested there was a positive role for Guernsey to play in supporting London to successfully orientate itself towards growing capital pools in Asia and catalyse growth and trade.

The IEA report also suggested that the UK look to partnerships with the Crown Dependencies, in addition to working with global centres such as Switzerland, the US and Hong Kong. It is perhaps no accident that this approach is ingrained in the UK government's thinking – partnerships being a theme of the Chancellor's most recent Mansion House speech and embedded in the UK White Paper.

Singham's comments validated a key



Dr Andy Sloan, Deputy Chief Executive, Strategy, Guernsey Finance

pillar of Guernsey's strategy towards Brexit and financial services – that strategy being to position ourselves with UK policymakers as partners to the City's post-Brexit trading strategy to the rest of the world.

The focus of efforts has been on reminding policymakers of our economic role – routing billions of pounds into the City of London – and convincing them of our complementarity in boosting the City's competitiveness in the post-Brexit environment.

A high priority is afforded to commercially-focused messaging, promoting the stability and certainty of our position with respect to the UK and EU. Our global distribution capabilities remain impressive, and our route into the UK and EU27 remain the same.

For Guernsey, objectives for financial services and Brexit are all about the upside. It has become almost a cliché – though it does not stop it being true – that Guernsey's baseline position with respect to the UK and EU remains unchanged through the process.

Our efforts in financial services are aimed at improved terms of market access, deepening partnerships, and exploiting future trading relationships. ■



Hitting the sweet spot

By Andrew Harding

Ahead of the World Cup *The Economist* ran an article entitled "What makes a country good at football?" The journal explored the various components of a successful national side, taking account of GDP, population size and the popularity of the game in each country.

Wealth, size and popularity of the game were all found to be correlated with success, but these elements made up less than half the story. Centralised schemes to promote the game were found to significantly improve performance, and were much easier to establish in smaller countries such as Uruguay and Iceland. To thrive at the World Cup a country also needed to be able to tap a pool of creative talent (both local and global) that was properly prepared for the tournament.

It follows that one joy of the World Cup is that while size and wealth are significant factors, smaller countries can also be very successful. In similar fashion, the offshore world has long punched above its weight when it comes to acting as a conduit for international investment. So what makes a smaller jurisdiction like Guernsey so good at funds?

It goes almost without saying that the regulatory framework, distribution channels, fund infrastructure and taxation regime are all key considerations for promoters and LPs. Guernsey has GBP263 billion of funds under management and administration which speaks for itself. However, that is not the whole story. In terms of a centralised agency, Guernsey Finance is a joint industry and government initiative that is constantly working to find ways to innovate and encourage new products tailored to fund promoters' requirements.

One initiative that demonstrates Guernsey's responsiveness is the Private Investment Fund (PIF), launched in November 2016. The PIF is the perfect solution to those investment projects where the manager and investors are known to each other and all know what they want to achieve, but where the participants would



**Andrew Harding, Group
Partner, Appleby (Guernsey)
LLP**

draw comfort from a relatively low-cost regulatory solution which requires oversight from a regulated third-party administrator and an independent annual audit.

Originally designed for start-up managers and club deals, the PIF has also gained a following with large private equity managers who appreciate the reduced requirements for marketing documentation and the speed to market allowed by the fast-track Guernsey Financial Services Commission (GFSC) registration process, taking one business day.

The PIF is limited to no more than 50 investors, but the number of potential investors it can be marketed to is not restricted. Every PIF must appoint a Guernsey licensed manager who is responsible for making certain representations with respect to the ability of investors to suffer losses. If there is no existing manager, then the licence for the manager can be dealt with by the GFSC at the same time as the PIF's registration.

To set up a PIF it will be necessary to engage with specialist fund services providers in Guernsey. In terms of a pool of creative talent, there is real expertise in the concentration of investment advisers, managers, administrators, legal advisers and tax and audit firms in Guernsey. Many Guernsey firms are international and able to draw on an international pool of talent if needed. For example, Appleby is a law firm based in Guernsey, but also has offices in the other Crown Dependencies, plus Bermuda, Cayman Islands, BVI, Hong Kong, Shanghai, Mauritius and Seychelles, thereby providing legal expertise around the clock.

With the development of the PIF, Guernsey has adopted the right tactics and arguably hit the sweet spot for private investment funds. This desire to innovate has given rise to further initiatives such as the Guernsey Green Fund (GGF) designation. In building on Guernsey's existing reputation, the PIF and the GGF will enhance the island's offering on the world stage. ■

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The extra dimension

By Fiona Le Poidevin

There were 705 new listings on The International Stock Exchange (TISE) during 2017, which was an increase of 40% on the previous year. In the first quarter of 2018, there was a 16.5% rise year on year in new business, which took the total number of listed securities on the Exchange to 2,606 at the end of March 2018. These listings comprise a mix of equity and debt being issued by operating companies and nearly 400 securities issued by investment vehicles, including open and closed-ended funds and more than a quarter of all HMRC approved Real Estate Investment Trusts (REITs).

Asset managers often cite us as being cost-effective and convenient, but a listing on TISE also enables greater distribution of a product and demonstrates additional substance for the structure.

International initiatives such as AIFMD and BEPS have placed increased focus on the substance of investment structures.

Asset management groups with vehicles listed on TISE are able to demonstrate additional substance in Guernsey by utilising this element of the local infrastructure. Furthermore, greater value is provided through the activity undertaken locally to ensure both initial and continued adherence to the listing rules.

These requirements drive transparency and good corporate governance, which in themselves create value within the structure as important factors for investors. Indeed, it is precisely for these reasons that many investors are mandated to only invest, or invest a certain proportion of their allocation, into listed products.

The definition of 'listed' can vary but importantly for us, especially in the context on the UK market, HMRC deems TISE to be a recognised stock exchange. This enables investment into TISE-listed products by Self-Invested Personal Pensions (SIPPs) and Individual Savings Accounts (ISAs), which is key for many institutions who invest on behalf of their clients.



Fiona Le Poidevin, CEO, The International Stock Exchange Group

Additionally, it means that TISE is considered a recognised stock exchange and listing venue under HMRC's REIT regime. We have a cost-effective and pragmatic admissions process, including an exemption for REITs from the 25% free float rule. Today, more than a quarter of all UK REITs are listed on TISE.

HMRC's recognition also means that products listed on the Exchange may be able to avail of the Quoted Eurobond Exemption (QEE). Its utilisation includes those fund groups, such as private equity managers, who establish listed debt vehicles to finance acquisitions. Listing these special purpose vehicles on TISE also demonstrates further use of the local infrastructure and therefore adds additional substance to the overall arrangements.

TISE has a number of other recognitions, including from the German regulator, BaFin. This means that TISE-listed products are automatically eligible assets as part of the 'listed' investment allocation of German insurers and German UCITS funds.

Indeed, TISE-listed products are already eligible 'listed' assets for UCITS funds established in not just Germany but also Finland, Iceland, Poland and Spain. UCITS funds from another 19 EEA jurisdictions, including France, Ireland, Luxembourg and the UK, can treat TISE-listed products as eligible listed assets by disclosing TISE within the fund documentation as a potential source of investable assets.

A TISE listing can help provide additional substance to an investment structure and at the same time, increase the distribution by helping to expand the allocation of potential investors from different jurisdictions.

Fund managers can – and do – use TISE to help them raise money from investors based around the globe so that they can invest into a variety of types of projects in different parts of the world. This demonstrates the role which TISE plays in helping to facilitate the flow of capital across global markets. ■

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Responsive. Innovative.

The International Stock Exchange provides a responsive and innovative listing and trading facility for a wide range of investment vehicles. TISE is home to nearly 400 investment securities, including open and closed ended funds investing across a variety of asset classes, as well as a quarter of all HMRC approved Real Estate Investment Trusts (REITs).

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10 ► I always think coffee houses are great places for talking business,” says Wheatley. “There are four or five coffee houses where, depending on which industry I’m interested in, I know I will find various people there. I believe innovation comes from sharing ideas and having access to different people with different skills. We also have close links back to the City of London. Our lawyers and accountants have access to additional expertise through their networks of contacts and that, combined with our ability to create the business environment and regulatory infrastructure, is a key advantage.”



Digital technology is also high on Guernsey’s agenda as it seeks to evolve and expand its value proposition. According to Paul Smith, Chairman, Guernsey Investment Fund Association (GIFA), it is crucial to the island’s future. “As we see the industry evolving, technological developments will become vital,” remarks Smith. “I think Guernsey has already demonstrated its innovation and is a test bed, as it were, for new fintech ideas and tools.”

A good example of this is Northern Trust, who recently introduced a blockchain solution for one of their private equity fund managers. To construct the blockchain record keeping solution, Northern Trust selected IBM to provide the cloud infrastructure. That they regarded Guernsey as the best place to test the waters, is testament to the island’s reputation. Since then, Northern Trust has extended the blockchain solution so that audit firms can now carry out audits of private equity lifecycle events directly from the blockchain. Northern Trust, working with PwC and other audit firms in Guernsey, has proved that auditors can now access fund data held on the private equity blockchain to audit specific events.

“With respect to blockchain, the GFSC needed to understand how to perform the necessary oversight and monitoring, and satisfy themselves of the governance structures being put in place. It just required a change of regulatory process and there are now guidelines in place,” confirms Wheatley.

There are wider implications as to what these DLT-based solutions being developed for complex, closed-ended funds, could mean for the wider industry. As Smith points out: “If you go back a few years Guernsey

was home to a large number of open-ended funds, which were fairly labour intensive. Guernsey, like other jurisdictions, went through an era where it had to outsource a lot of back-office functions because it didn’t have the human resources on the island to carry out that work.

“Now, I believe there is an opportunity for Guernsey to bring back some of those back-office operations because of the digital revolution. It is something that we as a jurisdiction, both as industry bodies and with the government’s support, need to focus on so as to encourage people to come to the island. There are a number of exciting fintech projects that I am aware of but cannot reveal at this stage; suffice to say that I hope to see them get up and running soon so that we can start talking about them to the wider financial community.”

In his view, the potential myriad applications that one might apply using DLT and other digital technologies could lead us into the next Industrial Revolution. A lot of this is about democratising the investment process and making it more accessible to people, who may not regard themselves as typical investors. Mobile wealth management applications, robo-advisers, crypto strategies; these are all springing up and changing the way people think about investing, and where the next investment return opportunity may lie.

“Guernsey is a very important node in the global Internet, in terms of being a junction between the UK, Europe and the US. The e-gaming industry that we set up, which has been highly successful, relies on good connectivity, back-ups and capacity; all of that is in place. We just need to build on it to further support fintech entrepreneurs and fund managers alike,” adds Smith.

If blockchain technology improves the way PE/RE funds are administered, Guernsey could find itself well positioned to attract global PE/RE managers and sources of investment capital from emerging markets in the Far East, Latin America, etc.

Guernsey has a wealth of expertise in the PE and VC sectors and Smith believes that fintech could enhance business activity in those two sectors.

“It should make transactions easier to execute and make them more transparent as they will have the electronic audit trail that is ► 24

Why Guernsey is the alternative choice

By Dominic Wheatley

Guernsey's funds sector has developed over the past 50 years, since the first funds were formed in the island in the 1960s, and is now recognised as a leading centre of excellence for a range of alternatives. This process has been accelerated in recent years as shrinking returns from traditional investment fund strategies are making the alternatives sector more attractive to investors. Guernsey has built up and is now recognised for its expertise in alternatives, particularly private equity but also in infrastructure, Real Estate Investment Trusts, and alternative finance.

Private equity

Some two-thirds of the GBP260 billion of funds under management and administration in the island are private equity assets. Major private equity promoters who have established operations in Guernsey include Apax Partners, BC Partners, Mid Europa, Permira and Terra Firma, and Guernsey has long been recognised as a preferred destination for private equity outsourcing. In 2016 Permira raised EUR7.5 billion with its Guernsey-domiciled global fund Permira VI, the largest buyout fundraising in Europe in 2016. Other significant launches have followed.

Infrastructure

In recent years, the island's investment funds industry has helped both institutional and private investors deploy capital into a range of infrastructure projects across the globe, including education and health, ports and shipping, communications, electrical generation and transition, airports, roads bridges and tunnels, wind and solar power, and water.

The need for investment into infrastructure in both developed and developing countries continues to grow, with an estimated GBP12 trillion required for investment between now and 2030 just to meet the UN's Sustainable



Dominic Wheatley, Chief Executive, Guernsey Finance

Development Goals. There are more than 25 infrastructure funds domiciled in Guernsey, valued together at more than GBP16 billion, managed by some of the world's best-known managers, including Aberdeen, EQT and Macquarie.

Real Estate Investment Trusts

Real Estate Investment Trusts have surged in popularity for real estate investment. REITs offer tax advantages and may prove more attractive to investors as they provide easier access to property than direct investment, offer diversification of holdings, and the benefits of a professional investment manager.

A REIT must be tax resident in the UK, but the island's experience and expertise in the administration of alternative assets, including real estate, makes Guernsey an excellent base to operate from. The International Stock Exchange, based in Guernsey, is now listing a quarter of all UK REITs, though Guernsey-based structures to date have been commonly listed in London.

Alternative finance

Opportunities for alternative finance have risen significantly in the decade since the global financial crisis as traditional lenders have contracted under regulation or risk appetite. Over that time, Guernsey's investment funds industry has seen growth in various types of financing arrangements including P2P, distressed debt, loan refinancing, social and student housing, collateralised debt, property, litigation and trade financing.

Guernsey has received a growing number of enquiries in the fintech arena, especially peer-to-peer lending, which is allowed under the island's flexible yet robust regulatory regime. The island has more than 60 debt funds, both closed- and open-ended, collectively valued at nearly GBP10 billion. ■

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Diversity on boards – a fund perspective

By Amit Taylor & Mel Torode

The argument for greater diversity on boards has grabbed many headlines in recent years, as companies and organisations across the globe increasingly realise the benefits offered in terms of fresh ideas and insight.

Much of the early focus was on the impact that women can have in the boardroom. Yet diversity is a very broad church – covering everything from gender, race, sexuality, and disability, to social demographics, different ways of thinking, age, professional expertise and much more.

It is now widely accepted – and numerous studies have demonstrated – that diversity brings a different perspective and challenges the norm. It helps drive innovation and improves results, and brings different and positive traits to the table.

But how is the drive for diversity met when the board concerned is in a market such as the fund industry?

From Estera's own experience – with directors serving on fund boards as well as in the private equity, CLO, insurance and reinsurance, and shipping spaces – there can be large disparities in board composition. Some are very diverse, while others consist of people with similar backgrounds.

In many instances, board selection on funds is more about experience and different skillsets than gender and ethnic background. Board members can bring experiences seen from other industries to the table when discussing best practices, board efficiencies, how to deal with new regulation and so on.

The situation is entirely different to that of a global plc, which has a huge pool of international talent to draw on – both within and outside the group. This is even more true when considering the pool of available board members with the right experience and skills in comparatively smaller jurisdictions such as, for example, Guernsey,



Amit Taylor, Managing Director at Estera



Mel Torode, Operations Director at Estera

“Investing in and developing talent is the key point here and will prove pivotal in improved diversity at boardroom level in future years.”

Jersey, the Cayman Islands and Bermuda.

This does not mean there cannot be progress. From our own experience at Estera, there was a time when our clients' boards were very traditional. But that is changing, albeit slowly – and it seems to be being built from the ground up.

For instance, the financial services sector itself is now far more inclusive and diverse, with management and leadership programmes showing a broad range of people that there is a pathway to the most senior roles.

Investing in and developing talent is the key point here and will prove pivotal in improved diversity at boardroom level in future years. This should result in younger people with fresh ideas coming onto boards at an earlier age. And the more diverse a board becomes over time, the more comfortable companies become in appointing people from different backgrounds in future succession planning.

Ultimately, it is hard evidence in the shape of performance and results that will encourage companies to see the bigger picture. If there is a track record of diversity on a board and performance is strong, then people are going to take notice. ■

Estera is a world leading global provider of fund and administration services. We pride ourselves on being inclusive and understand the need for acceptance and diversity. Please contact us to see how we can help diversify your board.

GDPR priorities

By Craig Cordle

Data protection and privacy laws have been reformed across Europe by Regulation (EU) 2016/679, commonly known as the General Data Protection Regulation (GDPR) which came into force on 25 May 2018. The GDPR builds on existing legislation and seeks to harmonise and enhance data protection and privacy laws across the EU. It also introduces significant fines in respect of breaches.

Guernsey's Data Protection (Bailiwick of Guernsey) Law 2017, which mostly mirrors the requirements of the GDPR, came into force on the same day. The DP Laws apply the requirements of the GDPR on a global basis (that is, not only in respect of data relating to EU-resident individuals). Importantly, this means that Guernsey is likely to continue to be classed by the European Commission as an adequate third country to which data can be transferred, which can only be good news for Guernsey service providers.

The GDPR has immediate effect in EU Member States and, therefore, automatically applies to organisations which are established in the EU. However, it also has extra-territorial scope, and applies to third country organisations which have an establishment in the EU or where the processing of personal data relates to: a) the offering of goods or services to EU residents; or b) the monitoring of the behaviour of EU residents where the behaviour takes place in the EU.

In the context of investment funds, the offering of interests in a fund is generally considered to be an "offer of goods or services", thereby bringing funds within the scope of the GDPR.

Personal data is any information in respect of which a natural person can be identified, such as their name, address, identification number, as well as online identifiers (including cookies). This type of data is typically collected from investors during the subscription process.

However, the GDPR imposes a higher compliance burden in respect of "special



Craig Cordle, Group Partner,
Ogier

category data" which includes data revealing racial origin, political opinions or religious beliefs. The latter category is unlikely to be relevant for most funds, though sharia funds, socially responsible or ethical investing funds could find that they hold special category data. In addition, political affiliations of PEPs may result in such data being held.

The following action points should assist funds and service providers set their priorities:

- Carry out a full mapping of the types and sources of personal data collected, identify who might potentially control and/or process the data, for what purposes and how the data moves between the fund and its service providers.
- Consider the legal basis on which the data is processed. Under pre-GDPR regimes, investor consent was typically used as the legal basis for processing personal data. This may still be appropriate, particularly where a vehicle is very closely held or where the consent of investors is easy to obtain (and update, if necessary).
- Prepare a notification to investors (commonly referred to as a Privacy Notice) which complies with the prescribed disclosures set out in the GDPR. Privacy Notices are quite lengthy documents as they must detail clearly and in plain language specific information including the purposes for which data is to be used, the legal basis for each such use, an explanation of the rights of investors as data subjects and how to exercise them.
- Amend the fund documents. It is likely that offering documents will contain data protection language requiring updating.

The expectation is that reliance will be placed on fund administrators to provide the resources and infrastructure required for these activities, though it is important to note that data controllers retain responsibility for damage caused by processing data in contravention of the GDPR. Fund and management boards should also, therefore, be trained in the requirements of the GDPR. ■

Innovative

Let's get to the point: we understand funds. Ogier's specialists have been at the forefront of fund set-up, structuring and finance since the inception of the industry with many actively involved in drafting the key laws that underpin fund structures across our international jurisdictions. We act for banks, financial institutions, funds and promoters, working with blue chip clients with established track records and the most innovative and entrepreneurial new sponsors entering the market. We pride ourselves on providing responsive and practical advice, while our hands-on, partner-led teams ensure a consistent approach.

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The green ‘emerging global contender’

By Dr Andy Sloan

Guernsey has been identified as an ‘emerging global contender’ in green finance. In a climate currently led by the global commitments made at the United Nations COP 21 conference in 2015, Guernsey has identified green issues as a key strategic objective.

The island is rapidly becoming the “go to” international finance centre for green finance. The introduction by the regulator, the Guernsey Financial Services Commission, of the world’s first regulated green fund product, the “Guernsey Green Fund” puts us at the forefront of green finance development.

The objective of the GGF is to provide a platform upon which investments into various green initiatives can be made. The GGF will enhance investor access to the green investment space by providing a trusted and transparent product contributing to the internationally-agreed objectives of COP21, the 2015 United Nations Climate Change Conference, and provides certainty, consistency and simplicity for investors.

Investors in a GGF will be able to rely on the GGF designation, provided through compliance with GGF rules, to represent a scheme that meets strict eligibility criteria of green investing and will have the objective of a net positive outcome on the planet.

The island already has a number of



Dr Andy Sloan, Deputy Chief Executive, Strategy, Guernsey Finance

cleantech funds established, and although the sector is growing, green funds are still at an embryonic stage. Investors are often hesitant to invest in funds which may not ring true to their green label, or do not want to sacrifice a good return for the sake of their environment.

The GGF rules use standards developed by international financial institutions with the appropriate scientific background to ensure that the various assets held in a GGF are green within the true meaning of the word.

Any type of fund can apply to be a Guernsey Green Fund, and under the guiding rules and principles, will have to invest in themes such as renewable energy, lower carbon and efficient energy generation, energy efficiency, agriculture and forestry, waste and waste water and transport.

Guernsey’s trend-setting progress so far has been welcomed by Michael Mainelli, chairman and co-founder of the think tank Z/Yen, which has listed Guernsey as an ‘emerging global contender’ in its inaugural Green Global Finance Centres Index.

“I am extremely encouraged to hear about Guernsey bringing out green fund regulation,” he said on the pro-sustainability podcast Planet Pod.

“We are seeing regulators begin to pay attention and I hope that’s picked up.” ■



Guernsey – embracing innovation

By Andrew Carey

Guernsey makes no excuses for wanting to attract fund managers to the island and evolve into more than simply an alternative funds jurisdiction. It is an explicit position for us, as opposed to a “nice to have”.

Guernsey does have high-quality managers already operating from the island, with names including Cinven, Permira and Terra Firma, and is also working closely with the Guernsey Investment Fund Association to try to increase that number. The size of the manager community is already quite significant, with funds one of the best performing sectors in the island’s well-rounded industry, but there is always room for more managers. Those who choose to come to Guernsey will find an environment that works very well for them.

Government-funded Locate Guernsey pulls as many levers as possible to make the relocation process as easy as it can. Those setting up businesses in Guernsey will find that the government wants to assist with the awarding of long-term employment permits as a show of faith.

Guernsey’s housing stock also includes a proportion that is classified as the “Open Market”. This section of the market – some 1,500 properties – enables occupants to reside in the island in a way that is free of the employment permit system that is required for everybody else. Both “routes in” are positive for the newcomer, and positive indeed for Guernsey.

On the personal side of things, quality of life is excellent, allowing managers to enjoy the best of both worlds – access to a professional fund servicing community, combined with beautiful surroundings.

We think Guernsey appeals to those



Andrew Carey, Head of Locate Guernsey

looking for a location that is conducive to growing their business without having to make any personal sacrifices. It is a wonderful place to bring up a family.

At Locate Guernsey, we are keen to make the landing as smooth as possible. We act as the manager’s single point of contact with the government. If an incoming manager wants to establish an office we will help source locations, as well as other things they might need help with during the course of the relocation process.

I would encourage people to talk to the regulator. They are very approachable. The Guernsey Financial Services Commission encourages dialogue and is always willing to engage with managers to discuss their business requirements. Earlier this year it unveiled the Innovation SoundBox for those considering new start-ups to interact with the GFSC prior to the licensing process. This demonstrates that Guernsey is open to innovative approaches to doing business.

And earlier this year the States of Guernsey launched the Guernsey Investment Fund, which uses public money, supplemented by private sector money, to invest in technology and digital start-ups. That is indicative of a jurisdiction that wants to embrace the new and is not prepared to rest on its laurels.

Locate Guernsey wants to ensure that incoming entities’ visits to Guernsey are productive. And once conversations with the regulator and the authorities are under way, getting the business up and running is not hard. Everything can be done relatively quickly. I see a funds sector with a real buzz about it right now and we are an island of opportunity. ■

16 ► a key feature of blockchain technology. I think it's going to be crucial for all alternative fund managers – not just PE managers but RE and Infrastructure managers,” states Smith.

Changes in Guernsey's population management law introduced last year have made it easier for people to come and base themselves in Guernsey. “We have excellent cybersecurity as well as physical security on the island,” adds Smith. “It is a very safe place to live. I'm not suggesting we need tens of thousands of people, but we could accommodate a few thousand more people quite easily. It's a question of attracting key people who are able to take advantage of our flexible entrepreneurial environment.”

Crucially, as well as attracting talent, Guernsey also has a good number of people living on the island who are able and willing to invest in fintech start-ups.

“The one thing that excites me about this whole era at present is that it reminds of the early stages of the financial industry, in the sense that there is so much opportunity. There's a new sense of excitement coming back, a sense that anything is possible. Guernsey as a jurisdiction has always been very entrepreneurial. If you look back at industry changes over the last couple of decades, Guernsey has always been flexible and looked for the next best thing. When it sees an opportunity, it goes for it,” asserts Smith.

In terms of technology application, Sloan says that Guernsey has been deliberately keeping its powder dry with respect to things like crypto currencies, ICOs, etc.

“We have a mature risk appetite and sophisticated understanding of the issues associated with these new asset classes,” he says. “We've been deliberate, to date, as a jurisdiction. Our approach is being 'technology neutral' in terms of the application of technology, not withstanding that we have established leadership in this space. Northern Trust has its private equity project under way and in the ILS space, secondary listings have been done using the application of DLT.

“As a jurisdiction, we're now building on that, exploiting our key strengths and our legal autonomy, to develop our electronic transactions law, itself a far-sighted primary legislation introduced in the early 2000s, to look to build something quite special – the



most secure, robust legislative environment for electronic agency to provide a supportive environment for the application of AI and machine learning in finance and other services.

“The application of DLT will make the onboarding of investors and AML/KYC processes unrecognisable in three or four years' time, and we want to be one of the first movers into that space.”

Conclusion

The way for Guernsey to facilitate future growth is to keep doing what it does best, which is to look at things objectively, think laterally, and embrace innovation for the future well being of the jurisdiction.

“As a jurisdiction, to be successful you need to have a dominant position in any given market,” says Sloan. “We are looking to move forward to create new leadership positions in new markets and that involves leveraging our current expertise to move into green finance. We think there is an opportunity for us to create a leadership position in that market.”

Given the breadth and depth of its finance industry, Guernsey has all the tools in its toolbox needed to help businesses get up and running, and succeed. In many ways, it is the ideal test bed for new technologies, new ideas.

“We combine innovation with niche expertise, providing services better, quicker, more cost-effectively and in a sustainable way. After London, there are more listed PE funds in Guernsey than anywhere else in the world. We have lawyers who, quite simply, are extremely good at doing the work.

“In the end, one of our key functions is to provide a laboratory-like environment for people to come up with ideas and test them in the market,” says Wheatley.

With Brexit still to be finalised, this is when the stability of a jurisdiction like Guernsey comes into its own.

“Long-term secular forces are such that global financial centres should be invigorated by a Brexit process, where the UK rediscovers its internationalist DNA and moves away from merely looking at, and servicing, the EU single market. The UK will need to look for a growth strategy post-2019 and that plays to our traditional economic role, providing routes for capital into London's financial market,” concludes Sloan. ■