

Channel Islands present competitive proposition

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The Channel Islands remain top choice destinations globally for fund structuring. *Focus Europe* looks at how Jersey and Guernsey continue to attract new business in an era of increasing offshore competition, and asks:

- What are the key headlines currently driving trends in the funds industry?
- How are the Channel Islands working with emerging markets to secure their relevance as global offshore platforms?
- How is the robust European real estate market translating into work for Channel Islands' firms

The funds sector across the Channel Islands continues to be buoyant and market sentiment remains bullish in relation to the prospects for 2015, with both islands seeing inflows of new fund business (as at 31 December 2014, there was £228.9bn under management in Jersey and £219.4bn under management and administration in Guernsey).

Interesting, whilst initially seen as a threat to the offshore funds industry, the Alternative Investment Fund Managers Directive (**AIFMD**) and, in particular, the response of both Jersey and Guernsey to it, has, if anything provided the Channel Islands funds industry with an opportunity to boost the inflows of business. Within both islands, Ogier lawyers have played active roles in working with both clients and the local regulators in formulating the laws adopted in Jersey and Guernsey to respond to AIFMD, with both jurisdictions now offering AIFMD opt-in regimes which enable investment managers managing non-EU alternative investment funds (**AIFs**) to opt into AIFMD equivalent regimes and/ or continue to rely upon national private placement regimes to market into Europe. In Jersey for example, as at 31 December 2014, 60 alternative investment fund managers (**AIFMs**) have received authorisation under Jersey's AIFMD private placement

regime, whilst 186 Jersey AIFs are being marketed into Europe through private placement regime. In addition, 14 AIF depositary notifications have now been received under AIFMD from five different Jersey AIF depositary service providers. Whilst in Guernsey, as at 31 January 2015, 46 AIFMs have used Guernsey's national private placement regime to market AIFs into Europe.

With its strong regulatory framework and ability to offer an AIFMD compliant regulatory regime, within the continuing evolving regulatory landscape, the Channel Islands continue to represent a competitive proposition to investment managers, particularly those with a focus on gaining access to European investment capital.

Importantly, looking forward, with the prospect of the European Securities and Markets Authority (ESMA) opening up the availability of the AIFMD passporting regime to non-EU AIFs funds, the existing availability of fully AIFMD-compliant regulations in both Jersey and Guernsey for those funds "opting-in" to AIFMD means that each of the islands will be ideally placed to be able to benefit from this marketing passport, as and when it becomes available.

Amongst recent trends which we are seeing in the Channel Islands, interesting, an emerging trend in Jersey has been the continued inflow of hedge fund managers establishing a physical presence on the island. Several high profile managers have already made the move and there are a number of others actively planning a potential relocation. The drivers for this trend seem to be economic, operational and regulatory. To encourage this trend, the Jersey Financial Services Commission has been taking active steps to adapt its regulatory and legal framework to enhance the appeal of the island to hedge fund managers, most recently by the introduction of a new exemption from the requirements of Jersey's Financial Services (Jersey) Law 1998 to enable

Jersey-regulated hedge fund managers to service qualifying segregated managed accounts without the need to seek regulation for the conduct of investment business, while continuing to benefit from Jersey's 0% corporate income tax rate available to fund services business licensees.

In Jersey, amongst recent new fund launches, Ogier has advised on the launch of Intermediate Capital Group's US\$1.5bn ICG Asia Pacific Fund III, a mezzanine debt fund focussed on the Asia Pacific region, Index Ventures' Euro 400m private equity fund Index ventures VII, focussed on investing into European, United States and Israeli early stage companies in the technology sector and Sidra Capital's Euro 1000m Shariah compliant real estate fund investing into European real estate.

In Guernsey, amongst recent fund launches, Ogier has advised on Mid Europa Partners' fourth fund focusing on Central Eastern Europe and Turkey, African Development Partners' fund focusing on Pan-Africa and Sequoia Investment Management's fund focussing on infra-structure debt. A consistently held view is that Guernsey's simple and flexible regulatory regime continues to prove popular amongst promoters and investors alike, with market sentiment moving more generally in favour of regulated fund structures and away from unregulated or less regulated fund structures, which is an observation also been seen in Jersey. This fact, coupled with the Guernsey Financial

Services Commission ability to adapt to and support the ever developing world of investment funds, coupled with an industry of administrators, accountants and lawyers equally used to variety and innovation points to the continued popularity of the Guernsey funds product.

Whilst the UK and Europe undoubtedly represent key markets for the Channel Islands' funds industry, the continued strength and importance of the emerging markets to the global economy, for both inward and outward investment into and from these markets, has meant that these markets have become increasingly important for each of Jersey and Guernsey. The attraction of both Jersey and Guernsey has been compounded by the growing recognition in these emerging markets for the need for substance, sound corporate governance and a robust legal jurisdiction, all of which plays to the traditional strengths of the Channel Islands. As a result of this, both islands, through Jersey Finance and Guernsey Finance respectively, have been active in looking to develop their relationships in these markets, supported by members of the private sector. Jersey has had, for instance, a long term permanent representative presence in Hong Kong, Mumbai and New Delhi and Guernsey has a long term permanent presence in Shanghai.

In addition to all of the above, opportunities in European real estate, and in particular UK, German and Central Europe, continue to led to a number of significant funds in both Jersey and Guernsey, with investment managers utilising the Channel Islands to raise funds of all sizes targeted at exploiting these investment opportunities.

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Meet the Author



Simon Schilder

Partner

British Virgin Islands

E: simon.schilder@ogier.com

T: [+44 1534 514298](tel:+441534514298)

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