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GUERNSEY - A GLOBAL FINANCIAL CENTRE FOR FUNDS

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Christopher Jehan, Chair of the [Guernsey Investment & Funds Association \(GIFA\)](#), extols the virtues of Guernsey as a stable and amenable funds domicile.

Increasingly, Guernsey is seen as a global financial centre of choice for many reasons. The island has an impressive history in financial services, and our funds offering has been a major part of that over the past four decades. The Guernsey Investment and Funds Association, representing our industry, is now 30 years old and our flagship annual event in London, the Guernsey Funds Forum, has just been run for the 10th time.

Guernsey funds can access Europe. We are not in the European Union and, as a result, we do not have access to the funds passports available to UCITS and Alternative Investment Funds (AIFs) in the EU. This, however, can be a benefit for Guernsey funds. Firstly, a number of key European jurisdictions can be reached by way of the National Private Placement Regime (NPPR, for non-EU funds) faster than utilising the passport route, and in some cases cheaper. Secondly, a Guernsey fund operating under NPPR has to comply with eight articles of the AIFMD, whereas an EU-based fund would have to comply with all 71 articles. Finally, an EU-based fund must be either UCITS or AIF – a Guernsey fund does not have to comply with the requirements of either directive, but instead can make use of the flexible regulation available in our island.

Financial crime fighting

As with all jurisdictions, Guernsey is assessed against the recommendations set out by the Financial Action Task Force (FATF), an intergovernmental organisation established to develop policies to combat money laundering and terrorism financing.

Guernsey is measured for compliance against these recommendations by MONEYVAL, a permanent monitoring body established by the Council of Europe. MONEYVAL last made a follow-up visit to Guernsey in 2014, and the report produced showed that Guernsey was compliant or largely compliant with all but one of the 49 recommendations and special recommendations, an achievement yet to be matched.

Tax transparency

In 2017, Guernsey underwent its second-round review in the OECD's peer review process on exchange of information on request. At this review, Guernsey managed to move from being 'largely compliant' to 'compliant'. This rating, a testament to Guernsey's tax transparency, puts the island ahead of many larger jurisdictions such as Germany, the UK, and the US.

Moving to automatic exchange of information, Guernsey has concluded an inter-governmental agreement with the United States of America to provide the US Internal Revenue Service with information on US persons holding financial accounts in the island. Along similar lines, Guernsey was an early adopter of the Common Reporting Standard, another OECD initiative, and now reports on financial account holder information as part of a network of over one hundred jurisdictions. Also being a signatory to the OECD country-by-country reporting convention, Guernsey will likely implement the OECD mandatory disclosure requirement by the end of the year.

Substance

Guernsey is an island of substance. The financial services sector is the largest group of employers in Guernsey. In the funds space we have fully staffed fund administrators, custodians, fund managers and investment managers as well as a large group of experienced non-executive directors (NEDs).

When the aforementioned AIFMD came into force in the EU in 2014, Guernsey fund managers had to show sufficient substance to avoid being seen as 'letterbox entities'. This was a test that we met and exceeded, down to a combination of staff within firms and NEDs together with our decades of experience managing funds.

Earlier this year, Guernsey was assessed by the EU Code Group and our legislative and regulatory environment was found to be compliant with the EU's requirements on substance and placed on the 'white list'. A number of

other funds jurisdictions remain on the 'grey list' and one was even temporarily added to the 'black list'. Again, as a jurisdiction we met international expectations, especially as the EU gave us a list of requirements beyond what is applied in its own fund jurisdictions.

Regulation

The Guernsey Financial Services Commission (GFSC) is the island's financial services regulator and is an approachable and pragmatic regulator ensuring Guernsey firms apply quality regulation that is recognised in the international community.

The GFSC is a full member of the International Organisation of Securities Commissions (IOSCO), the international body for securities regulators. While the island is aware of EU directives and regulations, the GFSC applies IOSCO standards, which are the international standard of regulation in the fund space.

When looking at EU regulation, the Guernsey fund regime has now twice been assessed by the European Securities and Markets Authority as being worthy of the AIFMD third country passport, a process that has been stalled in the European political process.

Innovation

Guernsey has a history of innovation in the fund space. Decades ago, Guernsey pioneered the umbrella fund and since then the first protected cell companies. This continues, as last year Guernsey showed its pioneering spirit again and put itself at the forefront of environmentally friendly regulation with the advent of the Guernsey Green Fund, the world's first regulated green fund.

Another key innovation resulted from cross-sectoral work between the funds industry and the insurance-linked securities (ILS) sub-sector of our insurance industry. This has resulted in the world's first dual-regulated insurance and fund product whereby a single protected cell company (PCC) can have some cells that are funds and others that are insurance transformers.

The GFSC is open to innovation and has a regulatory 'sandbox' for innovation. Last year it undertook two key initiatives. Firstly, it held a 'Soundbox Sprint' competition in Guernsey, a chance for firms to bring their best ideas before a panel of experts.

The other initiative was to join the Global Financial Innovation Network joining other financial services regulators in the world in creating a 'global sandbox' for innovation.

Global distribution

One key thing when choosing a fund jurisdiction is the distribution footprint it can achieve. Guernsey funds have pedigree in many key markets and are known to many regulators in the world. There are many facts about Guernsey global fund distribution. Here a few key highlights:

- A Guernsey fund enables managers to reach markets representing 80% of global wealth.
- Guernsey is in the top four jurisdictions (outside the US and Canada) for Regulation D private placement into the US.
- Guernsey is one of the top four jurisdictions for registering funds for sale to retail clients in South Africa.
- Guernsey has a retail fund sales Memorandum of Understanding with Switzerland, and is one of only three jurisdictions outside the European Union/European Economic Area to have one.
- All types of Guernsey fund have been successfully registered for retail sale in Bahrain.
- A Guernsey umbrella fund is one of only four non-UCITS to register for retail sale in Luxembourg
- Guernsey has all three regulatory Memoranda of Understanding with the Chinese regulators, allowing it to reach the widest range of Chinese investors currently possible.

Conclusion

The global reach of Guernsey funds and Guernsey's positioning as a quality global financial centre make the island an attractive proposition for establishing funds. Our members are ready to assist you with launching your next fund in Guernsey.

Christopher Jehan - Guernsey Investment & Funds Association

Christopher Jehan was elected chair of the Guernsey Investment & Funds Association in April 2019, prior to which he had served as both vice chair and chair of the technical subcommittee. Following a 22-year career with Investec Asset Management (ultimately as technical director and director of various funds), he launched Midshore Consulting in September 2016. Jehan specialises in regulatory implementation and international regulation, including cross-border regulation applicable to the provision of products and services and automatic exchange of information.

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report, [click here](#).

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