

# GUERNSEY: INNOVATION, STABILITY AND SUBSTANCE

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In an interview with HFM for its Guernsey 2019 Special report, EY Advisory Director Mark Le Page displays his views on Guernsey in 2019, and how technology is set to transform the industry over the coming years.

Q: How is the Guernsey fund industry looking in 2019?

MLP: Guernsey is building on the success of a strong 2018, which saw welcome headlines through the launch of the flagship green fund. The green fund provides a kitemark reassuring investors of its green credentials. A product built on Guernsey's expertise in private equity and infrastructure, it reaffirmed the island's position in the vanguard of responsible capital raising for the social good. Accordingly, Guernsey was one of the founding members of the United Nations International Network of Financial Centres for Sustainability (FC4S).

The good news has continued this year. In March 2019, the EU Council's Code of Conduct Group and the European Council of Finance Ministers (ECOFIN) confirmed Guernsey satisfied the business taxation substance requirements. This reflects the strong corporate governance culture driven by legislation and regulation.

The first quarter of 2019 has seen strong statistics in new launches. This reflects Guernsey's relative immunity to the challenges of Brexit. Managers realise Guernsey can access European capital irrespective of the Brexit outcome. Guernsey continues to be a stronghold for private equity and infrastructure and is the premier jurisdiction outside of London for LSE listings.

Q: Do you foresee this rate of adoption continuing?

MLP: Guernsey has the foundation for continuing success. Quality service providers facilitate global managers managing their clients' wealth; Guernsey's jurisprudence rests on the proven Anglo-Saxon concept of common law. Further, the non-party political system leads to considered legislative change, rather than the fulfilment of politically partisan objectives. Yet, as the green fund and private investment fund have shown, Guernsey is not afraid to innovate where there is social benefit to be made through responsible wealth creation.

We have seen a particular upsurge in interest from US managers who have previously tended to use jurisdictions in their time zone. The catalyst was the successful substance work that Guernsey undertook with the Code of Conduct Group. Those who have migrated portfolios here have been impressed by the high standard of service delivery, and this is a message resonating in the global market.

Guernsey has third-party access to the EU and EEA markets through the national private placement regime. This is certainly proving attractive to the North American market, who feel they have not quite tapped European capital. Guernsey offers an efficient and effective way in for them. Indeed, research suggests formation costs tend to be at least 10 basis points lower on average than for a fund set up by an EU domiciled AIFM.

I have attended several roadshows to New York with WE ARE GUERNSEY, the brand under which Guernsey Finance promotes the island's financial services sector, and observed a considerable warming of sentiment towards Guernsey over the last 18 months, and this from established market players. Professional advisers are now interested in giving their clients a range of options, as opposed to presenting a well-trodden previous path. This evolution of attitude has been quite marked.

Q: What queries and concerns are you hearing from your clients?

MLP: Clients continue to seek advice on how to structure funds appropriately. With the substance requirements resting on regulatory as well as taxation principles, the convergence between tax and regulatory advice is now inextricable. EY has been advising clients through our expertise in both areas. Since joining EY, I have been working with our global regulatory network and risk and compliance advisory professionals to assist clients in responding to the changing risk management and prudential regulatory ecosystem; and, as discussed above, with local tax advisors.

We have enquiries seeking both assessments and support for operational restructuring in the light of the

Guernsey Financial Services Commission's Handbook on Countering Financial Crime and Terrorism. Additionally, we are asked to report to boards on independent assessments of rules made under the Protection of Investors (Bailiwick of Guernsey) Law, 1987.

Q: What is EY currently hoping to develop within Guernsey?

MLP: EY has been proud to have contributed thought leadership by providing representatives to the fund strategy working parties that WE ARE GUERNSEY has formed. These strategies will be the bedrock for the island's future.

Additionally, EY welcomes the introduction of the Electronic Transactions (Electronic Agents) (Guernsey) Ordinance, 2019. Closely reflecting the United States UETA and E-Sign Act, this clears legal obstacles for the implementation of smart contracts within distributed ledger systems. Guernsey's financial services industry is no stranger to 'blockchain' systems and smart contracts are the next great process evolution for the island. Smart contracts automate operational routines and even the implementation and enforcement of legal agreements, reducing the need for oracles – human intervention. EY has developed software that tests smart contracts. EY's global innovation leader for blockchain, Paul Brody, recently said our clients are increasingly entrusting key enterprise business processes and valuable investments to software code, and one wouldn't run enterprise computing systems without anti-virus tools. Therefore, it only makes sense to run blockchain-based investment systems with smart contract and token testing tools.

EY also sees advances in the application of robot process automation to compliance procedures, 'regtech', and we are currently devising and testing prototypes in our local offices.

The list could go on, but a concluding thought is on cybersecurity, where we offer through our IT risk assurance team a cyber assessment across financial services. EY Document Intelligence, for example, is a tool which improves the speed and accuracy of interpreting mass contracts – ultimately allowing audit teams to focus on higher value activities. These tools will enable EY to provide quality support for our clients.

Q: What is the future of Guernsey?

MLP: Guernsey has always been a crucible for developing innovative ideas. We have seen, this year, a hybrid ILS/fund structure. As already discussed, fintech and regtech will play a significant role

in Guernsey's financial services industry. Guernsey has a regulatory and jurisprudential regime that empowers – not discourages – individuals to innovate, both in fund structures and investment strategy. Guernsey will not stand still, it will grow in intellectual capital and ever-increasing reputation. Guernsey remains ready and able to prove that it is a jurisdiction of substance and stability.

With continued access to European markets, irrespective of the Brexit outcome, Guernsey is a jurisdiction offering capital raising for responsible investment strategies. I suspect the market can look forward to further developments in ESG-driven product strategies and service providers offering the best technology solutions.

Mark Le Page, EY

Mark Le Page joined EY in the Channel Islands as an advisory director in January 2019 and is based in Guernsey. He previously spent over 16 years working for the Guernsey Financial Services Commission, as deputy director for the investment sector, during which time he was responsible for the development and implementation of fund strategy.

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WE ARE GUERNSEY is the brand under which Guernsey Finance promotes the island's financial services sector internationally. Guernsey Finance - the promotional agency for the island's finance industry internationally - is a joint industry and Government initiative responsible for the promotion of Guernsey. Under the leadership of Chief Executive Dominic Wheatley, the agency ensures that the core values and competencies of the island's finance sector are accepted and respected by the global community and that financial business development flows are enhanced.

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