

# CERTAINTY IN AN UNCERTAIN WORLD

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Considering where to domicile a fund is a key decision for fund managers looking to raise funds in this current market, whether they are a first-time fund raiser or a proven industry veteran, says [BDO](#) Advisory Director Steve Desmond in eprivateclient's 2019 Guernsey report, A Global Island.

This is a time of unprecedented uncertainty, with the UK about to withdraw from the EU amidst a constant stalemate of negotiations.

Amid this, Guernsey offers close geographic proximity to the UK alongside legal independence. Guernsey has an 800-year constitutional relationship with the UK and a 50-year track record as an international finance centre. Here, there is an ideal environment for asset managers to structure funds that enable managers to reach markets that represent around 80% of global wealth markets.

Guernsey has a proven record of raising investment funds. At the end of 2018, Guernsey's net asset value of funds under management reached an AUM of £281.7 billion, an increase of £11.7 billion in the year. Guernsey also has more companies listed on the London Stock Exchange (LSE) than any other jurisdiction outside of the UK.

Asset managers will find Guernsey a jurisdiction that has a friendly, tax neutral, legal and regulatory domicile offering a politically stable environment. The risk-based supervision provided by the Guernsey Financial Services Commission (GFSC) is well-regarded by institutional investors world-wide and has international recognition for holding the highest standards of transparency by the OECD, Moneyval and the Financial Action Task Force.

The international position of the Guernsey funds industry

More recently in response to the Base Erosion and Profit Shifting (BEPS) initiative by the OECD, Guernsey received confirmation from the EU Council's Code of Conduct Group and the European Council of Finance Ministers that the island has satisfied its legal substance requirements for entities operating in or through the jurisdiction.

With zero rates of withholding tax (unless distributions are being made to a Guernsey resident individual), no corporation tax, stamp duty or VAT, investment funds are not subject to such additional layers of taxation. Guernsey was an early-stage adopter of FATCA and CRS, with mandatory disclosure to investors' own tax authorities in their home jurisdictions.

A 2015 survey found that the economic benefits of Guernsey's investment funds industry to the UK and Europe included that Guernsey acted as a conduit for £24.6 billion of inward investment into the UK and facilitated access to £26.5 billion of global assets for UK investors. The island acted as a conduit for a further £51.4 billion of inward investment into Europe.

Investors in more than 55 jurisdictions across the globe can be accessed with a Guernsey fund, including those in major economies including the UK, Australia, Asia, North America and Canada, continental Europe, South Africa and China.

The National Private Placement Regime is a successful route for marketing funds into Europe with Guernsey providing a fast and effective fund launch process and a real alternative to a UCITS or AIF. Whilst registration is required in each member state, you should take note that the European Commission's own figures report that 70% of all EU funds by AUM are registered for sale in only one member state. Similarly, the AIFMD promise of a passport to allow free market access and harmonised rules has not come to fruition, with some member states introducing additional regulation and fees to allow fund managers to market in their jurisdiction. A Guernsey fund may be registered for sale to more than 90% of the world's 300 largest pension funds and 37 of the 50 largest sovereign wealth funds. This removes the need for complex feeder fund structures to access certain markets reducing costs and management overheads.

Fund vehicles available in Guernsey

Guernsey has a flexible suite of investment fund vehicles on offer for open and closed-ended funds using a limited company, unit trust or limited partnership. These regulated funds are launched using either the authorised or registered route. The registered fund route is where your chosen administrator makes certifications to the regulator that offers a 72-hour turnaround for fund approval. Similarly, a managing entity to a registered fund may use the fast-track 10-day turnaround for authorisation.

The introduction of the Private Investment Fund (PIF) in late 2016 adds another useful product. The PIF regime recognises the close relationship managers have with investors in these private funds and allows funds and their respective managers to be registered and licenced by the GFSC within one day. The manager is responsible for making certain representations and warranties to the GFSC on the ability of the investor to suffer losses within the application. Certain restrictions apply given the intended nature of this regime, such as a maximum of 50 investors (although no limit on the number you can market to), all of whom are expected to be professional investors.

One of Guernsey's success stories has been the development of a leading and well-established private equity industry (almost two thirds of closed-ended structures being private equity sector entities) with internationally recognised funds located in a stable (yet innovative), well-developed and regulated tax transparent domicile. This enables cross-border transaction in a politically and fiscally stable environment.

Substantial launches such as private equity promoters including Permira, Apax Partners, Cinven, Macquarie, Partners Group and Inflexion all contributed to the record-breaking high, boosting the value of private equity to over £124 billion by the end of 2018.

Whilst there are several investment vehicles available in Guernsey, a common entity used for private equity and venture capital investing is the LP.

The principal attraction of the limited partnership is its tax transparency for partners. Profits and losses of the LP are attributed to the partners in their own place of tax residence with, usually, the added benefit of any losses offset against the profits from other investments attributed to them in the same partnership. Additionally, those same profits and losses may be treated as arising in the country in which the investment of the LP occurs.

The LP vehicle is neither a person nor a company and as such is not subject to any Guernsey tax. Nor will any non-Guernsey resident partner be subject to tax on their share of profits in Guernsey, unless there is a Guernsey source income.

LPs are formed, registered and operated under the provisions of the Limited Partnerships (Guernsey) Law, 1995. An LP exists following the signing of a written limited partnership agreement (LPA) and registration of the partners on the register of the LP.

For each LP there is one or more general partners (GP) who are jointly and severally liable for all debts of the LP without limitation. There would also be one or more limited partners (s) who contribute or commit an investment sum to the capital of the limited partnership but, unlike the GP, are only liable to the extent of their contribution (or commitment). Both the GP and LPs can be body corporates or individual persons.

Finally, given its long history in servicing investment funds, Guernsey has a network of experienced fund administrators, custodians, auditors, lawyers and non-exec directors who can advise you on the best route to market as well as help you through the fund launch process.

An original version of this article first appeared in the eprivateclient Guernsey 2019 report: A Global Island. [Click here](#) to access the full report.

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.

PO Box 655, St Peter Port,  
Guernsey, GY1 3PN

+44 (0)1481 720071

[INFO@WEAREGUERNSEY.COM](mailto:INFO@WEAREGUERNSEY.COM)

