

THE TRIED AND TESTED ROUTE INTO EUROPE POST-BREXIT

21 MAY 2021

Guernsey Finance Deputy Chief Executive, Strategy, Dr Andy Sloan, says the island’s tried and trusted reputation as a home for alternative funds is well earned.

Guernsey has often watched – with a calm detachment – the waxing and waning of the UK’s mercurial relationship with the European institutions over half a century. The island, whose relationship with Britain is through the Crown, not through the state, as a Crown Dependency, alongside Jersey and the Isle of Man, remained outside of the European Union during the 40-plus years of British involvement.

Our trading relationship outlined back in the day in the UK’s Treaty of Accession – being based on trade in goods, given that back then it was mainly agricultural and horticultural exports – stated that we were part of the Customs Union, but outside the Common Market and the European Union for services. Guernsey was never a member of the EU and was always, and remains, considered a third country in areas of our own competencies – tax and legislation.

The net result of all that is that the basis and operation of our access to Europe’s financial services markets also remains unchanged after Brexit. We have various equivalences that remain unchanged, data protection being one. Our relationship with the European Commission and the European ESAs and national competent authorities for tax and regulation remain unchanged.

As a result, Guernsey offers continuity, certainty and stability. It is a potent mix, highly regarded in particular by GPs, especially those looking for a tried-and-tested route to market into the EU and the UK. Our old ESMA-facilitated MoU under AIFMD with the FCA was re-papered across to work in a post-Brexit environment a long time ago. Our current MoUs with the EU 27 remain as they were. National Private Placement Regimes under AIFMD always provided a proven, faster and cheaper route to market than the passport. No change there either.

Uncertain world

The double whammy of continuity and certainty is something to be highly prized by fund professionals, particularly in today’s uncertain world where there remains huge opacity in the relationship between UK and EU financial services.

Under NPPR, a Guernsey AIF can be marketed to targeted investors in selected EU member states, regardless of whether the AIFM is domiciled inside or outside the EU. This means that a Guernsey AIFM can market and operate as before. This certainty is highly beneficial to AIFs seeking capital from Europe.

In today’s challenging market, a proven, tested route to placing private funds can be the difference between the success and failure of a fund launch. UK fund lawyers have described Guernsey’s position as “incredibly strong” and “arguably light years ahead” of the UK in terms of market access.

Proven path

Guernsey has long played a bridging role in the space, linking investment capital flows between UK, EU and US markets. A smooth, proven path is something that is going to be more valuable than ever during the next few years, with continued friction in the relationships of others.

Allied to continuity of market access, Guernsey continues to provide security of assets and reputation. Continuing conformity with international standards on regulation, tax transparency and beneficial ownership is of huge import, given political risk appetites. Guernsey has a strong track record in this area and has fostered a deserved respected reputation when it comes to international standards. A premium for today’s investors.

Guernsey has long been an attractive domicile for alternative investment funds, based on the combination of professionalism, substance and expertise of the firms operating here. It is how the island became the dominant

jurisdiction in the private equity space, in particular offering the common-law framework familiar to London-based lawyers, and the high levels of service expected. Another potent mix.

This article was first published in [Reports Legal's Offshore Report, April 2021](#).

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 Rupert Pleasant, 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

