

ESMA BACKS GUERNSEY FOR AIFMD PASSPORT

19 JULY 2016

Guernsey has been recommended for a 'third country' passport under the Alternative Investment Fund Managers Directive (AIFMD) by the European Securities and Markets Authority (ESMA).

The independent [EU regulatory authority has assessed Guernsey, alongside 11 other non-EU jurisdictions, as part of its non-EU AIFMD passport reviews](#). In its final assessment, ESMA has concluded that 'there are no significant obstacles regarding investor protection, competition, market disruption and the monitoring of systemic risk impeding the application of the AIFMD passport to Guernsey'.

ESMA's advice will now be considered for approval by the European Commission, Parliament and Council before they activate the relevant provision in the AIFMD to extend the passport through a Delegated Act.

Guernsey Finance Chairman Lyndon Trott, who also serves as Guernsey's Deputy Chief Minister, said the latest ESMA recommendation was excellent news for the island's fund industry and evidence once again that Guernsey continued to meet the very highest international standards and offer an excellent business environment.

"I am very pleased that ESMA has confirmed its positive assessment of Guernsey. This demonstrates confidence and trust in our regulatory framework and supervisory practices, and in our track record as a jurisdiction that meets the highest international standards," said Mr Trott.

"The leadership of the Guernsey Financial Services Commission, with the support of industry and government, has again enabled Guernsey to be evaluated as a trusted jurisdiction that continues to provide a stable and competitive environment for business.

"While there is still a further administrative stage of the process to go through, this is a positive and encouraging development for Guernsey as a centre of excellence for private equity and fund administration. These are businesses that have real substance on the island and form an important part of our economy. This positive assessment from ESMA demonstrates our constructive working relationship with EU institutions and bodies when they treat us as a third country."

Last July, ESMA confirmed that Guernsey had demonstrated its ability to satisfy the criteria under AIFMD last July, alongside Jersey and Switzerland, but that it needed more time to complete assessments for the US, Singapore and Hong Kong. At the beginning of 2016 ESMA was directed by Olivier Guersent, Director General at the EU Commission's financial services division, to complete the assessments of the three outstanding countries and for the second wave of nations - Japan, Canada, Isle of Man, Cayman Islands, Bermuda and Australia - by 30 June.

In addition to Guernsey, ESMA has offered unqualified and positive assessments to Canada, Japan, Jersey and Switzerland. Four other jurisdictions - Australia, Hong Kong, Singapore and the USA have received qualified positive assessments.

Andrew Whittaker, Chairman of the Guernsey Investment Fund Association (GIFA), said ESMA's recommendation demonstrated confidence and trust in Guernsey as a centre for funds business.

"ESMA's advice assures continued marketing access to the wider EU market for Guernsey domiciled funds, which provides fantastic stability for investors and managers alike," said Mr Whittaker.

Since AIFMD came into force in 2013, Guernsey has adopted a 'dual regime' whereby there are two parallel regulatory regimes for investment funds: the existing regime remained in place for managers and investors not requiring an AIFMD fund, including those using EU national private placement regimes and those marketing to non-EU investors, and ran parallel with an opt-in regime which is fully compliant with AIFMD.

Guernsey Finance Chief Executive Dominic Wheatley added: "Guernsey has now come in the top tier of two successive ESMA reviews of third countries and these, together with the recent review by MONEYVAL, demonstrate the quality of financial services regulation in Guernsey. It is also important to note that Guernsey is one of only five jurisdictions to receive an unqualified and positive assessment from ESMA in this most recent

advice.

"This clearly offers a greater degree of certainty for investment managers utilising Guernsey for funds which are then sold into the European Union. Unlike some competitor jurisdictions, Guernsey has a financial services industry with substance where the majority of governance and administrative functions are performed within the Island."

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