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JERSEY FINANCE

www.jerseyfinance.je

Jersey Finance is the official body funded jointly by Jersey's Government and Finance Industry to represent and promote the Island as an international finance centre of excellence, both within and outside the Island.

JERSEY GOVERNMENT AND REGULATION

www.gov.je
The official website of the Government of the Island of Jersey.

www.jerseyfsc.org
The Jersey Financial Services Commission, responsible for the regulation and supervision of the Island's financial services industry.

www.locatejersey.com
The official website of Locate Jersey which assists individuals or organisations looking to relocate to the Island.

For details on Jersey residency contact:
k.lemasney@gov.je

DIGITAL JERSEY

www.digital.je
Working alongside government and industry, Digital Jersey coordinates activities towards improving the Island's environment as a location of choice for digital business.

THE JERSEY DEVELOPMENT COMPANY

www.jerseydevelopment.je
The Jersey Development Company (JDC) - wholly owned by the States of Jersey – develops States' land and property assets no longer required for public service and the Waterfront development.

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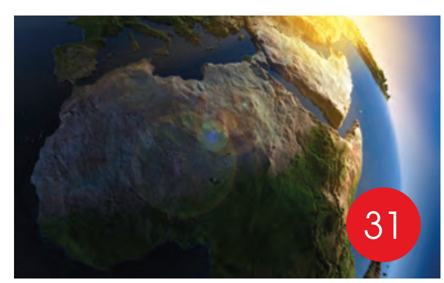

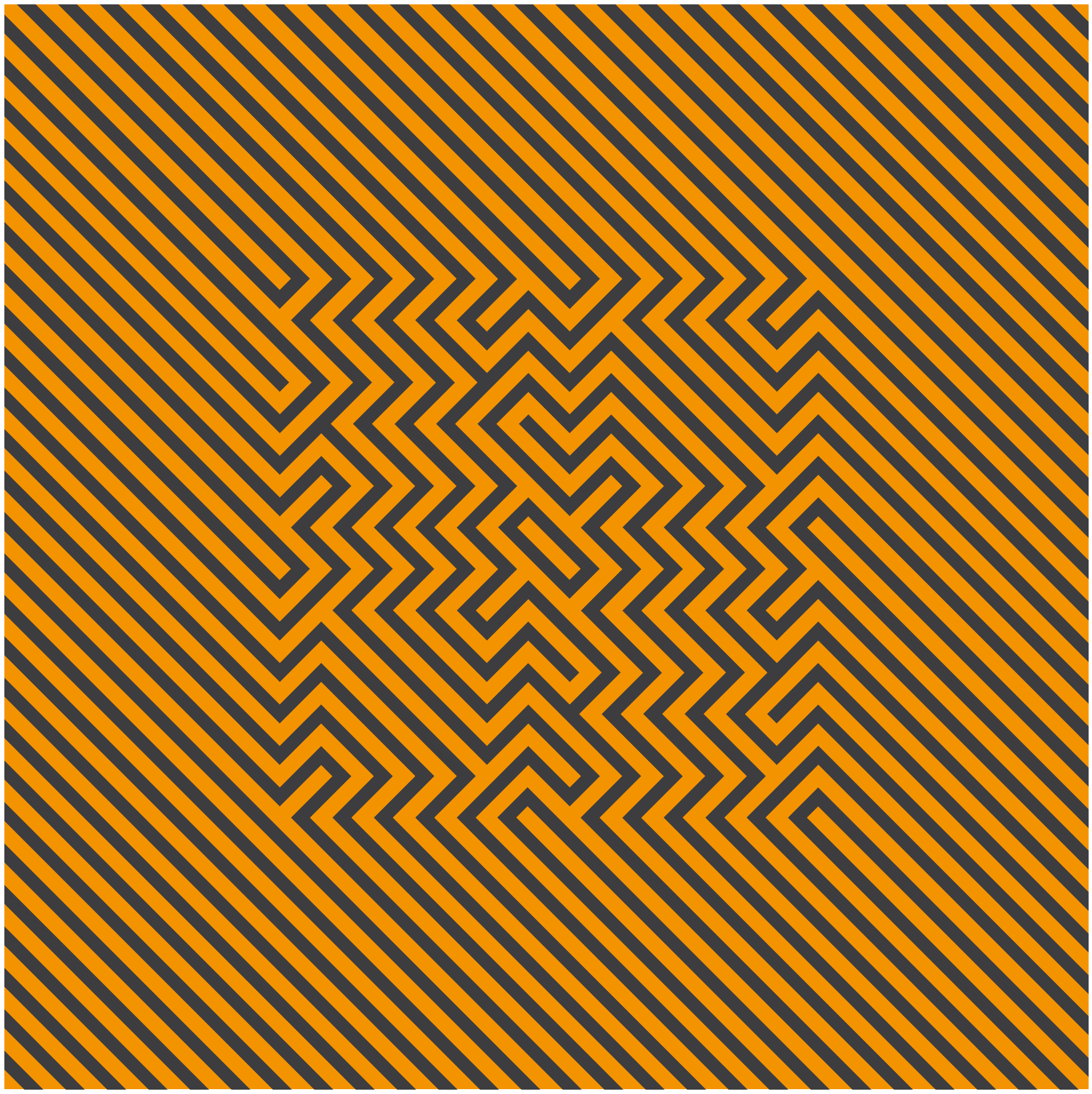

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2014 IN THE JERSEY RECRUITMENT MARKET…..

Shelley Kendrick
Kendrick is Managing Director of executive recruitment specialist and HR consultancy, Kendrick Rose

In today's hyper-competitive business environment, companies must maintain the highest level of performance in order to succeed and win. As a result, increasingly leverage every resource to create and maintain a competitive advantage. The resource most difficult to harness is people. This resource, however, is also where companies find their greatest gains in productivity, creativity and innovation.

The economic downturn and global recession has had a significant impact in the local Jersey market, however, confidence has returned to the Jersey jobs market. After tracking movements since the beginning of the economic downturn, we are seeing a long-awaited return to the 'employees market' and an optimistic outlook for 2014.

An influx of new hires in the market in the second half of 2013, and the creation of new roles for people at senior level, have triggered the shift. The island has witnessed an upturn in candidates searching for alternatives and a revised confidence in testing the market. The finance industry is now experiencing positive growth, particularly in the areas of private equity, fund administration and legal vacancies.

Businesses have begun to settle again in Jersey following the upheaval of the last few years. It has taken a while for companies to re-align their strategic direction but confidence is now returning. We have seen a number of new roles created, particularly at senior level. Additionally, candidates have become more confident in seeking out new employment opportunities.

Businesses seeking alternative revenue streams have also aided the market revitalisation. A number of local businesses are now in the right position to diversify and they are looking for key players who demonstrate real business acumen to fulfil these roles. This has all brought much-needed movement to the local market. The island is now experiencing positive changes for both employees and employers and if this continues 2014 will be a prosperous year for Jersey business.

More information about Kendrick Rose can be found at www.kendrickrose.com

Preface

By Senator Ian Gorst

Jersey's financial services industry is demonstrating an innovative and resilient response to a challenging, fast changing global economy. Today, Jersey is rated as one of the most stable and successful international financial services centres in the world. Continued success depends on our ability to sustain our core offerings and to look outwards to the opportunities for growth in a measured, coordinated and sustainable way. With the growth of ambitious new financial centres located across the globe, Jersey is focusing on remaining open for business in a proportionate and targeted way.

During the course of 2013 we saw jurisdictions and international organisations working hard to show they were tackling tax evasion and abusive tax planning. Jersey has always made it clear that we want to comply with international standards and we welcome the global approach that is now central to these initiatives.

We share with the UK a zero tolerance of tax evasion and a commitment to transparency and this has been recognised by the UK Prime Minister, David Cameron. The strength of our relationship with the UK was demonstrated when the Chancellor George Osborne supported efforts to remove Jersey from the French blacklist. We believe this relationship with the UK is critical to Jersey moving forward in an uncertain world.

The Exchequer Secretary to the Treasury, David Gauke, commended the action taken which puts Jersey at the forefront of the global tax transparency agenda. He said the UK government would continue to work closely with the Crown dependencies and overseas territories and continue to press other financial centres to match the steps we have taken.

We have committed to the international tax initiatives of the G8 and G20 and have been recognised for our compliance with the relevant international standards. We have signed a FATCA agreement with the UK and USA; we are working with international bodies on the roll out of a global standard for the automatic exchange of information between tax authorities worldwide.

We are keeping in step with the global direction towards greater transparency; and when the world at large is expected to respond to these initiatives, Jersey benefits, as we are already meeting many of the standards that others are now being expected to emulate.

If there is a global approach, our competitive position can only be enhanced, as it gives us the opportunity to demonstrate our high standards in a changing regulatory environment. Businesses and individuals will choose to operate where the best support services are, not where lower standards apply. In short, we are in a good position to use the shifting landscape of global standards to attract more business. I see the challenges facing Jersey as opportunities.

The financial services industry is key to Jersey's economic health. The sectors of the industry which includes banking, trusts, fund management, company administration, legal firms, accountancy firms, investment advisory services and the servicing of a wide range of corporate vehicles, are significant contributors to the local economy. This is highlighted by the fact the industry employs more than 12,000 people, spanning the range of financial services provided.

‘Jersey provides a net benefit to the United Kingdom of almost £2.5bn a year and supports around 180,000 British jobs’

Courtesy Chris George

Jersey’s financial services industry is also a significant contributor to the global economy, particularly the United Kingdom. A report prepared by the respected independent firm Capital Economics, found that Jersey provides a net benefit to the United Kingdom of almost £2.5bn a year and supports around 180,000 British jobs.

In recognition of the industry’s importance to all islanders, the financial services team in the Chief Minister’s Department has been enhanced to facilitate the necessary legislative change, to help maintain international standards, to provide the infrastructure to support growth, develop the skills needed for the future, and protect our reputation through engagement with governments and international bodies.

A framework for financial services has been published which provides the structure for the sector to maintain competitiveness, target new growth areas and encourage diversification. It sets clear objectives: to maintain and promote Jersey’s position as a leading international finance centre; to ensure effective coordination between the Government, the regulator and industry; to maintain an attractive operating environment for existing and new businesses across existing and potential new sectors of the industry; ensure the financial services industry is adequately resourced; maintain employment in the industry at more than 12,000, aiming to increase it over four years in line with population policy; to comply with international standards that are applied globally; and to contribute to the Jersey’s Gross Value Added (GVA) and tax revenues to benefit Island residents.

Courtesy Chris George

Courtesy Chris George

The framework defines the core principles of Jersey's financial services industry as political stability, a responsible approach to complying with international standards, a highly skilled professional workforce, a firm commitment to adapting and innovating, and a collaborative approach between Government, regulator and industry. Over the past five decades Jersey has proved to be a stable location for all the financial services sectors but now needs to reflect the challenges and opportunities of a changing business environment in a policy framework that serves the overall long term interests of the Island as a whole.

The opening of the Jersey London office is playing a key role in enhancing relationships with ministers and senior policy officials in the UK, just as the Channel Islands Brussels Office is building strong relationships with EU ministers and officials and developing their understanding of the islands. This important work will continue and expand in 2014, led by our new External Relations Minister, whose role is fundamental in achieving the best possible outcomes in protecting and promoting our interests overseas.

An independent review conducted in 2013 recommended changes to the way government, industry and the regulator interact. Government is now working more closely with the industry and regulator to support the Island's largest industry. Ministers are raising Jersey's profile on the international stage through a strong programme of foreign engagement, building business and cultural links around the world, meeting senior political advisers and key decision makers.

We have a new representative in Dubai focusing on the Middle East, we are moving into areas of Africa, as well as Eastern Europe. It is increasingly important that Jersey is properly represented in important world markets, raising awareness of the expertise and high-quality services we can offer, promoting the Island's identity and culture, strengthening business and diplomatic relations and delivering long term benefits for the Island.

I am confident that in this uncertain world, our political stability can help retain our long standing appeal. Stability and innovation are the two critical factors which will help us thrive – two characteristics that have been part of our story for hundreds of years.

It will take continued inventiveness to make Jersey the 'location of choice' for investors in a world that is reshaping itself around the emerging economies in the East. We are not short of challenges but if these challenges are common to all jurisdictions, including our main competitors – and if there is a level playing field – we have little reason to be concerned.

Businesses will look for quality services and professional expertise and Jersey is strong on both. That is why we were invited to be a vice chair of the international body that assesses jurisdictions on transparency and tax information exchange. That role now includes working on the new international standard of automatic exchange of tax information.

The Government has confidence in Jersey's financial service industry and is willing to invest to build on our strengths to ensure that Jersey maintains an important role in the global economy of the future.

By working together responsibly, the Government, the regulator and industry will continue to drive excellence and innovation in all areas of the industry. We aim to protect our existing businesses, reposition our current offerings and build new capabilities, so we can maintain our position as a leading international finance centre.

SENATOR IAN GORST

Senator Ian Gorst is the Chief Minister of Jersey.

First elected to the States Assembly in 2005, Senator Gorst's previous role was as Minister for Social Security. He also served concurrently as Chairman of the Jersey Overseas Aid Commission.

Previously, he acted as an Assistant Minister in both the Chief Minister's Department and in the Treasury Department.

Senator Gorst is an accountant with significant experience in private client, private equity and retail fund sectors. Married to Dionne, they have two daughters, Sophia and Lilly-Mim.

Senator Gorst is actively involved in the church and serves as a Governor at Le Rocquier School. He has a keen interest in overseas development and he and his wife have travelled to participate in Jersey Overseas Aid Commission projects. He is also an Honorary Fellow of UNICEF UK.

Foreword

By Joe Moynihan

Jersey has taken a number of significant steps over the past 18 months to enhance the offering of the jurisdiction as a leading international finance centre. The Government has supported the commissioning of an independent Strategic Jurisdictional Review by Jersey Finance Limited titled 'Securing Jersey's future as a leading international finance centre'. A report has also been produced by Capital Economics entitled 'Jersey's value to Britain'. There has been significant development of our domestic legislation to enable new business and to allow the Island to continue to meet international standards. Most recently, the release of the Government's Financial Services Industry Policy Framework demonstrates a commitment to supporting the future of the financial services industry in Jersey.

These developments have occurred at a time when the world is continuing to emerge from a significant financial crisis. Signs of recovery are becoming ever stronger and Jersey has been working hard to ensure that it is in the best position to take advantage of opportunities as they arise.

There is a strong long-term future for international finance centres, which will continue to prosper if they successfully tap into cross border investment flows as they develop and wealth creators in key markets. The output of the Jurisdictional Review has generated significant work for the Government, the regulator – the Jersey Financial Services Commission (JFSC) – and industry, with implementation groups being established to consider specific recommendations of the report. The progress of those groups is on target and they have been reporting into a steering group consisting of senior members of the Government, the regulator and Jersey Finance Limited.

One of the key findings from the Jurisdictional Review was the importance of industry driving forward innovation, while the Government and the regulator work to foster the commercial environment so that innovation can flourish. This approach is already showing tangible benefits demonstrated by Jersey's response to the EU Alternative Investment Fund Managers Directive (AIFMD), G8/G20 initiatives on automatic exchange of information and ongoing development of regulatory legislation in order to meet continually developing international standards.

Significant building blocks have been put in place to ensure the delivery of the review's recommendations. Within Government, the Chief Minister's Department has seen the expansion of the Financial Services Unit. With this strengthened resource in place, I am confident that the Government now has the capability to react to the recommendations and objectives that have been established.

In a similar vein, the JFSC and Jersey Finance Limited have invested in resourcing capabilities to assist in carrying out their obligations arising from the review. At the JFSC, recent appointments at director level in the funds/trust company business, regulatory policy and operations areas demonstrates that Jersey continues to attract high calibre candidates. At Jersey Finance Limited, the business development teams and overseas representative offices have seen continued investment and expansion. Jersey Finance Limited now has a presence in Hong Kong, Abu Dhabi, London, Mumbai and Delhi making Jersey, as a finance centre, a truly global brand. Continued focus on business development in developing economies has led to enhanced business links through Community of Interest Groups formed for areas such as Africa, Asia and the Gulf States.

'Jersey Finance Limited now has a presence in Hong Kong, Abu Dhabi, London, Mumbai and Delhi making Jersey, as a finance centre, a truly global brand'

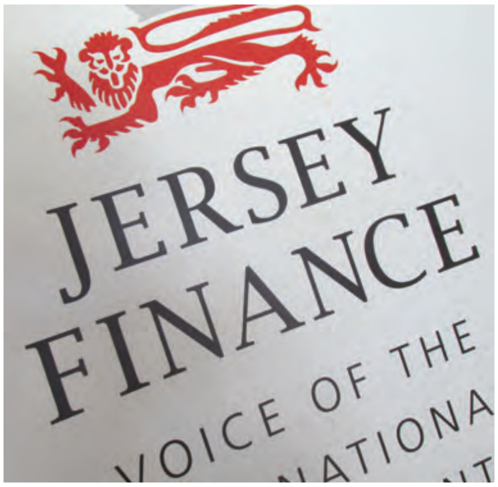
Courtesy Chris George

During 2013 and early 2014 there has been significant technical work on legislation relating to the financial services industry. Some of the legislation relates to the ongoing technical work of modifying and improving existing legislation, whereas other work relates to specific initiatives that have been a result of the Jurisdictional Review.

On 2 January 2014 a significant amount of work between the Government, industry and the regulator culminated in the introduction of the Security Interests (Jersey) Law 2012. It aims to provide Jersey with a simplified, modern and efficient legal regime for the creation and protection of security interests and assignments with the minimum of formality. The introduction of the law has been well received by industry and the creation of a state of the art Security Interests Register hosted by the registry of the JFSC has been successful. The Government is now investigating possible extensions to the law to cover tangible movable assets (such as cars) which is anticipated to boost the local lending market by allowing lending to occur with security over such assets.

Jersey has grown to be a leading international finance centre for the funds industry with assets under management in excess of £190 billion. Investor emphasis has shifted to alternative investments as a way of seeking out attractive returns and reducing volatility in investment markets. Jersey has attracted a significant number of venture capital, private equity, mezzanine, real estate and hedge funds.

On 22 July 2013 AIFMD came into force and created a new regulatory framework for alternative investment fund managers in the European Union (EU) with enhanced oversight. AIFMD introduced an EU-wide passport to allow managers to market alternative investment funds to professional investors across the EU, initially only for EU firms. Jersey is a third country for the purposes of AIFMD, which provides the Island with a number of additional opportunities for growth in the funds sector for both fund managers wishing to conduct business in the EU and those wishing to fall outside AIFMD rules as Jersey is not an EU member state. Passports are expected to be introduced for third countries which comply with AIFMD's requirements from July 2015. However, third country managers (such as those established in Jersey) can, subject to the cooperation agreements, market their alternative investment funds in individual EU states until at least 2018.



In response to AIFMD – and as the result of the implementation of legislation that was issued alongside the regulator's codes of practice – Jersey is in the unique position of being the first third country to offer fund managers a fully compliant AIFMD framework, ahead of the July introduction date. Jersey provides a perfect gateway to the EU for alternative investments while providing fund managers with flexibility to invest outside of the AIFMD framework.

The Jurisdictional Review recommended a simplification of the current funds regime, providing further clarity for investors and enabling flexibility and innovation in the sector. A significant project is now underway. Working closely together, the Government,

Courtesy Chris George

the regulator and industry are aiming to deliver a world leading funds regime to support ongoing growth in this important market segment.

In 2013 the Trusts Law Working Group, run by Jersey Finance Limited, recommended to Government that an opportunity existed to clarify the Jersey law position by the introduction of a statutory version of what has become known as the 'rule in Hastings-Bass' and the doctrine of mistake. The advantage of settling the current Jersey law position into statute is to provide certainty to settlors and beneficiaries that, in certain circumstances, applications can be made to the Royal Court to unwind transactions. This has provided a layer of extra protection for Jersey law trusts which does not, as yet, exist in other jurisdiction. The close working relationship between the industry, Jersey Finance Limited and the Government, meant that the Trusts (Amendment No.6) (Jersey) Law 2013 was introduced in record time, further demonstrating the ability of the jurisdiction to adapt and take advantage of new opportunities in an ever changing world.

The flexibility and innovative nature of the Companies (Jersey) Law 1991 is a considerable asset to Jersey. Jersey Companies are used both for local business needs as well as being one of the key tools of the international finance industry with the listing of Jersey companies on foreign exchanges described as the fourth pillar of the financial services industry. Around 30 miscellaneous amendments have been developed in order to confirm the competitiveness of the Jersey company and these have been lodged for debate before the summer recess of the States as the draft Companies (Amendment No.11) (Jersey) Law. The continued maintenance and enhancement of this key product law will continue to strengthen Jersey's base offering for the financial services industry.

In line with the recommendations of the Jurisdictional Review, work is now well underway to see how Jersey can maximise its expertise in private wealth management to increase the growth in philanthropic offerings. There is currently an expert working group engaging with major European philanthropic associations considering enhancements in this area. These efforts, combined with work to bring a draft Charities (Jersey) Law to the States Assembly this year will put the building blocks for this initiative in place.

Finally, I should highlight that the work that was undertaken in the Jurisdictional Review has led to the Government publishing a Financial Services Industry Policy Framework in April 2014.

In conjunction with key stakeholders in the Island and internationally, the Government has developed this policy framework based on key objectives that look to the future and to secure our position as a leading international finance centre. The Government encourages excellence, innovation and growth not only to protect the industry and uphold our reputation but also to remain competitive in terms of quality of service and experience to users of the financial services industry. We are committed to improving flexibility in our style and engagement with the regulator and industry. We have made a statement of intent in the policy framework that we will review legislation, policies and practices, and provide the appropriate resource in Government to facilitate this intention. The Government will work together with the regulator and industry towards a shared goal for success. We aim to protect our existing businesses, reposition our current offerings and build new capabilities for the future of the industry and its contribution to Jersey's economy for all its residents.

'...the Jurisdictional Review has generated significant work for the Government, the regulator – the Jersey Financial Services Commission (JFSC) – and industry'

JOE MOYNIHAN

Joe Moynihan is Director of Financial Services for the States of Jersey since January 2013.

This role provides advice to Government Ministers on all aspects of financial services policy. In addition, working with Jersey's financial services marketing and regulatory bodies, he is responsible for helping to ensure that the financial services sector remains globally competitive.

Prior to his current position he had been with AIB Group for over 35 years working in Ireland and Britain and has been based in Jersey since 1993. He was appointed Chief Executive Officer of AIB Jersey and Isle of Man in February 2007. He was responsible for running the bank's offshore operations in both Jersey and the Isle of Man, setting strategic direction and representing the offshore business at AIB Group level.

Joe is a graduate member of the Institute of Bankers in Ireland and holder of an MBA from CASS University in London. He is a Past President of the Jersey Bankers Association and a member of the Jersey branch of the Institute of Directors.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Introduction

By Geoff Cook

Jersey's reputation as a leading International Finance Centre (IFC) of stability and substance continues to grow in key markets worldwide. It has been able to assert its leadership, as an IFC, while offering a stable commercial environment that inspires certainty and confidence amongst international investors and their advisers.

While we continue to focus on our strengths as an IFC, we have also responded to global moves for greater transparency within financial services and have invested both time and resources to ensure we continue to be innovative in the provision of our services and the quality of our regulation and legislation available to practitioners.

This latest edition of *Jersey ~ First for Finance* will be exploring these themes in more detail and will once again highlight the extraordinary breadth and depth of our financial services offering and the expertise that is helping us to attract increasing levels of business from the major economies worldwide, together with our commitment to the international drive to improve compliance and information exchange between regulators and tax authorities.

Alongside the firm foundations of political and economic stability, Jersey's success has been further fuelled by its focus on high quality levels of service, substance and its impressive network of specialist firms to provide support to investors.

The question of substance is an important consideration and Jersey's status in this regard cannot be matched by some competing jurisdictions. Jersey's finance industry employs around 12,500 people, the largest financial services workforce of any European offshore centre.

International banking groups, with offices in Jersey, employ around 4,000, with almost half of the global top 25 banks represented. All the major professional service firms are represented and many of the largest offshore law firms in the world. There are numerous leading fund managers, fund administrators, custodians and advisers and some of the world's largest trust companies.

Complementing the network of professionals is the robust, modern and sophisticated legal framework which continues to allow Jersey to lead the way in delivering services in its core finance industry sectors of banking, wealth management, funds and capital markets.

SERVICES

Jersey's banking sector continues to attract capital from around the world, with deposits growing for the second year in succession peaking at just over £155 billion in 2013. Deposits emanating from the Middle and Far East continued to represent around 17% of the total value of deposits in Jersey, an indication of the value of our drive to attract investors from regions such as the GCC.

New regulations introduced in Jersey have ensured that Jersey-based alternative fund managers will be able to prosper further under the European Union's Alternative Investment Fund Managers Directive (AIFMD). Jersey was the first third country to implement a fully compliant AIFMD regime, ahead of the July introduction date this year. Our swift response to these regulations means that we maintain open access to European markets for those practitioners that require it, while those that do not want access to EU capital or do not operate in the EU, can

'Jersey's success has been further fuelled by its focus on high quality levels of service, substance and its impressive network of specialist firms'

Courtesy Chris George

continue to market their fund products through Jersey under the existing Jersey regime outside the scope of the AIFMD framework.

In a major development in the wealth management sector, legislation brought the 'Hastings-Bass rule' onto the statute, providing Jersey trusts with a tangible advantage over trusts governed by the laws of other jurisdictions. The Jersey trust has been a trailblazer for the wealth management industry and it is the 30th anniversary this year since the introduction of the law, which proved to be a template for a number of other emerging finance jurisdictions. Whilst we acknowledge our long tradition of providing trust services to international investors, 2014 also marks the fifth year since the introduction of foundations. These have proved attractive to a wide range of investors and are particularly popular in civil law jurisdictions where the trust concept is less familiar.

Jersey has been leading the way in providing attractive and flexible charitable and not-for-profit vehicles for philanthropic purposes. Around a third of the foundations established to date have a charitable or philanthropic purpose, while trusts and non-profit vehicles such as companies and partnerships are also proving attractive for such purposes.

Capital markets business also continued to grow and as at December 2013 there were 100 registered Jersey companies listed on international stock exchanges, providing global companies with a gateway to London's capital markets. Jersey companies included 48 on the London Stock Exchange AIM market and 40 on the main market, as well as on Euronext, the Luxembourg Stock Exchange, the Hong Kong Stock Exchange, the Toronto Stock Exchange and the NASDAQ, with a total market capitalisation of £168.6bn as at December 2013.

These figures help to confirm the role that Jersey has developed in global finance as a leading facilitator of capital from overseas markets to the UK and continental Europe, a trend reflected in a Capital Economics study commissioned by Jersey Finance in 2013 which showed that Jersey is a conduit for nearly £1/2 trillion of foreign investment into the UK.

REGULATION

While respecting client confidentiality, Jersey has indicated its commitment to the global drive for increasing transparency and a willingness to ensure it maintains a regulatory regime that meets the global standard.

Jersey is able to demonstrate a transparent and cooperative regime having signed FATCA style agreements with the US and UK, and committed itself to G8, G20 and OECD standards of cooperation. We are committed to joining the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters and have completed more than 40 Tax Information Exchange Agreements and Double Taxation Agreements.

We support these moves, provided there continues to be a level playing field, as I believe these reforms are a platform for mobilising money transparently and allowing greater global investment, which we strongly welcome.

Jersey has also received an AA+ 'Long Term Issuer Default Rating' from Standard and Poor's, one of the best international credit ratings possible, reinforcing Jersey's reputation as a stable jurisdiction both now and for the future.

WORLD CLASS

Consistently ranked as the world's leading offshore centre (Global Financial Centres Index, March 2014), Jersey has also had its world-class reputation endorsed by independent bodies and institutions of the highest standards. In 2013 that included 'International Finance Centre of the Year' in both the Citywealth and Wealthbriefing Awards, 'Best Funds Centre' in the inaugural Investment Week Awards and 'Best in Class for Fund Services' in the International Fund & Product Awards 2013.

At a time when stability, corporate oversight and quality of service are key factors in the mind of the global investment community, Jersey continues to grow as a world class IFC.

GEOFF COOK

Geoff Cook is the Chief Executive of Jersey Finance.

Geoff Cook joined Jersey Finance as Chief Executive in January 2007. In promoting the Finance Industry of Jersey, Geoff visits many of the world's leading finance centres on a regular basis, highlighting the strengths of Jersey as a financial jurisdiction and updating Government officials, regulators, finance professionals and international investors on legal and regulatory developments and service innovations offered by Jersey.

In addition to speaking at Jersey Finance hosted events, Geoff is a regular speaker and contributor to conferences and seminars around the world and he writes frequently on the issues affecting Jersey and other finance centres in leading magazines. As a result of his Blog and the articles he has authored Geoff has featured in media such as the *Financial Times*, *The Economist*, BBC Radio 4, BBC World service and Bloomberg TV.

Previous to his role at Jersey Finance, he was Head of Wealth Management for HSBC Bank Plc, based in London, and responsible for the delivery of Financial Planning Services to the 10 million HSBC customers in the UK. His earlier career was spent at a senior management level with HSBC Bank plc in the UK and as Head of Personal Financial Services and Deputy to the Chief Executive at HSBC Bank International Limited in Jersey.

Geoff is a Chartered Director, Fellow of the ifs School of Finance, a Fellow of the Chartered Institute for Securities & Investment, a Member of the Society of Trust and Estate Practitioners and a Liveryman of the Worshipful Company of International Bankers.

Courtesy Chris George

Jersey: City partner and investment gateway

By Jonathan White

Jersey has been able to successfully develop business in many new international markets in recent years, by building on its hard won reputation for stability, probity and innovation and by consistently meeting the changing needs of international investors.

However, its important push into new markets, explored in some depth elsewhere in this edition, has not been achieved through any neglect of the traditional markets of the UK and Europe. Rather the opposite in fact, since Jersey's success in expanding its reach into new markets such as in Asia and the Gulf has been the catalyst for firmly positioning the jurisdiction as the financial gateway into the UK and Continental Europe for investors abroad. The partnership between finance and legal professionals in Jersey and the City of London is of particular long standing and has helped accelerate flows of business from Jersey into the major Western markets.

For those readers unfamiliar with Jersey and its history as an International Finance Centre (IFC) and to help place its role into context, it is necessary to briefly look back at how the industry developed. Jersey has been operating as a leading provider of financial services for more than 50 years. Changes to legislation in Jersey as far back as 1961 was the first trigger since it encouraged merchant banks to set up offices to service the banking and investment needs of a growing number of expatriates. It was not long before Jersey was able to build a reputation as a safe, secure home

for banking deposits and to begin to develop a wider range of wealth management services.

The introduction of a trust law in 1984 reaffirmed Jersey's growing status as a top jurisdiction for trust and estate planning and, as the range of banks, finance houses and legal firms developed and expanded and the skills of the workforce increased, Jersey extended its range of services to include funds, with an increasing focus on alternative funds. It was also to use its robust, highly regarded legislative armoury to help support growing levels of corporate activity, including special purpose vehicles for securitisation and listings on worldwide stock exchanges using Jersey holding companies.

As an illustration of how the relationship has evolved, Jersey has become the leading real estate fund domicile in Europe, partly as a result of the growing partnerships between law firms in the City and lawyers and fund administrators based in Jersey. A number of the large scale real estate acquisitions in London witnessed in recent months, involve a Jersey structure at the centre of the deal.

In one recent example, a fund was structured as a Jersey limited partnership and authorised by the Jersey Financial Services Commission to be marketed within the European Economic Area by private placement in accordance with the Alternative Investment Fund Managers Directive (AIFMD) and is targeting to raise up to £200m through Nordic and international institutional investors. The deal serves also to illustrate how Jersey has been able to turn the introduction of the EU Directive into something of an opportunity for the Jersey funds industry. Within Europe, Jersey offers an EU private placement option, with limited AIFMD reporting and disclosure requirements for Jersey funds marketing into the EU and a fully AIFMD-compliant option for Jersey funds marketing throughout the EU, as soon as third country passporting becomes available.

Jersey has also retained its position as the jurisdiction of choice for corporate entities seeking to list, with the greatest number of FTSE 100 companies registered outside the UK, part of our ongoing campaign to develop capital markets as a 'fourth pillar' of the Island's finance industry.

'...promotion of the Island in key overseas markets continues apace, with Jersey Finance's business development teams conducting regular visits to various markets'

RESEARCH

Though the commercial relationship with the City of London has been an essential ingredient in the development of financial services in Jersey, there had never been a study undertaken to determine the value of that relationship. Thus, for the first time in 2013, Jersey commissioned a review to analyse the relationship of Jersey's contribution to the UK economy and the results were startling. The report, produced by leading independent macro-economic research company, Capital Economics, confirmed that Jersey provides vital liquidity to the UK economy, facilitates inward investment from around the world and consumes UK exports, all of which supports UK jobs. Furthermore, a number of the findings reinforced the important role that Jersey plays as a gateway to Western markets for the global investment community.

Amongst its findings were that the contribution from Jersey banks to parent operations in the UK represents 1.5% of the funding of the whole UK banking system, whilst Jersey helps the UK generate around £2.3 billion in tax revenues each year and supports an estimated 180,000 British jobs. It also showed that £1 in every £20 invested by foreign individuals and companies in assets located in Britain reach the UK via Jersey and nearly £1/2 trillion of foreign investment passes into the UK, comprising 5% of the entire stock of foreign owned assets.

It was evident from the findings that Jersey and the City of London have a symbiotic relationship in which each benefits and supports the other. Furthermore, without Jersey's existence as an IFC, the study concluded that 84% of the Island's financial services business would be at risk of leaving the sterling zone and that the business and consequent investment would likely migrate to other offshore centres and not to London.

‘It was evident from the findings that Jersey and the City of London have a symbiotic relationship in which each benefits and supports the other’

These findings were included in one of two heavyweight reports commissioned by Jersey and completed in 2013 which were designed to make significant contributions to extending the industry's reach in both its products and markets.

In the other report entitled 'The Finance Industry Strategic Jurisdictional Review' it was concluded that there was a strong long term future for IFCs if they can successfully tap into the growth in cross border investment flows and provide services to the wealth creators in the growth markets.

A steering group was established in Jersey, bringing together representatives from the Government, the regulator and industry, to oversee the implementation of a number of the recommendations that were included in the review. Working parties have also been established to focus in more detail on individual recommendations and how these might be implemented. In the meantime, the promotion of the Island in key overseas markets continues apace, with Jersey Finance's business development teams conducting regular visits to various markets where events and conferences are held to keep in contact with professionals who advise and intermediate capital flows and to further highlight Jersey's role as a gateway for investment in the West.

COOPERATION

While we look to the future, we have also ensured that we respond to current developments including the growing global requirement for closer regulatory cooperation. Working closely with the States of Jersey and the Jersey Financial Services Commission, we have put the Island at the forefront of efforts to increase cooperation and transparency in taxation and related issues. Amongst such measures, Jersey has signed more than 40 Tax Information Exchange Agreements including more than 20 with EU member states, an indication of the importance of our relationship with European markets and the stronger relationships that have been put in place with European regulators and tax authorities in recent years.

For a jurisdiction to remain a top rated IFC in the second decade of the 21st century requires a willingness to extend its presence and to develop closer commercial ties with many of the growth markets such as Asia, the GCC and Africa and we are making significant strides in meeting that objective. However, Jersey's symbiotic relationship with the City of London and close links with European markets remain an important element in our long term competitiveness and we look forward to building on those commercial and regulatory partnerships while expanding our presence in markets further afield.

JONATHAN WHITE

Jonathan White is the Chairman of Jersey Finance Limited.

Originally an English Solicitor, Jonathan qualified as a Jersey Advocate in 1986. He specialises in non-contentious trust work with a focus on advising substantial family groups. He has extensive experience of working with family businesses and he acts as both a director to substantial private businesses as well as an adviser to others.

Jonathan was Chief Executive of Ogier until 2009. During his tenure, Ogier grew from a Jersey business into an international business with presences in nine jurisdictions and total staff of 850 people. He retired as a Partner of Ogier on 1 August 2009 but remains as a Consultant.

Jonathan is also Chairman of the Durrell Wildlife Conservation Trust - a leading animal conservation organisation - and is a Director of various other entities.

Jersey: a story of enterprise and quality

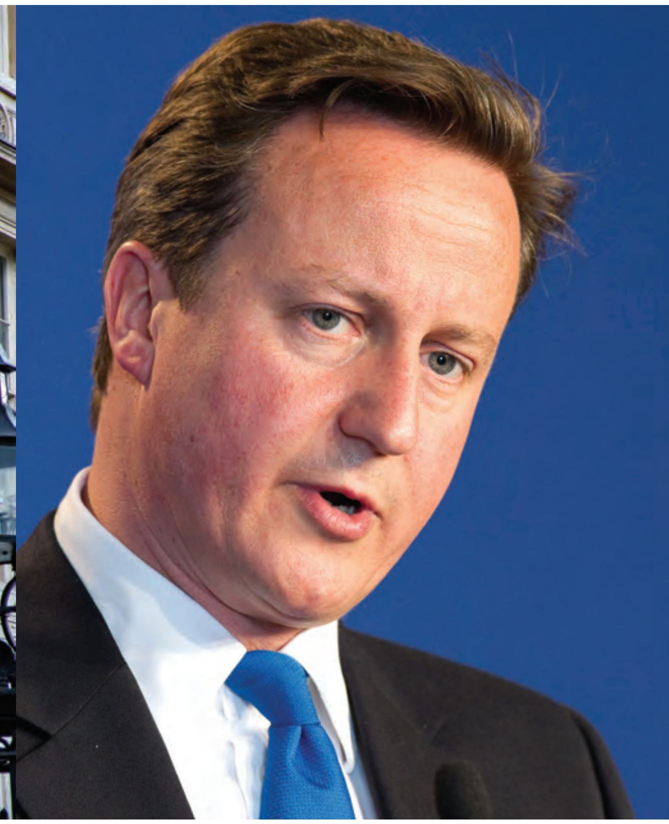
By Tim Cooke

Jersey has a unique economic history amongst self governing states. Throughout the last few hundred years it has boldly embraced economic opportunities, often to the extent of becoming dependent on one dominant activity in a manner rather like a new convert to a cause. The activities have ranged from deep sea fishing to tourism and latterly financial services, and in each case delivered with a widely acclaimed expertise and excellence.

The other defining feature of Jersey is its ability to inspire from those who live on the Island both deep affection and a sense of commitment to its current and future prosperity - and I write this as someone who has arrived relatively late in my working life but who has quickly experienced and been captivated by its allure.

The Island currently stands at another point in its history when bold decisions are required. In combining the tradition of a single economic activity with a strong sense of loyalty and attachment, the Island has a firm base on which to tackle the important decisions of the next few years. However those factors also perhaps conspire to produce a degree of conservatism and moderate the appetite for change, which on occasions act as counterweights to its established and well-known benefits.

‘Whichever way one turns, the situation for Jersey is more dynamic than it has been for many years’



THE CURRENT POSITION

Since 2008 the Island’s economy has been sluggish with negative growth each year measured by Gross Value Added (GVA). This experience is far from unique and is one shared with most other developed economies. There is clear evidence of the principal institutions within Jersey, both public and private, navigating the difficult waters with skill and care, all the while building stronger bilateral relationships with Whitehall and the European Union. It is emerging from the recent crisis of confidence with a stronger reputation, a reinforced sense of trust between customers, market makers and regulators. It now also has a mature, established place within global finance and a sense of growing balance in the relationship with the UK, as evidenced by David Cameron’s statement in the Commons on the importance of Jersey to the UK economy and the bilateral agreement on sharing information on taxable income and asset holdings.

Meanwhile other financial services centres have also been busy and now represent more robust competition within the Island’s established markets, and more particularly across many of the rapidly advancing economies further afield.

That is not to suggest that the Island should be daunted by the emergence of strong competitors. The macro-economic context for Jersey is positive: wealth creation is back on the agenda as corporate activity steps up, including mergers & acquisitions, flotations and venture capital-backed transactions. This is particularly notable in the UK and looks set to increase over the near term. Other markets are seeing a new generation of entrepreneurs creating significant wealth for themselves and their local economies, notably in the Far East, the Indian sub-continent and Latin America. As a direct consequence of this resurgent wealth creation, demand for cross-border investments and for safe offshore domiciles for assets is increasing at pace, with investors placing a growing premium on the underlying political and fiscal stability when choosing a destination for their wealth.

Recent growth in the number of new funds domiciled in Jersey is evidence of the Island’s ability to respond to new opportunities and its position as an early adopter of the Alternative Investment Fund Managers Directive (AIFMD). Meanwhile proximity to the UK, with large numbers of overseas investors acquiring real estate in London, Manchester and other cities, creates opportunities for offshore trusts and administrators.

After brief flurries of activity, the prospects of any concerted attempt at widespread tax harmonisation across different jurisdictions are reducing quickly, thereby preserving the competitive advantage of many territories, including Jersey and other offshore jurisdictions.

Furthermore the Island’s core attributes are well understood both locally and across the globe: a longstanding professional workforce with deep expertise in the key sectors – banking, investments and fiduciary management; English is the lingua franca and for now

Courtesy Chris George

remains the international language of commerce; the political environment is stable and the legal and regulatory framework transparent, robust, reliable and evolving, even if local businesses would prefer the wheels to turn more quickly on occasion.

THE NEXT PHASE

Jersey's preparedness for the next phase and its competitive position are both well established but like anywhere it has some areas of disadvantage which need to be addressed where they can. If this is not possible, for example the geographical position in relation to new markets, then the impacts need to be mitigated. There are without doubt some headwinds blowing towards the Island and from different directions than in the past. By acknowledging them the Island is in a much stronger position to move forward.

The medium term strategy for the economy recognises the emphatic position of financial services, as endorsed by the recent independent study undertaken by McKinsey. This is grounded in a realistic assessment of the Island's current competitive position and is a clear statement of confidence that the underlying competitive advantages can be sustained and enhanced.

Yet the experience of the UK in the period following the banking crisis of 2008 highlights the perils for any jurisdiction of having too many eggs in one basket and encouragement to new knowledge-based, logistically light industries will bring welcome diversification to the Island's Treasury and to the portfolios of the lending banks.

Recent years have seen a focus on liability (or deposit) gathering by most banks on behalf of their Group parent, but this activity has lost much of its significance as a direct consequence of the successful de-gearing and improvement in bank balance sheets achieved since 2008. Looking ahead, opportunities for asset (or loan) growth in a bank's balance sheets are increasingly important as a driver of profitability and Return on Capital (ROC).

The period since 2008 has had deeper, less tangible impacts. History shows that periods of negative growth and hardship can give rise to a degree of introspection and conservatism at all levels within a jurisdiction. In Jersey this has been coupled with an understandable adherence to a unique quality of life and given rise to both a reluctance to change too quickly and a degree of caution when taking difficult decisions.

This nexus of influences may have conspired to allow other territories to develop their competitive position and be better placed in the near term at least to take advantage of current global trends.

Meanwhile a number of important components within the economy, notably the banks, are reviewing their business models. Legislation in the UK following the Banking Commission's review of the causes of the 2008 crisis, plus new regulations, are prompting the banks to look hard at the deployment of capital and the return it achieves. Most will be steadying themselves for a sustained period in which returns are lower than what has been achieved in equivalent periods during previous economic cycles. Some will seek to build on the local subsidiary status given the returns available and the continuing advantages of local incorporation. This will bring additional investment into the Island and generate new jobs. However, it is probable that others will respond by seeking to convert from local subsidiary to a branch of the Group, releasing equity from the local balance sheet and providing liquidity benefits to the parent company. Add to this the current debate on the merits of a local versus UK depositor compensation schemes and it is evident that the situation will be fluid for some time.

Whichever way one turns, the situation for Jersey is more dynamic than it has been for many years. That can only be a positive as it creates as many opportunities as it does challenges and puts everyone on their mettle. It is in fact another of those points in the Island's long history when bold decisions are required. The inherent long standing strengths will combine to underwrite the success of the Island's near term future; beyond that is more difficult to call with any precision but the collaboration of public institutions and private enterprise, which is already so much a feature of the Island, will go a long way in delivering the conditions in which Jersey continues to flourish.

TIM COOKE

Tim Cooke is Chairman of Lloyds Bank International Limited. With over 30 years' experience in the banking industry, Tim was appointed Chairman of Lloyds Bank International Ltd – through which Lloyds Bank undertakes business across the Crown Dependencies – in 2012. He is also a trustee of the Lloyds Bank Charitable Foundation for the Channel Islands.

He joined Lloyds in 2004 from Barclays where he worked for over 20 years, latterly in a number of senior executive roles within commercial, corporate and retail banking, both in the UK and offshore.

Married to Sara with two sons, James and Edward, Tim is a graduate of University College London and has numerous outside interests, notably Director of Waterloo 200, the international project to commemorate the anniversary of the Battle of Waterloo in 2015. He is a trustee of the National Army Museum Development Trust and the Society for Army Historical Research. In addition he belongs to one of the ancient livery companies and is a freeman of the City of London; he is also a member of The Athenaeum.

Courtesy Chris George

Jersey's increasing international presence

By Richard Corrigan

Jersey Finance has ambitious plans to enhance its presence in many of our key markets worldwide, in response to the increasing demands for sophisticated private client and corporate cross border financial services.

In many of the new economic powerhouses, such as Asia, the GCC and Africa, we have found that there is growing recognition of the wider qualitative elements Jersey can offer, including depth of expertise in specialist markets, a robust legal and regulatory environment, our strong partnership with and close proximity to London, and recognition of our compliance with international standards.

World trade is growing rapidly, not least in Asia where it is forecast that soon China and India will once again become the two largest economies in the world. Studies undertaken by Jersey have confirmed that cross border

‘The depth and diversity of services provided by Jersey based practitioners adds to our appeal in international markets’

finance will grow significantly and with it the demand for jurisdictions that are able to pool capital efficiently in a tax neutral environment. Jersey is already a conduit of international capital and an efficient capital allocator and its strengths as an International Finance Centre (IFC) include supporting infrastructure investment, foreign direct investment and cross border activity: capabilities that appeal to both the developed and developing world.

In this hugely competitive market, it is vital that Jersey Finance continues to promote the unique elements of Jersey in order to show differentiation and hence our commitment to an increasing presence overseas.

Jersey Finance took steps to develop business proactively in overseas markets as long ago as 2002 when a first formal visit to the GCC was arranged in association with Government ministers. Since then, we have made increasing strides to cement our presence in key regions where Jersey's services have greatest appeal to international investors. Jersey Finance's existing offices in Abu Dhabi and Hong Kong and representation in India, will be bolstered this year by extending our footprint in some of these key markets. For example, Jersey Finance will be investing further in Greater China through on the ground representation in Shanghai, to complement the activities of our office in Hong Kong, while in the United Arab Emirates, where Jersey Finance first opened an office in Abu Dhabi in 2011, there are plans to recruit additional representation to specifically focus on Dubai and Saudi Arabia. In addition Jersey Finance have appointed for Africa, which is home to seven of the 10 fastest growing economies in the world, a dedicated representative who is making regular business development visits to Kenya, Nigeria and South Africa to promote our private wealth expertise where there is significant interest in Jersey as a stable and well regulated finance centre, particularly against the backdrop of a persistently volatile European market. While in India, a burgeoning middle class is giving Jersey an opportunity to support the domestic Indian banking sector with wealth management expertise. Connecting with the growing global non-resident Indian community also remains on Jersey's radar.

Significantly, Jersey's Government will continue their support of our international activity and there is a real focus on building strong relationships and fostering business developments with key markets through a programme of ministerial visits. An approach that adds real substance to our international business development programme.

We also recognise the importance of Jersey's traditional markets and in 2014 Jersey Finance have recruited a new business development manager in London who will represent the industry at events in the capital and play a facilitating role with partners in the UK, including trade association representatives and other key influencers and practitioners.

The depth and diversity of services provided by Jersey based practitioners adds to our appeal in international markets. The scale of Jersey's banking industry continues to provide us with a significant edge over many of our competitors and it is a reflection of the growing international nature of the business flowing to Jersey that of the £140 billion in bank deposits held in

Jersey, about 64% are in foreign currencies. Deposits emanating from the Middle East and Far East continue to represent around 17% of the overall total.

As Jersey cements its position as a preferred gateway into UK and European markets, the amount of capital markets business undertaken grows, with 100 registered Jersey companies listed on global stock exchanges with a market capitalisation of £168 billion, as at December 2013. The value of Jersey's experience in this sector is evident by the volume of listing business that has been attracted from new markets. For example, about one third of Chinese companies listed on the Alternative Investment Market (AIM) are incorporated in Jersey and there are numerous examples of existing Jersey holding companies for Chinese businesses.

Meanwhile in the GCC especially, Jersey's pioneering approach to providing Islamic finance services and the expertise it offers, has led to increasing numbers of Jersey special purpose vehicles formed for use with a variety of Shariah compliant capital market transactions including the Sukuk bond.

Furthermore, what the new market economies have discovered as they create increasing amounts of capital to invest in global markets, is that the most effective method for moving funds globally is to use the leading IFCs as the hub for their investments. Recognising the importance London maintains as a global structuring hub, there are considerable opportunities for Jersey to partner with firms in the City of London. In respect of private equity and real estate investment for example, we are seeing a growing number of real estate funds being structured through Jersey, targeting major UK and continental European property assets. The Shard, Battersea Power Station and significant parts of Canary Wharf are just three examples of capital flow translating into iconic investments structured through Jersey.

Progress will also continue in securing sustainable market access for firms and products. Partly this will be achieved through the increasing number of tax agreements signed by Jersey's Government and authorities in other locations and through the Memorandum of Understanding (MoU) signed by individual regulators with the Jersey Financial Services Commission (JFSC).

Within Asia and the GCC regions, Jersey's regulator has agreed bilateral and multilateral MoUs with regulators in China, India, UAE and Qatar. Jersey and China signed a Tax Information Exchange Agreement in 2010; Jersey and Hong Kong signed a Double Taxation Agreement in 2012, while this year, the JFSC signed an MoU with the China Securities Regulatory Commission.

Further evidence of Jersey's commitment to sustainable market access is its approach to the recently introduced Alternative Investment Fund Managers Directive (AIFMD). Jersey worked hard to become the first third-country to offer fund managers the option of a fully compliant AIFMD framework and to introduce regulations to mirror the Directive's requirements. Therefore Jersey provides the ideal gateway to Europe for alternative investments whilst providing fund managers with the flexibility to market outside of the AIFMD framework. Recognition of the appeal of this attractive fund regime, now provided from Jersey, can be seen by a number of firms recently relocating or expanding their operation in Jersey, including Brevan Howard, CVC and Ardian. It is part of a trend which we hope to capitalise on in 2014 as more alternative fund managers consider the value of having an enhanced presence in a leading IFC such as Jersey.

Jersey continues to grow in stature and size as a world class IFC. High quality service, innovation, sophisticated and comprehensive legislation and appropriate regulation, remain at the core of Jersey's offering. Communicating these enduring strengths to an increasing number of institutions, intermediaries and private clients, including the new generation of wealthy individuals in our key growth markets, remains an essential element of our international business development strategy.

RICHARD CORRIGAN

Richard Corrigan is the Deputy Chief Executive and the Global Head of Business Development, at Jersey Finance Limited.

Richard joined Jersey Finance as Global Head of Business Development from Barclays where he was most recently a Director within the Wealth and Investment Management division. Through his extended team in London, United Arab Emirates, Hong Kong and India representative offices, Richard helps to support member firms in a number of international growth markets and foster closer working relationships with a wide group of industry stakeholders.

A qualified banker, Richard has extensive experience managing business units, coverage teams and clients within international corporate banking and wealth management businesses. He has helped a wide range of private clients achieve their business and financial objectives both with Barclays and previously at Royal Bank of Scotland Group where he was latterly Regional Director within the Financial Institutions Group.

During his career Richard has acted as board director for trust company, fund services and investment management businesses.

Opening one's eyes to African investment opportunities

By Paul Clark

Like the night time satellite view of Africa that shows a largely dark continent, many investors looking at Africa from a high level consider the risks, both political and economic, too large for comfort and too difficult to understand and thus also term it the 'dark continent'.

However, the last decade has shown that the economies of the continent (there are 54 different countries), are starting to emerge from their post-colonial hiatus. Apart from South Africa (which is a rather developed emerging market) the African economies could largely be termed early-stage emerging economies, albeit that each country is at a different level of political and economic maturity. As these economies change and trends develop, it results in significant growth rates of expenditure in a particular economic segment or for a particular type of goods. This fact is borne out in the IMF forecasts for GDP growth that predict that five out of the 10 fastest growing economies over the next five years will be from the African continent (see Figure 1).

For anyone with even a limited grasp of Africa's complex makeup it should hardly be surprising that investment opportunities extend way beyond South Africa and commodities. However, what may be surprising is the sheer diversity of the opportunity, together with the depth and breadth of undervalued listed African equities across the continent, with the potential to deliver considerable returns.

‘the risk premium generally attached to African companies is more often than not wildly overstated’

Companies that are able to capitalise on the growth trends by being correctly positioned, or adjusting their strategy to benefit from them, can potentially experience considerable growth in demand for their goods or services. This would allow them to grow revenue, benefit from economies of scale and, with operational gearing, result in significant earnings growth.

By identifying these trends through extensive and regular travel to Africa for local meetings with management teams, economists and so forth, investors may benefit by investing in the companies at the start of their growth path – at the right price of course. Investing in African companies outside of South Africa is a travel and research intensive process. Third party research, although improving significantly, is still limited and a considerable amount of analysis is required to identify investment opportunities and more importantly to determine the investor’s view of the fair value at which a share should be priced.

Understanding the nature of the opportunities that arise in early stage emerging economies should entice investors to this space. However, Africa itself is making considerable investments too. This is evidenced by the use of stock exchanges to list and raise additional capital as well as through rights issues, which are becoming more frequent.

Many African businesses are also expanding regionally or across the continent. Nigerian banks have regional strategies, with United Bank for Africa for example having 18 operations in other African countries, as far afield as Mozambique. Citadel Capital, a listed Egyptian private equity firm, is investing in the east African Rift Valley Railways concession on the Mombasa – Nairobi – Kampala trade corridor. South African retailers are also expanding operations into Sub Saharan Africa and by the end of 2012 had an estimated 700 stores in total on the continent outside of their home market. These are just a few examples of the investments Africans are making to benefit from the opportunities they see in African economies.

While investing in African equities as an asset class, particularly outside the more established South African equity market, may not be for the faint hearted – you are essentially investing in early stage emerging growth economies with a comparable element of risk as there would be from investing in Latin America or Southeast Asia. Yet many believe that the risk premium generally attached to African companies is more often than not wildly overstated.

FIGURE 2: CORRELATION OF GLOBAL EMERGING MARKETS TO WORLD MARKETS

2002 – 2013 correlations	Africa ex SA	World	GEM	Frontier	S&P 500	Egypt	Nigeria	South Africa
Africa ex SA	1							
World	0.27	1						
GEM	0.32	0.83	1					
Frontier	0.50	0.37	0.37	1				
S&P 500	0.19	0.95	0.71	0.32	1			
Egypt	0.77	0.26	0.33	0.44	0.19	1		
Nigeria	0.57	0.04	0.04	0.27	0.02	0.14	1	
South Africa	0.22	0.79	0.87	0.28	0.67	0.22	0.02	1

Source: Bloomberg, Ashburtons estimates, January 2014

It is important to invest in companies that are trustworthy, knowledgeable and respected in the marketplace. Getting to know the management teams and enough about the macro and political climate they operate in, is essential to make investing no more of a risk than in any other emerging market. One must stress test their business plans to determine whether they have the appropriate strategies in place to meet increased demand and whether in doing so they can optimise efficiencies. Adopting a bottom-up stock selection investment philosophy sourcing undervalued companies with strong investment potential will serve to significantly reduce risk.

Each of the countries in Africa is at a different stage of development and as a result, domestic issues and domestic growth are more important factors than global trends. This results in equity markets that are much less correlated to other global markets. The table shows that Africa ex South African markets have very low correlations to developed markets – around the 0.30 level. By comparison the correlation of global emerging markets to world markets is 0.83 (see Figure 2).

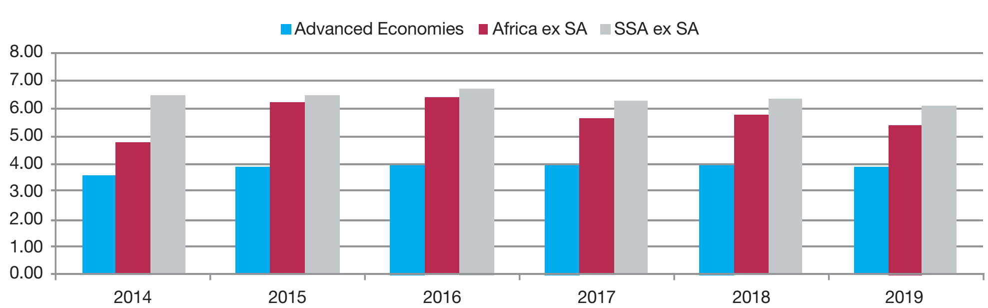
Interestingly, the correlation between the two largest listed markets, Egypt and Nigeria, is very low – at 0.14 over the period. This confirms the point already made that markets are marching to their own tunes and also indicates that a diversified African portfolio (excluding South Africa) in itself has reduced risks due to diversification benefits within the shares purchased.

For 2014, we expect the existing trends across the continent to continue. The improved (and improving) macroeconomics, combined with favourable demographics and increasing stability in political environments, should form the back drop to a continuously improving operating environment for companies across the continent. The increasing urbanisation that we see (Africa as a whole is more urbanised than India and similar to that of China) and the rise of the middle class African consumer will lead to growth in disposable income and spending on goods and services.

African equity markets continue to broaden and deepen. In 2014 we expect more capital raisings through Initial Public Offerings and rights issues, as African companies use stock exchanges to raise risk capital. These will be used to match the pace of the significant growth in demand for their products as well as for regional growth by many companies.

In summary, investors should consider the exciting investment opportunities on the continent of Africa, as these can offer diversified and high growth investments and, after all, Africans themselves are already investing. What is more, by building a well-researched portfolio of good companies, the apparent risks one sees from a satellite perspective can be mitigated.

FIGURE 1: GDP GROWTH RATES



Source: IMF, April 2014

PAUL CLARK

Paul Clark is an African Equities Specialist at Ashburton Investments.

Paul joined Ashburton South Africa in 2012 to set up and manage an Africa Fund for the FirstRand Group. Paul started his investment career with Standard Corporate and Merchant Bank’s Asset Management division where he served as a Research Analyst and Specialist Unit Trust Fund Manager for two years. He subsequently joined HSBC Equities South Africa as an Equities Analyst for five years. Paul then joined the African Alliance Group in 2004 as Head of Research.

Paul holds a BEng degree in Chemical Engineering from the University of Stellenbosch as well as a BCom degree in Accounting from the University of the Witwatersrand. Paul is a Chartered Financial Analyst (CFA) charterholder.

Jersey's international relations

By Senator Sir Philip Bailhache

As a matter of constitutional law Jersey is a Crown Dependency and not a sovereign state. The United Kingdom is responsible in international law for the conduct of Jersey's external relations. That is often stated to be the strict legal position but in practice things are not so clear cut. Jersey has enjoyed domestic autonomy for more than 800 years and that autonomy has begun – with the approval of the Crown – to express itself in the international sphere too.

As long ago as 1950 the United Kingdom acknowledged in a circular issued by the Foreign Office that treaties and international agreements should not be considered as applying to the Channel Islands by reason only of the fact that they applied to the UK. No ratification of a treaty was to apply to the Islands unless they were expressly included. It can now be asserted unequivocally that the UK does not bind Jersey to international obligations without the consent of the Government of Jersey.

That does not of course mean that Jersey can necessarily create international obligations for itself. For the last 15 years at least, however, it has been the Government's policy to develop the Island's international identity. International personality is a concomitant of sovereignty but non-sovereign states can and do assert an international identity. This first found expression in the States of Jersey Law 2005 the preamble of which states:
"WHEREAS it is recognised that Jersey has autonomous capacity in domestic affairs;
AND WHEREAS it is further recognised that there is an increasing need for Jersey to participate in matters of international affairs."

'Jersey has enjoyed domestic autonomy for more than 800 years and that autonomy has begun – with the approval of the Crown – to express itself in the international sphere too'

Two years later a framework agreement for developing the international identity of Jersey was signed by the then Chief Minister, Senator Frank Walker, and the Lord Chancellor. It confirmed that Jersey has an international identity which is different from that of the UK. Importantly the agreement also acknowledged that "international identity is developed effectively through meeting international standards …".

Jersey's Government had committed in 2002 (and it was an early example of the Island representing itself before an international body) to the OECD Committee on Fiscal Affairs that it would cooperate fully in terms of information exchange and transparency of its tax regime provided that there was an international level playing field.

Pursuant to that commitment Jersey signed a Tax Information Exchange Agreement (TIEA) with the USA in 2002 and since that time has reached agreement with another 42 countries, either for a TIEA or a Double Taxation Agreement (DTA). Most G20, EU and OECD member states have agreed to negotiate and to enter direct contractual arrangements with Jersey for this purpose. The constitutional arrangement that has enabled such agreements is an entrustment from the UK to negotiate and conclude TIEAs and other tax agreements.

It seems likely that this means of enabling the Government of Jersey to enter other international agreements will be developed. The Justice Committee of the House of Commons stated in 2010 that it strongly supported "the increased use of Letters of Entrustment in appropriate circumstances, allowing [Jersey] to enter into binding agreements … without the need for direct ratification from the UK". That recommendation was accepted by the UK Government. It stated that the "use of entrustment could be widened so as to permit [Jersey] to represent [itself] where the UK and the other State or States concerned are content". Asset sharing agreements would be one such example. As the UK Government acknowledged, the increasing use of entrustments should help to mitigate the difficulties that arise on occasions when Jersey wishes to pursue interests which are different from those of the UK.

Developing an international identity requires a country not only to represent itself from time to time but also to be seen. Diplomatic missions are one of the ways in which countries ensure that other nations understand their interests and in which, more generally, friendly relations are maintained. Jersey now has three such missions. A mission was established, jointly with Guernsey, in Brussels in 2011 and another joint mission is shortly to be created in Caen, with the head of office based partly in Paris. The Channel Islands Brussels Office (CIBO) has proved its value many times over in the last three years, providing information from the centre of the EU and explaining the Channel Islands to EU bureaucrats and other foreign representatives. Jersey also established an office in London at the end of 2013.

Paris

Caen

Brussels

It has already proved its worth in numerous respects, facilitating contacts between members of Parliament, officials in Whitehall, and members of the diplomatic community based in London, whilst improving mutual understanding between the Governments of Jersey and the UK.

A recent example of the benefits of this increasing international capacity was the successful negotiation of Jersey's removal from a French 'blacklist'. Mutual misunderstanding had led France to believe, wrongly, that Jersey was not a cooperative jurisdiction in terms of exchange of tax information, and Jersey was 'blacklisted'

FCO, London

in August 2013. Remaining on the 'blacklist' would have caused considerable economic damage to the Island. Intensive diplomatic efforts persuaded the French Ministry of Finance to remove Jersey from the list in December 2013 before the sanctions came into effect.

One of the consequences of the lack of international personality is that Jersey cannot ratify treaties and international agreements off its own bat. Ratification has to be effected by the UK's Foreign and Commonwealth Office (FCO) and significant delays have recently been experienced to Jersey's detriment. Work is proceeding – following a helpful recommendation from the same Justice Select Committee – to establish a modus operandi whereby the FCO can more readily accept the conclusions of officials and legal advisers in Jersey that the obligations under the international agreement would be met if ratified on Jersey's behalf.

Jersey's international reputation is enhanced by the increasing recognition that the Island does comply with all relevant international standards. Jersey aims to be a good neighbour in Europe and furthermore to meet all its obligations towards the international community. The Financial Action Task Force, the World Bank, the International Monetary Fund, the Global Forum on Transparency and the OECD, have all in recent years acknowledged in different ways that Jersey is a cooperative jurisdiction that complies with its international obligations. Investment in our capacity to conduct international relations is a policy that pays good dividends.

SENATOR SIR PHILIP BAILHACHE

Senator Sir Philip Bailhache is the Minister for External Relations, States of Jersey.

Born in 1946, Sir Philip was educated at Pembroke College, Oxford where he obtained an honours degree in jurisprudence. He was called to the English bar in 1968 and was admitted to the Jersey bar the following year.

In 1972 he was elected to the States of Jersey as Deputy of Grouville and served on a number of committees before resigning upon his appointment as Solicitor General for Jersey in 1975. In 1986 he was appointed Attorney General and in 1989 was made a Queen's Counsel. Appointed Deputy Bailiff in 1994, he became Bailiff of Jersey the following year. He was knighted in 1996 and was made an Honorary Fellow of Pembroke College, Oxford in the same year he became an Honorary Master of the Bench of the Middle Temple in October 2003.

Sir Philip retired as Bailiff in June 2009 and was appointed as a Commissioner of the Royal Court and a judge of the Court of Appeal in July 2009. He retired from the judiciary in July 2011.He was elected as Senator on 14 November 2011 and subsequently appointed Assistant Chief Minister. On 24 September 2013 he was elected as Jersey's first Minister for External Relations.

Sir Philip founded the Jersey Law Review in 1997 (now the Jersey and Guernsey Law Review) and has been its editor since its inception. As Bailiff, he chaired the Jersey Legal Information Board since its establishment in 1999 and spearheaded efforts to make the law and legal processes more accessible, particularly through the use of IT (e.g. www.jerseylaw.je). In 2008 he founded the Institute of Law and remains Chairman of the Institute's Governing Body.

He has been active in Commonwealth organisations and was - as a representative of the Commonwealth Parliamentary Association - a member of the group responsible for the Latimer House Guidelines on Parliamentary Supremacy and Judicial Independence in 1998. In 2004 he founded the Jersey Judicial Association, which is now affiliated to the Commonwealth Magistrates' and Judges' Association. Sir Philip was elected to the Council of the CMJA in 2006, becoming Executive Vice-President in 2009 and retiring from the CMJA in September 2011.

Sir Philip was Chairman of the Jersey Arts Council's executive committee and helped establish the Jersey Arts Centre.

His interests include books, music, gardening and wine.

Jersey
Roundtable 2014

Venue: Jersey Finance Limited, Sir Walter Raleigh House. **Date:** 28th March 2014

Participants: (from left to right):
Tim Morgan, Partner in the Jersey practice of Ogier and Vice-Chairman of the Jersey Funds Association, **Andreas Tautscher,** Chief Executive of Channel Islands for Deutsche Bank, **Wendy Dorman,** Head of Channel Islands Tax Practice for PricewaterhouseCoopers, **John Harris,** Director General of the Jersey Financial Services Commission, **Geoff Cook,** Chief Executive of Jersey Finance, **Philip Taylor,** Regional Chairman for Coutts & Co Channel Islands, **Alan Binnington,** Private Client Director of RBC Trust Company (International) Limited and President of the Jersey Association of Trust Companies (JATCo), **Chairman: John Willman,** former UK Business Editor of the *Financial Times.*

Photos: Chris George

John Willman: The economies of the countries worst hit by the financial crisis are clearly in recovery but much is still being done to strengthen the world's financial markets to avoid a repetition. At the same time, hostility to international financial centres shows little sign of ending as governments seek new sources of revenue in fiscal conditions that are only slowly emerging from austerity. In this roundtable discussion, I want to explore the impact of both these trends on Jersey and look at the Island's strategic responses to them. I'd like to start by asking this distinguished group of financial industry leaders how all of this looks to them, starting with Geoff Cook.

Geoff Cook: Things are looking very positive at the moment – we've had the best start this year in business performance terms since the financial crisis. We're seeing evidence of the global recovery in Jersey, particularly in the asset management sector, with real estate very buoyant. And we seem to have turned something of a corner with investors' confidence in Europe, so we're seeing a lot of Asian money coming in.

John Harris: I would certainly echo that. We authorised more funds in the first two months of 2014 than in three quarters of last year together and a lot of that is in real estate as Geoff says. There are also completely new asset classes, which is encouraging. On the asset management side, we've seen a trickle of high value interest in new investment management entities, particularly on the hedge fund side. It's not perfect, of course. The banking industry worldwide has structural issues and that's also true for Jersey. And while there's lots of good things going on in the trust sector, there are similar structural challenges. Overall, though, the position that we're in now is very much better than for several years.

Andreas Tautscher: We have to break banking down into two areas. On investment banking and corporate banking, we expect global fee pools to drop 20-30% over the next few years because of the impact of regulatory changes. The good news is on asset management where wealth is still growing and we expect it to grow substantially over the next five years. We also anticipate that up to 60% of that wealth will go to offshore centres, including London, New York and Singapore and we are starting to see those kind of flows coming into places like Jersey.

Philip Taylor: It's a struggle in banking because of low interest rates in the UK. The Jersey model is to take deposits and upstream them into the UK but you can't make money on that now. Then there's the challenges of implementing the Vickers Report which will restructure British banks to ring-fence their retail banking with no clarity on how upstream deposits will be treated.

But lending, particularly into private equity, seems to be going very well and the private equity industry generally is growing strongly with a lot of money which was waiting to be invested now beginning to be invested. We're also seeing IPOs coming through to realise existing investments and that means more activity.

On the wealth management side, business is definitely picking up, particularly from the Middle East, especially for companies that are run safely, securely and properly.

Alan Binnington: In relation to trusts, what we saw when the financial crisis hit was that people were so frightened of what was going on in the markets that they

'...the challenge has been whether we can turn those threats into opportunities by enhancing our regulation without damaging the model'

weren't willing to consider new structures or changes in existing ones. With confidence coming back, we're now seeing a willingness to look at structures. There's also a lot of interest from new markets where significant wealth is being created, such as in Asia and elsewhere. We benefit from the political instability in some of those markets because Jersey is seen as a safe haven for assets.

Wendy Dorman: In our tax practice, I see lots of evidence of recovery, in Europe and here in the Channel Islands. But after the economic downturn and the credit crisis, the world is a very different place and financial institutions here are having to change quite significantly to take advantage of the opportunities. What's emerging is a new norm and Jersey is very well placed to capture that.

Tim Morgan: The funds sector has come through a very difficult phase in terms of articulating our strengths. We've had threats from huge amounts of regulatory and political pressure and the challenge has been whether we can turn those threats into opportunities by enhancing our regulation without damaging the model.

We're doing very well in some areas and private equity is a great example of where we've really capitalised on what we did well already but refined the way we sell it and put more structure into the way that we regulate it. The challenge is whether we can do the same across other asset classes such as open-ended funds and listed funds where Jersey doesn't have such a big footprint.

John Willman: Last year, Jersey Finance published the *Value of Jersey to Britain* report, in which Capital Economics authoritatively and convincingly set out the contribution the Island makes to the UK economy. What has been its impact, in particular with critics of Jersey?

Geoff Cook: I would describe it as transformational, particularly in our relationship with Britain. Previously we relied very much on our regulatory strengths, which held up well for us with people who understand our kind of world. We could also point to the positive IMF reviews of our regulation, our compliance with international standards and so on. But there were still concerns about tax leakage and whether we were eating somebody else's lunch. Two measures have made a huge impact in dealing with these concerns: our support for the international tax transparency agenda set out by David Cameron at the G8 Summit in Enniskillen; and the Capital Economics study which had enormous impact on British parliamentarians and the Coalition Government in London. One welcome consequence was that Mr Cameron started standing up for our kind of world in parliament and in wider circles.

Andreas Tautscher: There was a lot of good feedback on that from our clients and colleagues in London. Their only comment was they wished they could get the same view from London towards the UK finance industry because there is far less political support! I think it's one of those messages you just have to keep repeating over and over again, dealing with some of the popular myths and breaking them down. But the timing of the report was perfect.

Wendy Dorman: And for David Cameron to say that it was no longer right to refer to Jersey as a tax haven – it was really important to get that. I've heard very positive responses in the market generally.

Tim Morgan: We've had a very technical offering which has been appreciated by clients who understand the reasons for it. Yet it's become more important to also develop a political dialogue in dealing with regulatory and business issues. Anything that shows that the relationships between the UK and Jersey are strong can help, because it's difficult to make a public case on purely technical points.

John Harris: The report went straight to the two things that matter in the UK: growth and jobs. It said Jersey supported 180,000 jobs and added £9 billion to the British economy at a time when every penny counts. That went straight to the heart of the issue: do we add value or do we take value away? All said by a highly respected firm, so it was a great piece of work and long overdue in a funny sort of way.

Philip Taylor: Our clients are by and large sophisticated and are looking for safety and the protection of their reputations. This report enhances their view of us and reassures them in terms of security and their reputations.

Wendy Dorman: I think that the tax transparency and cooperation debate has moved on in a very positive way. The political, media and OECD attention is now focused on other jurisdictions, including Luxembourg, Ireland and the Netherlands – not the Channel Islands. The focus has shifted elsewhere and that is very positive for us.

Andreas Tautscher: It's true that we're not at the top of the tax agenda any more but some of the business that comes to us from different jurisdictions is still under

pressure from their politicians and regulators to reduce the use of certain types of structures. However, I have always believed that you don't have to hit the top 10 in everything: you just need to be quicker than your nearest competitors. And I think at the moment Jersey is quicker than its rival international financial centres. So hopefully we're going to win more of the business than anyone else, even though the overall business pool is probably shrinking.

Geoff Cook: We have long felt that Europe would decline in terms of use of our kind of centre but that we could grow our market share by capturing the upside of the growth markets. By being agile and fleet of foot, we can prosper in an environment that can otherwise be a difficult challenge.

John Willman: With the tax cooperation and transparency agenda moving ahead, is there now a greater focus on structures?

Alan Binnington: There is a popular misconception that the reason private clients set up structures is solely to avoid tax but tax is now quite a long way down the list of attributes they're seeking. What they're looking for is succession planning. People in some parts of the world are generating very considerable fortunes at a relatively young age and want to transmit it to the next generation in an orderly fashion. The structures that we offer, trusts and foundations, are very well suited for that.

Political risk is another motivating factor, and people in some jurisdictions are setting up structures even though there's no real benefit from a tax point of view. They're happy to pay the tax but they want a structure that will look after the family in future generations.

John Willman: There have been criticisms from organisations such as Oxfam that the activities of international financial centres hold back development in emerging and developing markets. Is that something that you've been able to engage with at all?

Geoff Cook: We have engaged with them and we are probably about 60% complete on a similar study to the one we did for Britain, on Jersey's Value to Africa. We

hope to use this to engage with the aid agencies and UK Government departments such as the Foreign and Commonwealth Office and the Department for International Development, to de-bunk some of the myths which are based on fairly flaky research.

John Willman: Turning to banks, deposits have continued to rise, and in 2013 Coutts, which you chair Philip, selected Jersey as the centre for its growing International Trust business.

Philip Taylor: That was in fact a private wealth operation, a trust company, rather than mainstream banking. We wanted a centre for the trust operations in a well-respected, secure location and Jersey is pre-eminent in that. This is partly because of its close relationship with London and also because of the professional and banking support on the Island.

Geoff Cook: There's quite an important point to make on that, because most of our banks have been working for years at diversification, often with a target, formal or informal, to get beyond 50% non-balance sheet income. So they are getting into providing fee-based services, to fund managers and in wealth management and private banking.

John Harris: Banks here have reacted well to the need to become more efficient as income has fallen from upstreaming activities, so cost-income ratios are probably in better shape than for years. Low interest rates are a major issue now, but if they do come back up, that will be a major benefit for the future. And although

'I think at the moment Jersey is quicker than its rival international financial centres. So hopefully we're going to win more of the business than anyone else, even though the overall business pool is probably shrinking'

‘Jersey can identify something that is going to be of benefit to beneficiaries of trusts and is able to bring the legislation in very quickly’

we've seen a few departures during the financial crisis, they’ve been from the periphery – the real core of the industry is still here.

Overall, I see banks lending less money in future, with other models of lender and structures emerging as part of the solution to financing growth and public deficits. During the crisis, the European Union said securitisation was a dirty word but the European Commission is now saying that there’s good securitisation and bad securitisation. Jersey, again, is well-positioned as a hotbed for some of these newly invented funds and non-bank lenders.

John Willman: How has the funds sector been developing?

Tim Morgan: Most commentators on funds see a bifurcation at the moment. The larger fund management groups are tending to be more institutional and they're getting bigger. They're happy with more regulation and they're becoming more high profile. On the other hand, there are the start-ups, traditionally small spin-outs from banks and elsewhere to form new private equity and hedge funds. That part of the market is finding it harder going, with tougher regulation creating higher barriers to entry.

What’s interesting for Jersey is that service providers are also affected by this bifurcation: the right service provider for an international, global private equity house or hedge fund is not necessarily the right service provider for a start-up manager. So we’re seeing a lot of consolidation in the fund service provider sector, with private equity-backed providers leading the charge.

That means we've got to be very focused about the different opportunities across the different types of fund sector. We have a fantastic spread of asset classes and expertise in Jersey for historical reasons, from retail funds and listed funds, to private equity, real estate and very private club deals. The question is whether we can retain growth across the whole portfolio, or become a more niche player in particular product lines?

John Harris: Jersey’s always had strength in property. Commercial property has been in the doldrums for several years but it's now less in the doldrums and that creates activity of its own. I agree with Tim that there are complex different types of models. The capital-raising climate for it generally is better and it is also moving into replacing bank funding as their lending capacity is constrained. There are also many new forms of funds, including peer-to-peer lending, litigation and Bitcoin funds – there’s always something that can be unitised in one way or another.

Philip Taylor: There is a tremendous dependency on the banks, though. Funds need banks to transact and to provide liquidity. You can't separate the two: the strength of the fund sector lies in the whole ecosystem of the finance industry. It's not just the professional expertise: it's also the banking system which is there to support it.

John Willman: Turning to the wealth management sector, what have been the developments recently?

Alan Binnington: One was the legislation passed in Jersey to enshrine the Hastings-Bass rule as it then was, into our trust law. I think that was very positive, because it demonstrated that Jersey can identify something that is going to be of benefit to beneficiaries of trusts and is able to bring the legislation in very quickly.

A great strength of Jersey is that our trust law is continuously under review. The trust law working party meets on a regular basis to consider possible amendments to the law, bringing together a group of practitioners who actually understand what clients need, to review the legislation constantly. We now have something similar with foundations, and again that's a very positive attribute for a jurisdiction. We don’t just wait until something happens: we have practitioners alert to changes that may be required in the future.

John Harris: The law in Jersey is dynamic – it evolves. The courts are good and the whole environment for beneficiaries and users of trust is very good. The supervision of trustees and the good standards in the market are a selling factor for Jersey and an antidote to some of the critics who see trusts as inherently a bad thing, used to disguise, obfuscate or whatever.

The industry is to some extent in transition, because it’s more difficult for a cottage industry to survive in today’s increasingly regulated environment. We're moving towards a more mature footprint, with small owner-managed businesses merging or being taken over by private equity firms and others. We started off with 240 trust companies when regulation began just before 2000, and we’re down to about 140 – a drop of almost 50%. The quality, I believe, is either the same or better and the number of people employed in the Jersey trust industry today is the same as it was six years ago. Though the sector is changing, there's clearly a need for it.

Andreas Tautscher: There's also been a kind of globalisation of the trust business here with global players coming in – funded by private equity or other means – and they have seen the quality of the people and their capability. And these global firms have much stronger distribution networks with offices around the world which can offer Jersey as a jurisdiction alongside their other offerings.

John Willman: Foundations have been a bit of a success story, have they not?

Geoff Cook: They had a slow start, because the common law foundation was such an unusual concept at the time. Then it really seems to have picked up momentum and there now around 250, one-third set up for philanthropic purposes.

Alan Binnington: I look after a number of philanthropic structures and there's an increasing interest in putting something back into society – Jersey is an ideal place to base that type of structure. Interestingly, if you dig down, quite a lot of the foundations set up by household names are actually trusts which call themselves foundations because that is associated with charity but we're seeing a lot of interest in that sector. The forthcoming changes to Jersey's charities law will bring a degree of regulation which is cost-effective and that will be very positive in building the philanthropy sector in Jersey.

John Willman: What changes is the finance industry making following the recent strategic report commissioned by Jersey Finance?

Geoff Cook: The review allowed us to focus on several issues, principally protecting our core business platform. That was more about the way we internally organise ourselves and how we interact better with the various agencies here, to streamline and improve governance architecture and communications. That's still work in progress but there have already been quite radical improvements.

The review also looked at markets and products. Our initial platform was focused on Europe and we hadn't really targeted the Commonwealth which we saw as part of the growth market segment along with the BRIC countries [Brazil, Russia, India, China] and the Middle East. Now we will go beyond that, in particular with a focus on Africa. We had been appropriately cautious about governance standards there, about due diligence, about source of funds – not wanting to import business that could damage our reputation. So we're still feeling our way quite carefully, and the three countries we've prioritised for initial market development are South Africa, Kenya and Nigeria. There is a historic relationship with those countries, but whatever we bring to Jersey will have to meet the same standards as any other piece of business.

Rather like helping salmon get up weirs, you want the strongest and the best salmon to get through: they have to jump over a few obstacles to get over the top. Our approach to attracting new business needs to be like that – not in an obstructive way but with a good, strong approval process to make sure we bring in clean, disclosed, good quality business.

John Harris: This is a classic risk/reward opportunity. Some of these markets have highly publicised issues of public misbehaviour and corruption but the demographics are sensational. There's a vast amount of wealth being created among the burgeoning middle classes, which will very rapidly become internationalised. And it is not a major risk if we have good risk management practices, which is in everyone's self-interest. Africa's a big market and there's lots of it, so I think that prioritisation is right provided it is done well. It will be expensive to bring in this business in the short term but it may pay off very handsomely over the long term.

Philip Taylor: One has to be closer to the market in Africa than we've had to be in other jurisdictions, by having people on the ground who understand their business environments and have intrinsic knowledge of it.

John Harris: There are some firms in Jersey with that intrinsic advantage in Africa. We have four South African institutions here, some of which have been on the Island for many years. They have networks and intelligence capabilities in Africa that they can deploy to decide whether business meets their standards. And Africa is quietly getting better – in some countries very quickly. There is a lot of inward investment and some pockets of absolutely sensational opportunity but you've got to know what you're doing.

Wendy Dorman: The benefits of Jersey for those markets are just so obvious. Many African countries are English speaking and we offer stability and a robust legal system, so if we can be comfortable about the business that we're taking on, it's a huge opportunity.

Geoff Cook: In each of these countries, we're trying to recruit people with inside market knowledge and we have a South African leading the charge on market development in Africa. We have a Chinese national in Hong Kong and we're looking to recruit an Arab national at the moment in Dubai to start our Saudi market entry. At the same time we have people in London visiting the Africa, Russia and Middle East desks of the major institutional advisory firms, the law firms, the accountancy firms and the banks to tell them we're on the ground in these markets.

Tim Morgan: Promoting from both ends makes sense, because much of the business will come from the same core hubs. Most of the world's particularly wealthy individuals will end up circulating in London or similar global centres, so if you have a good footprint in the City and good local knowledge, it's still London where you will probably get most of the business.

Geoff Cook: The review also dealt with the products Jersey offers and without giving our best ideas away, we are working very hard on innovation. I call it J-Lab and a few of those initiatives which could be attractive in our target markets are advancing quite well, building on our traditional strengths. A recent past example is the Jersey foundation which was very innovative at the time – we're looking to do more of that.

Philip Taylor: Looking to the future, we have to continue to reinvest in our capabilities – in the education of our people, communication systems and digital networks which demonstrate to clients that we are an up-to-date and responsive jurisdiction able to meet their needs. And of course there is much else available on this Island: the restaurants, the quality of the schools and its position – you can so easily get to France. All of this is important in attracting business to Jersey, because it's a total package. If it was only a place where we have good lawyers, it would be hopelessly dull.

Courtesy Chris George

Jersey's regulatory responsiveness

By John Harris

In my article last year I made mention of the various green shoots of recovery in the Jersey financial services industry which were beginning to become apparent. In hindsight 2013 continued to offer its fair selection of challenges and economic growth both in the Island and internationally could not be said to have been stellar. Nonetheless 2013 was a year of positive transition for the Island's financial services businesses and the Island's economy as a whole. This took place against the backdrop of generally improving prospects in the major western economies of the world, particularly the UK, a trend which became more noticeable towards the end of the year.

Those general developments nonetheless mask a significant amount of activity in the Jersey financial services arena during 2013. From the perspective of the Jersey Financial Services Commission (JFSC), great progress was realised in a number of fields. Particularly apparent was progress in the Island's response to the EU Alternative Investment Funds Management Directive (AIFMD) where the progress of 2012 was bought to fruition with the signing of 27 cooperation agreements with EU Member States to permit their continuing marketing of Jersey Funds on a private placement basis into European Union Markets (under third country provisions provided for by the Directive itself). This was a significant task for the Island's fund professionals and Commission working together with the Jersey Government in order to reach the point where the necessary conditions for continuing market access were in place. This has provided short term certainty with the second stage of the AIFMD project – 'passporting' which is due to be

‘In the post financial crisis world of 2013/14 there is no lack of activity in terms of financial services reform and Jersey is involved with a good deal of it’

considered from 2015 onwards – being the next challenge. At the time of writing the JFSC can see no technical reason why passporting should not be a realistic prospect for third countries such as Jersey but it is not complacent in this assumption recognising that a significant amount of further work will be required, including political discussions, to ensure that position is achieved.

Apart from AIFMD, significant progress was seen during the year in the general EU relationship with Jersey, a relationship the Island has sought to enhance over recent years. Under another little known but nonetheless significant equivalence provision, recognition for Jersey based auditors acting for companies who are admitted for trading on EU Stock Exchanges was also secured from the EU, thereby providing the conditions for the continuing use of Jersey companies on certain EU exchanges as well as the continuation of the professional audit services given to such companies by their existing auditors.

The issue of continuity of trade is a significant feature of life now for the financial services in Jersey, in the sense that the interdependence between EU countries and non EU jurisdictions such as Jersey has increasingly to be catered for by way of cooperation and mutual recognition arrangements. Several more examples of this can be expected to be seen in 2014 and beyond. Immediate examples that spring to mind are the EU proposals on the Market in Financial Instruments Directive (MIFID) together with its sister regulation the Market in Financial Investments Regulation (MIFIR), both also containing third country provisions of relevance to Jersey.

Another highlight of 2013 has been Jersey’s increasing involvement in Moneyval, the Council of Europe’s Anti-Money Laundering/Countering the Financing of Terrorism (AML/CFT) body of which Jersey is now a part in terms of its mutual evaluation and peer review procedures. Accordingly, towards the end of 2013, Jersey advised Moneyval of its progress report in respect of the IMF evaluation in 2009 and recommendations arising therefrom and what progress Jersey had made in respect of those recommendations prior to its next full review which will also be conducted by Moneyval in the autumn of 2014. It will be remembered that Jersey had a significantly successful IMF review of its AML/CFT capabilities in 2009 but nonetheless the opportunity was taken to provide a positive progress report on those remaining recommendations that still required attention and this was an important and successful first step in Jersey’s developing relationship with the Moneyval community.

Courtesy Chris George

A third major area of work which began in 2012 and continued throughout 2013 was the Island’s input into the recommendations of the Independent Commission on Banking (ICB) – sometimes popularly known as the ‘Vickers Report’ – in the UK. The creation thereby of separation between retail and investment banking amongst the major UK banking groups is of direct relevance to Jersey and its banking model of upstreamed deposits into the City of London for use by banking groups to bolster liquidity in the City and for a variety of funding needs. It is important to Jersey and its fellow Crown Dependencies in Guernsey and the Isle of Man, that this capability of contributing to the funding gap in the City of London is maintained and accordingly it was pleasing to see the Crown Dependencies recognised as being eligible for inclusion alongside EU and EEA countries in the ring-fenced banking architecture in the UK legislation arising from the ICB. Much hard work was done on the details of that inclusion and how Jersey and the other Crown Dependencies must work with the UK authorities to ensure that it creates a workable

considering policy stances on matters as wide ranging as virtual/crypto currencies such as Bitcoin, Jersey's interface with emerging EU banking union initiatives, its stance on shadow banking reforms that are taking place globally, as well as its position on a number of investor suitability and anti-misselling initiatives, to name but a few. In the post financial crisis world of 2013/14 there is no lack of activity in terms of financial services reform and Jersey is involved with a good deal of it. In addition there are some local specificities which have again added to the completeness of Jersey's financial services offering to the world and one particularly prevalent example over the past 12 months has been the putting in place of a Security Interests Law and Security Interests Register to allow for the Company Registry, operated by the JFSC, to receive and record relevant security interests of those lending for purposes such as property purchase, investment holding and in respect of other tangible assets.

As with all regulators, the Commission's day job has become harder. The day job, of course, involves the supervision of the Jersey financial services industry, including the licensing of new firms, products and structures where caught by the regulatory regime, as well as the few instances where enforcement action is required in respect of a range of regulatory infractions both serious and less serious. Although few in number, these are extremely complex and demanding in terms of resource and the mark of a mature regulator in today's world is an ability to demonstrate that it will deal with errant behaviour which potentially puts in jeopardy all well run businesses and commercial undertakings in a jurisdiction. Enforcement is predominantly 'remediation led' in Jersey by which I mean that firms who are found wanting in one way or another are given an opportunity to put matters right and work with the JFSC on an open and transparent basis to ensure that improvements are made. Where such agreements break down the JFSC then needs to move to the next step of using its powers and its sanctions in order not only to secure the remedial outcome it was seeking to achieve

proposition in terms of matters such as information exchange, resolution and recovery arrangements in the event of failing banking institution and deposit protection coverage. At the time of writing all of this work continues with a view to securing final agreement on such inclusion of the Crown Dependencies in the ring-fenced banking arrangements in the UK, well ahead of the 2019 implementation deadline which has been set by the UK authorities.

Covered to a very large extent elsewhere in these pages is the emerging position on tax and transparency whereby initiatives led at G8 and G20 level have resulted in considerable additions to the arsenal of cooperation on information exchange between financial services centres around the world and major nations. These have clearly been seen in the arrangements for US FATCA, UK FATCA (with its Crown Dependencies and overseas territories) and the developing arrangements for automatic exchange of information between certain EU countries and third countries – all of which have been embraced by Jersey and its fellow Crown Dependencies in the form of inter-governmental agreements and publicly made obligations to participate in what is a significantly developing set of information exchange mechanisms. Jersey is pleased to be at the forefront of such initiatives thereby demonstrating the high importance it attaches to transparency and cooperation and in the furthering of its own well established reputation as a responsible jurisdiction.

During the year, the UK Prime Minister, David Cameron, also led a G8 initiative to encourage, amongst as wide a spectrum of relevant countries as possible, higher standards of disclosure in respect of beneficial ownership of companies and other legal arrangements to assist tax authorities and law enforcements agencies around the world to obtain necessary information in the discharge of their functions. Once again Jersey was pleased to participate in this initiative which came to its high point during the G8 conference at Gleneagles in mid-2013 and in so doing was able to point out the very significant advance that it already enjoys over a number of other countries in respect of its existing arrangements for the identification of beneficial owners of companies and legal arrangements. Jersey is known for having an already well established central registry arrangement for the documenting of beneficial ownership and for its ability to exchange information with relevant overseas agencies in this respect. Jersey can go somewhat further still even though its lead in this respect relative to most other jurisdictions is well established but it would seek to do so, in line with its cooperative stance, only with due assurances in respect of level playing field conditions also being imposed on relevant competitor jurisdictions with which the Island would wish to be compared.

I have picked out these four particular policy initiatives as being probably the most prominent in a fully charged year of developments for regulatory policy generally in global terms and in impact on Jersey. Time is unfortunately insufficient here to dwell on everything but I could have included many other initiatives of relevance to the Island as well as those I have highlighted. Very briefly, the JFSC is deeply immersed in

Courtesy Chris George

but also to demonstrate to other businesses that there are consequences for persistent transgressions of this nature.

Enforcement is also undertaken with reluctance and one antidote to the need for it is the clear understanding by firms of their responsibilities and a good programme of supervision by the JFSC to seek the maintenance of high standards amongst financial services practitioners. An interesting debate has taken hold amongst supervisors worldwide as to the level of appropriate intrusion into the affairs of regulated firms, in particular concentrating on the regulators' understanding of the firm's business model, its inter-relationships with other businesses (i.e. the potential for systemic risks), the quality of management, prudential strength and perhaps above all a clear understanding of the culture of the firm and the risks to which its culture might suggest it is exposing itself in a number of situations. All of this puts a greater burden on the supervisor to demonstrate ever greater skill and understanding of disparate firms, models and methods and this constitutes a significant challenge in today's fast moving world. For that reason supervisors are looking hard (and the JFSC is no exception) at their own skills and resource capabilities, and indeed their basic methodologies. The JFSC whilst perhaps seeking to be somewhat less intrusive and assertive than a number of regulatory colleagues around the world, can expect to be seen to be ever more demanding and inquisitive in the way that it supervises firms to reflect this increasing trend and expectation of supervisors for better knowledge and understanding of their respective regulated entities. Last year saw the Commission making a start upon this somewhat new journey with a couple of quite different supervisory visits focused very much on business model understanding and deeper knowledge of firms' culture and inter-relationships. More of the same can be expected.

Ultimately the JFSC as a small jurisdiction regulator is resource constrained. As a result it has over recent years put in place an increasingly robust prioritisation process targeting its main objectives and tasks and this can be found within a very tightly drawn Commission Business Plan for 2014 which goes into areas such as supervisory reform and the need for additional policy resourcing in a rapidly changing world. In doing so, the JFSC also embraces the outcome of the jurisdictional review which was completed in early 2013 by Jersey Finance Limited with the collaboration of McKinsey consultants. The review seeks an enhanced strategic approach to Jersey's financial services industry relevant to the current environment and its challenges. For the JFSC this will involve it in working with other interested stake holders to simplify and streamline the funds regime in the Island and working to define more sophisticated guidance for industry in respect of the more distant geographical markets with which Jersey wishes to work such as the Middle East, Eastern Europe, Africa and Asia. Moreover, the review effectively demands an enhanced relationship between the JFSC and Government based on some interesting recommendations on the need for reform and focus by Government in terms of greater activity and ownership of financial services - the bedrock of the Jersey economy.

In these few short lines I have tried to give a good indication of the increasingly demanding but nonetheless challenging and stimulating world in which the modern financial services regulator must work. What I have hoped to convey is a sense of positive development, forward looking and responsive in its nature and a clear recognition that regulators have a significant role to play not only in their core duties to safeguard the interest of investors and management of the reputation of a centre such as Jersey but also to make contributions to the economic well-being of the Island through constructive, thoughtful and solution orientated working arrangements shared with other stakeholders such as industry practitioners and government. Ultimately this is the strength of a centre such as Jersey where those with a common interest can coalesce quickly around any given subject, analyse the challenge and make rapid progress towards its resolution. The past 12 months – in a variety of different ways – has reinforced once again this particular strength and opportunity for the Island. The JFSC looks forward to continuing to play in this way a very full part in Island life. Its dedicated and professional staff are committed to that ideal and to the various public service objectives which we seek to meet and in so doing embrace the notion that the future for Jersey and financial services in the Island is vibrant and exciting.

JOHN HARRIS

John Harris was appointed the Director General of the JFSC on 6 November 2006 and subsequently joined the Board of Commissioners on 1 March 2007.

From 2002 to 2006, John Harris held the position of Director - International Finance in the States of Jersey Chief Minister's Department where he had responsibility for all aspects of the Government's policy on the maintenance and enhancement of Jersey's position as an international finance centre.

From 1998 to 2002 he was Chief Executive Officer for NatWest Offshore with responsibility for offices in Jersey, Guernsey, Isle of Man, Gibraltar, Cayman, Bermuda and the Bahamas. He spent 22 years working for NatWest Bank during which time he held management positions in France, Switzerland and Singapore amongst others.

John Harris obtained a BA (Hons) at Exeter University and is a fellow of the Chartered Institute of Bankers.

Jersey's new security regime

By Mark Dunlop

The Security Interests (Jersey) Law 2012 (the "Law") came into full force on 2 January 2014. The Law significantly reforms the way in which security may be taken over Jersey intangible movable property (such as shares in a Jersey company, units in a Jersey property unit trust, bank accounts maintained in Jersey and contracts with Jersey obligors).

The Law is designed to be modern and flexible and to meet the expectations of banks and financiers when entering into secured transactions. The Law is a solid bedrock on which secured financings can be built and is a distinguishing factor in promoting Jersey as a finance centre of choice.

THE PRIOR LAW

The prior law which governed the taking of security over Jersey intangible movable property was the Security Interests (Jersey) Law 1983 (the '1983 Law'). The 1983 Law has served its purpose well. It has facilitated numerous secured transactions and allowed security to be taken over a range of Jersey intangible movable property.

THE NEED FOR MORE FLEXIBILITY

However, whilst the 1983 Law has enabled many secured financings to be successfully concluded, the 1983 Law had certain practical and structural limitations.

'The Law is a significant reform and enhances the ability of a secured party to take security which meets international standards and expectations'

This generated a desire for reform within the finance industry and the States of Jersey turned to a leading English academic and expert on security law matters, Professor Sir Roy Goode QC, to advise on the new Law.

The new Law is based on the Personal Property Security Acts ('PPSA') of Canada and New Zealand (which are in turn influenced by the American Uniform Commercial Code). This PPSA regime has recently been introduced into Australia. Jersey has adopted this PPSA approach but the Law has been simplified and adapted to meet the particular needs of Jersey's finance industry.

A DUAL REGIME

Under the new Law, it will only be possible to take new security in accordance with the provisions of the Law. However, the 1983 Law will continue to govern all security interests taken before the Law came into force (with some exceptions). The 1983 Law will therefore continue to govern 'old' security agreements and the new Law will govern 'new' security agreements.

KEY FEATURES OF THE LAW

The key features of the Law include:

- The Law establishes a simplified concept of what constitutes a security interest. It is possible to simply create a 'security interest' in the collateral (without having to specify any particular method of creation such as possession of certificates of title or the assignment of title).

- It is possible to take 'debenture style' security over all of a company's present and future intangible movable property.

- The Law confirms that the attachment of a security interest (i.e. the enforceability of a security interest against the grantor) is not affected if the grantor retains the right to deal with the collateral. This will have particular significance as regards bank accounts where it is common to allow a borrower to make withdrawals from the account unless there is an event of default. Under the 1983 Law, such freedoms can make the security interest vulnerable to challenge. However, under the new Law, this concern no longer applies.

- The Law establishes a clear set of priority rules. A secured party will enjoy more certainty as to how security interests will rank against competing interests.

- The Law introduces a security registration system. The registration system is a fully automated system which is available on-line.

- The Law significantly extends the enforcement remedies available to a secured party.

ENFORCEMENT

A major advantage of the Law is the increased scope of enforcement remedies that a secured party may have on default. Under the 1983 Law, the secured party's only statutory remedy was to exercise a power of sale. Under the Law, the power of enforcement may be exercised in any of the following ways:

- by the secured party appropriating the collateral;

- by the secured party selling the collateral;

- by the secured party taking any of the following ancillary actions: (i) taking control or possession of the collateral; (ii) exercising any rights of the grantor in relation to the collateral; and (iii) instructing any person who has an obligation in relation to the collateral to carry out the obligation for the benefit of the secured party; and

- by the secured party applying any remedy that the security agreement itself provides for as a remedy (but only if this remedy is not in conflict with the Law).

The remedy of appropriation may be particularly attractive to a secured party. Under this remedy, the secured party takes title in and to the collateral, and sets off the value of the appropriated collateral against the secured liabilities. In essence, the secured party

purchases the collateral itself. The secured party becomes the absolute owner of the collateral and will therefore take the risks and rewards of ownership (and may benefit from any increase in value on a subsequent disposal of the asset).

REGISTRATION

A secured party should ensure that its security interest is perfected. The concept of perfection describes the steps that need to be taken to ensure that the security interest is binding against third parties and on the bankruptcy of the grantor.

The failure to perfect a security interest may be severe:

- an unperfected security interest will be subordinate to a perfected security interest;
- a third party who acquires the collateral for value will take the collateral free of an unperfected security interest; and
- an unperfected security interest will be void against the Viscount, the liquidator and the grantor's creditors on the bankruptcy of the grantor.

The Law introduces a system of security registration.

All security interests may be perfected by registration (save for (i) a security interest created by a trustee of a trust (other than a prescribed unit trust) and (ii) a security interest in favour of an intermediary over investment securities held with that intermediary and which secures the buyer's obligation to pay for the investment securities).

In addition to registration, the Law allows certain security interests to be perfected by the secured party having possession or control of the collateral. Notwithstanding these alternative methods of perfection, it is likely that secured parties will favour registration as a 'belt and braces' approach in relation to perfection.

However, the security register cannot be regarded as being definitive as it may not reveal all security interests granted by a particular person. For example, as a general rule, security interests created under the 1983 Law are 'grandfathered' and so will not be registered on the new security register. By way of further example, the security register will not give details of any security where the secured party is relying solely on possession or control to perfect its security interest.

In practice, searches of the register will become commonplace. Lenders will be interested in any security that has been registered against the relevant grantor. The purchaser of assets will also want to ensure that the asset that it is acquiring is unencumbered.

LAND

The Law does not apply to the taking of security over Jersey real property. The existing laws of Jersey will continue to apply to such security arrangements.

CHATTELS - ISLAND IMPACT

The Law does not apply to chattels.

Under the current law of Jersey, security over chattels can only be taken if the secured party is given possession of the relevant chattel. This frustrates the ability of local banks to take security over the plant and machinery of local businesses. The local business will need to retain possession of the equipment in order to trade.

However, there are proposals to extend the Law to cover chattels. When the Law is extended to chattels, this will have a significant impact on local lending transactions.

Banks will for the first time be able to take effective and meaningful security over the assets of a local trading company.

In addition, a key feature of the PPSA regime is that it treats title finance arrangements (such as finance leases, hire purchase agreements and conditional sale agreements) as security interests. The owner of the asset will therefore need to perfect this deemed security interest by registration. This will clearly impact on the business practices of Jersey's finance lessors.

CONCLUSION

The Law is a significant reform and enhances the ability of a secured party to take security which meets international standards and expectations. The ability to take security over all present and future intangible movable property and the enhanced enforcement remedies are significant improvements on the previous security regime.

MARK DUNLOP

Mark Dunlop is a Partner of Bedell Cristin.

Mark is an experienced banking and corporate lawyer and a member of the Jersey banking lawyers group which has commented on the Security Interests (Jersey) Law 2012 through its various drafts and legislative development.

Mark is the author of '*Dunlop on Jersey Company Law*', which is the first comprehensive book to be published on Jersey company law. He is also writing a book on the Security Interests (Jersey) Law 2012 to be published later this year.

Mark is the adjunct Professor at the Jersey Institute of Law for Company Law and also for Security and Bankruptcy Law.

Footnote: This article provides only a general overview of certain matters. This article does not constitute legal advice and should not be relied on by any person as giving any legal advice. You should obtain independent legal advice if you need any guidance or advice on the matters discussed in this article.

Comply Or Die

By Helen Hatton

Comply Or Die is a British-trained thoroughbred horse owned by David Johnson, ridden by Timmy Murphy and trained by David Pipe. Comply Or Die was the winner of the £450,640 John Smith's Brewery Grand National at Aintree Racecourse run on Saturday 5 April 2008 The horse pushed ahead at the last fence to win from the grey King John's Castle. Bookmaker William Hill conceded that his victory had cost the chain £7 million.

In the John Smith's Grand National 2009, Comply Or Die finished 2nd place at odds of 14-1. He carried approximately one extra stone of weight than in his previous Grand National and lost to Mon Mome. Comply Or Die participated in two additional Grand Nationals in the coming two years. He respectively finished 12th in 2010 and was pulled up before the third from last fence in 2011. After that, Comply Or Die was immediately retired.

A nice little vignette but what has it to do with compliance in the financial services world?

'The regulatory framework course to be negotiated by financial services businesses is every bit as vigorous as that of Aintree'


London Guildhall

Spare a thought for a winning compliance model – a thoroughbred amongst its peers – an operation which is 'best of breed'. Such a compliance department, like the racehorse, can deteriorate. Its fitness can lose the edge, it may carry battle scars, it may carry extra weight by way of inefficient policies, procedures or piled up legacy issues and backlogs. Suddenly it no longer looks like a champion, is no longer sleek, the competition is running faster and the regulator (course steward) is getting closer – not with a starter pistol but with the finishing line.

The regulatory framework course to be negotiated by financial services businesses is every bit as vigorous as that of Aintree and just like the Grand National, the fences are high, the accidents severely damaging and the pace gruelling. The whip, the fear of failure and the risks do not always balance out. Take a fence too slow and you won't clear the ditch, too fast and you may hit the top rail or stumble on landing.

So it is with regulatory compliance. While Comply Or Die was valiantly galloping his way around the testing Aintree track with decreasing success, the world was reeling from the initial waves of the Global Financial Crisis (GFC). Much has been written about the causes of the GFC, few blame a shortage of regulatory require - ments, though many express concern at the focus which the regulatory regime sought to impose. Rule book rather than principle based, standardised rather than risk based.

In 2009 I delivered a key speech at the International Symposium on Economic Crime at Jesus College Cambridge which focused on three kinds of discipline. A speech which had first been delivered in Jersey some three years earlier, well before the crisis openly materialised. It was prophetic and has recently been echoed in close similarity by Martin Wheatley, Chief Executive Officer of the UK Financial Conduct Authority, in his speech at the London Guildhall on the occasion of the Annual Banquet of the Worshipful Company of International Bankers on 4th March 2014.

The principle of the 'three kinds of discipline' mantra is that self discipline must come first, followed by market discipline and finally the regulatory discipline variety.


Martin Wheatley. Courtesy FCA

Self discipline within a business is evidenced by its culture, its risk/reward appetite and its values system, all of which are more formally documented within a governance, risk and compliance framework.

'Good governance' is not an organisation chart and some nicely typed board committee remits, nor spread sheets tracking action points on a risk matrix or outstanding file review findings, rather it is an acceptance and embracing of ownership by board members of their individual and collective responsibility to run a business properly and the palpable commitment from them to ensure that each person within the organisation does their bit to behave professionally, responsibly and with integrity.

'Good governance' is not motherhood and apple pie: it is a hard edged standard, involving quality management information (within which the documents referred to in the previous paragraph form essential elements), the injection of challenge and demand for assurance.

Actions must be driven through, change effected and people held accountable for their actions or inactions, coming together to create a culture where good performance is rewarded and weak or inappropriate performance stifled.

Market discipline is an interesting source of influence, so obvious in listed companies, where reputation affects investor confidence and share prices quickly follow, resulting in clear market analyst and investor pressure on management to perform. Unlisted companies –

Courtesy Chris George

though not so transparently or directly – are still affected by these same market disciplines. A damaged reputation affects access to capital, particularly credit, and the anti money laundering and anti corruption initiatives introduced over the last few years, place a clear requirement on businesses to test the controls and systems embedded within a range of market counterparties, including suppliers, introducers and intermediaries.

Businesses with weak standards of self discipline – whose controls and systems are flabby – quickly find that the only persons who want to do business with them are other low standard counterparties, thus their growth potential or attractiveness for take over is greatly reduced.

Regulatory discipline, the third element, sits separately to, yet connected with, the first two varieties of these subtle but vital sources of pressure.

The regulatory discipline is delivered at its first stage, through the legislative framework and associated subordinate legislation and guidance and through on and off site examination programmes. At its second stage, regulatory discipline is delivered most painfully through interventionist enforcement and disciplinary procedures such as investigations, directions, public statements, restitution orders, fines, bannings and ultimately, loss of licence to operate.

The second stage of regulatory discipline represents a clear failure of self discipline but impacts market discipline as the reputational and financial damage arising from the regulatory intervention affects confidence, client flow and availability of willing counterparties.

Self discipline can therefore be seen as the key to lowering market and regulatory risk. Yet how many boards consider the firm's appetite regarding self discipline? Many businesses approach issues from a 'Can We?' standpoint rather than considering 'Should We?' Legal advice is obtained and actions progressed if no legal impediment is identified, regardless of the ethical standing of the proposal.

Against this culture, the international regulatory trend is now to move back to principles based regimes, to remind financial institutions of the importance of self discipline whilst leaving the threat of regulatory discipline as a last resort.

As Martin Wheatley, correctly reminded the International Bankers, "Rules suborn principles".

It will be interesting to see whether home state regulatory authorities evidence their belief in this statement by repealing existing rule books and if they do, how financial institutions will manage the arising risk of undefined regulatory standards.

However one thing is certain. Jersey has a long established principles based regulatory regime founded on standards of integrity, competence and solvency, with the Jersey Financial Services Commission (JFSC) at the forefront of helping to ensure high levels of compliance in the Island are maintained.

HELEN HATTON

Helen Hatton is a senior executive with over 25 years board level experience and is the founder and Managing Director of Sator Regulatory Consulting Limited, a Jersey based business offering compliance and regulatory advice, training and staffing solutions to regulators, international standard setters and financial services businesses worldwide.

Educated at Hurst Lodge, Sunningdale and St Wilfred's, Exeter followed by Plymouth University, Mrs Hatton lectured in Business Studies in further and higher education institutions in the south west of England before joining American Express Bank in 1989 to give private clients wealth advice. In 1992 she was appointed director of enforcement to the Isle of Man Financial Supervision Commission and later became Deputy Director General of the Jersey Financial Services Commission (JFSC), retiring in May 2009.

Helen is a Fellow of the Institute of Advanced Legal Studies, a member of the Editorial Board of the *Journal of Banking Regulation* and a Freeman of the Worshipful Company of International Bankers.

The return on – and of – capital

By Jonathan Giles

What do clients really want? It is simple. Provide the globally wealthy with capital security and a decent risk-adjusted real return in a politically stable, transparent and internationally respected legal and judicial system, and they will entrust you with their assets.

The difficulty for some is that these capabilities take decades to build and are difficult to replicate. However, international finance centres such as Jersey already provide a range of such characteristics, such as a welcoming business environment, mature financial infrastructure, leading regulation and common law, a skilled workforce and connectivity. We can offer capital security and sufficient investment excellence to attract and retain such wealth.

Yet how much wealth has survived the well documented financial crisis? Global household wealth has grown exponentially over the past 30 years and according to a recent Credit Suisse Global Wealth Report is likely to increase to $330 trillion over the next five years from $241 trillion today. Capgemini's 2013 World Wealth Report identified that the 'investable wealth' of the world's High Net Worth Individuals (HNWIs) rebounded in 2012, growing by 10% to reach a record high of $46.2 trillion.

‘Jersey offers a blend of global trading, banking & investment companies, investment boutiques and more recently a growing number of relocating specialist hedge funds’

One million individuals joined the global HNWI population, which reached 12 million, reflecting an increase of 9.2%. All regions experienced strong growth in HNWI population and wealth, except Latin America, which led growth in 2011 but faltered in 2012 due to slow economic growth and challenging equity markets. Capgemini further highlighted that North America and Asia-Pacific remained the two largest HNWI regions, driving global growth, and expanded by 11.5% and 9.4% respectively in HNWI population, and 11.7% and 12.2% in wealth. Whilst North America reclaimed its position as the largest HNWI market, Asia-Pacific remains home to the majority of the fastest growing HNWI country markets and is expected to surpass North America again in the near future.

There are, however, some interesting contrasts within these headlines with, for example, 95% of adults in India having less than $10,000 whereas this percentage is only 60% in China.

With overall HNWI investable wealth forecasted to grow by 6.5% annually to $55.8 trillion by 2015-16, driven mainly by growth in Asia-Pacific countries, this demographic will continue to have a profound impact on the financial services industry and the investment and wealth management services the wealthiest require. Whilst wealth changes with market cycles there is conviction that demand for financial services will continue to grow, driven by globalisation, its impact on world trade and demographics.

As trade flourishes it leads to wealth creation and this new wealth needs to be managed and protected. It is estimated by PwC that the global asset management industry will grow to in excess of $100 trillion over the next few years. Jersey is well placed to benefit from such growth.

With reference to my opening question ‘what do clients really want?’ it is interesting to discuss requirements with HNWIs. Having created their wealth they want to focus on capital protection in both absolute and relative terms using investment markets and inflation as their benchmarks. Interestingly, and whilst the wealth has typically been created through significant returns on capital, their return profile looking forward is most often ‘inflation plus a small premium’ albeit within a significant risk management framework. Over the past few years – according to Capgemini – perhaps reflecting the global financial crisis, HNWIs exhibited a clear bias toward safety and wealth preservation, allocating nearly 30% of their financial wealth into cash and deposits. This preference for capital preservation applied to HNWIs of all ages and wealth levels, suggesting that the overall lower level of trust in the financial markets may be playing a role in HNWI asset allocation decisions. Even HNWIs who identified growth as their primary focus put 26.4% of their assets into cash, only slightly less than HNWIs primarily focused on capital preservation that placed 29.7% into cash.

Jersey, through its global banking institutions and investment management sector, offers significant experience in cash and asset management. Our landscape has evolved significantly over the past three decades. This initially reflects the impact of ‘Big Bang’, the sudden deregulation of UK financial markets in October 1986, which significantly changed the structure of the financial markets in London, as well as the specialisations required of offshore investment companies. As published in ‘Jersey’s value to Britain’ (July 2013) written by Capital Economics, Jersey has significant commercial ties with the City of London. This has always been the case and Big Bang impacted here as much as in the City seeing locally established stockbrokers, such as Le Masurier James & Chinn, and

Courtesy Chris George

many of the old UK broking firms based on the Island; Ashworth Sons & Barrett, Sheppards, James Capel, Philips & Drew and Laurie Milbank, all eventually consumed, for better or for worse, by large banking institutions based in New York, London, Frankfurt and Paris.

In one stroke this deregulation eventually replaced private client stock broking with larger discretionary private client investment management firms, global bank advisory services and, more recently, internet trading. Today's Jersey-based investment businesses, across the range of providers mentioned, are typically international in outlook, multi-currency, multi-asset and multi-strategy, understand tax sensitivities such as the situs of assets and have significant skills to manage assets held within trusts, foundations or other fiduciary structures. Indeed, investment consultants, who now independently review the offshore and onshore investment management industry, increasingly comment on the specialist skills needed to address HNWI objectives and value the industry's offshore capabilities. Jersey investment managers, especially the larger investment providers, offer the benefits of structure and rigour alongside a personal and tailored service.

Furthermore, Jersey's multi-disciplined stability augers well in our challenging world. The ever present 'war on terror', the Arab Spring, ongoing conflicts in Africa and the more recent uncertainty in Ukraine and Crimea offer lessons in financial planning. If you have generated wealth in this uncertainty you want to protect it, nurture it and finally pass it to the next generation. Jersey has been delivering such integrated service for many decades. Demand for safeguarding wealth will grow.

In summary, investment management in Jersey offers a blend of global trading, banking and investment companies, investment boutiques and more recently a growing number of relocating specialist hedge funds. As Jersey has evolved over the last 900 years it has been both proactive and reactive to changes in global politics, industries and opportunities. A history that covers many wars with the French, the English civil war, the growth in agriculture, ship building, tourism, fishing and more recently finance, offers a look inside Jersey's ability to adapt and survive.

History has shown Jersey to be a conduit for global commerce, both inward and exported. People have sought out this blend of stability and enterprise and these virtues continue today. Natural conservatism pervades Jersey politics, government decision making and implementation and that adds to Jersey's stability and attraction. Many island nations have tried to adapt and failed, with Iceland in 2008/09 being the most recent example. Indeed the recent banking crisis in Cyprus highlighted Jersey's stability, transparency and accessibility as a tax-neutral offshore UK/Europe jurisdiction. No surprise that we have seen an increase in Russian and CIS wealth flowing towards Jersey.

Our Islanders have travelled globally for many centuries to source and enter new growth markets who value our inherent strengths. As Geoff Cook, CEO of Jersey Finance recently commented: "Our traditional strengths and proximity to Europe are seeing increased flows of capital from Asia, the Middle East and Africa, flowing into Europe and to the UK in particular. As wealth is created in the growth markets investors look for jurisdictions with structuring expertise, respect for the rule of law, use of a common business language, time zone convenience and protection of property rights. Among their favourite investment destinations are London and New York. The Shard, Battersea Power station, and significant chunks of Canary Wharf are just three examples of this capital flow translating into iconic investments structured through Jersey. The creation of significant amounts of new wealth around the world will increase the demand for safe harbours such as Jersey and clients will benefit from the upside in the global economy because we have the competitive capabilities that investors are looking for. Jersey remains the number one ranked centre of its kind in the Global Financial Centres Index and has been for 10 consecutive issues."

JONATHAN GILES

Jonathan Giles is Managing Director of Rathbone Investment Management International.

He manages a range of private client, trust and charity portfolios and for the past five years has been included in the Citywealth Honours List, which recognises professionals in the private wealth management industry who have 'technical expertise, trusted status, integrity and reputation'.

Jonathan has 26 years' private client management experience, is a Fellow of the Chartered Institute for Securities and Investment and chairs the company's Investment Committee and also sits on the Rathbone Strategic Asset Allocation Committee. He joined Rathbone Investment Management International in January 2006.

Jonathan is also an Adjunct Lecturer at the Jersey International Business School.

Singapore

Adapting Jersey's structures of choice

By Alan Binnington

For more than 30 years Jersey has been one of the leading jurisdictions in which to set up and administer wealth planning structures. A clear legal framework, provided by the Trusts (Jersey) Law 1984, coupled with significant expertise in the administration of structures, has placed the Island at the forefront of wealth planning. However a jurisdiction cannot rest on its laurels and the Island has therefore had to adapt to the challenges of new markets.

The traditional wealth planning structure was for many years the standard discretionary trust, where the trustees have responsibility for the management and investment of the trust assets and exercise a discretion as to when and in what amount, to benefit particular beneficiaries.

The focus of wealth creation is now shifting to the Middle East and the emerging markets such as Eastern Europe, Latin America and South East Asia. With the focus for wealth planning shifting from the more traditional markets such as the UK and Europe, the legal framework for Jersey's private client structures has had to adapt to the changing needs of those new markets.

‘The focus of wealth creation is now shifting to the Middle East and the emerging markets such as Eastern Europe, Latin America and South East Asia’

Clients from the emerging markets are typically young entrepreneurs, possibly with young families, who have built successful and therefore valuable businesses but who may have no present wish to retire. One of the issues that they face is what will happen to their wealth should they die young. A trust is an obvious solution to the issues raised in passing wealth from one generation to the next in such a way that children are not faced with the problems of dealing with large sums of money at a relatively young age. However a successful entrepreneur is unlikely to wish to relinquish control of his or her wealth entirely to trustees, particularly if that wealth is still in the form of a family business. Accordingly the use of a trust in which certain powers can be retained by the settlor (commonly referred to as a ‘reserved powers trust’) has become popular, following amendments that were made to Jersey's Trust Law in 2006.

Although there is a wide range of powers that can be reserved, the entrepreneurial settlor is likely to wish to be able to direct the trust's investments or, where the major trust asset is a family business, to direct the trustees to allow the business to continue to be run by its existing management. Care does however have to be taken to ensure that the reservation of powers by the settlor does not cause adverse tax consequences, for example resulting in the trust being regarded as managed and controlled in a particular jurisdiction for tax purposes.

Another feature of the emerging markets is that they tend to be civil law jurisdictions where the trust is an unfamiliar concept. Accordingly in 2009 Jersey introduced foundations as an alternative to the trust. The advantage of the foundation, from a civil law perspective, is that it is a legal entity, as opposed to the trust, which is a legal relationship. In this respect the foundation is similar in some respects to a company but, unlike a company, it has no owner and exists to apply its assets for the benefit of its beneficiaries. In much the same way as the settlor of the trust may reserve certain rights over the trust assets the founder of a foundation may enjoy ‘founder's rights’, the precise nature of which are set out in the regulations of the foundation.

The Jersey foundation has proved to be popular and whilst it has not supplanted the trust as the structure of choice, around 250 foundations have been formed since the Foundations (Jersey) Law 2009 came into effect. Foundations in European countries have traditionally been associated with charitable causes and, whilst it has always been possible to use a trust for charitable purposes, many of the Jersey foundations that have been created are philanthropic in nature. A number of the countries comprising the emerging markets have a culture in which care for the family

extends to support for the wider community and accordingly clients from those areas tend to require structures that are geared towards benefitting both the family and other less fortunate members of the community.

One might wonder why Jersey structures, whether they be trusts or foundations, are popular for clients in jurisdictions that are so far removed from Jersey, such as South East Asia, particularly when prospective clients may have alternative international finance centres that are far closer geographically. The answer lies in a combination of factors, including the Island's well developed legal framework and highly respected court system, political stability, depth and breadth of expertise in administration and proximity to the City of London which, as well as being one of the world's leading financial centres, is a centre of expertise in relation to private client advice.

Although one hopes that a structure such as a trust will not require the assistance of the courts it is reassuring to know that the Jersey courts have a long history of dealing with trust matters. Indeed they probably hear more trust cases than any other jurisdiction and judgments of the Royal Court of Jersey in relation to trusts are frequently referred to by the courts of other common law jurisdictions. The fact that a trust case comes before the courts does not necessarily mean than the proceedings are hostile in nature. Trustees have the ability to apply to the court for directions where they are faced with difficulties, such as making a momentous decision relating to the entire trust assets, finding themselves in a position where there is a potential conflict of interest or where the trust is threatened by external claims, perhaps in divorce proceedings involving a beneficiary. In the latter case the 1984 Trusts Law has been amended to provide significant protection for trusts in relation to claims in foreign courts, requiring that matters concerning Jersey trusts are to be determined exclusively according to Jersey law.

Although Jersey foundations have not been in existence for as long as Jersey trusts the courts are able to apply many of the principles applied in trust applications to applications made in respect of foundations and are already building up a body of case law in that respect.

Jersey's political stability is a significant factor for clients from the emerging markets. Many wealthy individuals are concerned at the political risk in their home country whilst nevertheless recognising the investment opportunities that these countries present. Setting up a structure to hold the family wealth in Jersey protects the family assets from political risk whilst nevertheless allowing a degree of investment back into the home country.

As the focus of wealth creation shifts to other parts of the world Jersey remains well-placed to serve the needs of the new breed of wealth creators.

ALAN BINNINGTON

Alan Binnington is currently the President of the Jersey Association of Trust Companies (JATCo) and is a Private Client Director of RBC Wealth Management's Fiduciary Services business.

Based in Jersey, he specialises in establishing fiduciary structures for high net worth individuals and their families. He studied law at Cambridge, following which he qualified as an English barrister. On his return to Jersey, he qualified as a Jersey Advocate in 1984 and was a Partner in the Jersey Law firm Mourant from 1985 to 2009, specialising for many years in commercial litigation. He joined RBC in 2009.

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Wealth management solutions built on trust

By Anthony Pitcher

Jersey has long been an important player in the global wealth management industry taking a market share far in excess of what might be expected from such a small population. There are a number of reasons why that might be, and the trust industry has played a significant part in that story.

First, what are clients looking for in their choice of jurisdiction? Of paramount importance is safety. Jersey has a long track record of providing a safe home for clients' assets, many of whom reside in jurisdictions that carry with them significant risks. Some of these risks are obvious, such as kidnap, theft and other forms of misappropriation. Additionally there are other risks related to, for example, creditors, alimony and succession regimes that prescribe which heirs receive assets from an estate.

Second, why are trusts so important in this story? An essential element for the creation of a trust is the transfer of ownership of assets from the settlor to the trustees. This changes fundamentally the relationship between a client and his assets. Subject to any powers to manage the assets or revoke the trust retained by the settlor in the trust deed when the trust was created he now no longer controls what once were his assets,

'...a number of innovations have been introduced to protect trust funds from foreign interference'

ceding that control to the trustee. It is this change of control that leads to many of the benefits of establishing a trust that prospective settlors are looking for.

With a trustee as owner of an asset the asset can be held securely to be managed for the benefit of the beneficiaries outside of the home jurisdiction of the settlor out of reach of people seeking to do harm to the settlor and/or his assets. It is no longer possible for parties to force the settlor or his personal representatives to dispose of assets, it is now necessary for any person wishing to appropriate or direct the disposition of assets to come to Jersey where the trustee resides to try to impose their will in relation to those assets in the Jersey Courts.

Jersey has spent considerable effort to ensure that the wishes of settlors of Jersey trusts are carried out without undue interference. Until 1984 the law of trusts in Jersey relied upon the Common Law with some generally unhelpful twists relating to Norman Customary Law. Whilst this had been an acceptable situation, Jersey recognised the growing competition from other centres and enacted the Trusts Jersey (Law) 1984. This was a ground breaking piece of legislation which helped to cement Jersey's position as the leading centre for international trusts. It has been copied by many other centres and continues to form the basis of most trust law around the world.

To date there have been six amendments to the Law and a seventh is in planning which have been designed to deal with perceived and actual ambiguity in the Law and thus increase the certainty that prospective settlors can expect when settling Jersey trusts. In addition a number of innovations have been introduced to protect trust funds from foreign interference.

The latest amendment, number six, codifies the Hastings -Bass principle in the Jersey law of mistake. This amendment will have retrospective effect and will provide welcome certainty to settlors, trustees, other fiduciaries and beneficiaries of Jersey trusts, particularly following the Supreme Court decision in Pitt v Holt and Futter v Futter which have effectively terminated the Hastings-Bass principle in the UK. The number six amendment therefore preserves the position that a transaction or exercise of a power may be held voidable where the person would not have entered into the transaction or exercise of the power but for a mistake.

This innovative approach to tackling practical issues being faced by practitioners, settlors and beneficiaries will save beneficiaries and trustees in appropriate circumstances from the need to instigate claims in negligence or for breach of trust or duty in hostile litigation. This will help mitigate the associated stress and drain on time together with the uncertainty of any litigation, including the unpredictability as to costs that always flows from hostile litigation. The flexibility and responsiveness of Jersey as a jurisdiction has been highlighted by the progress of the number six amendment from an idea to discussion in various professional fora, through to drafting and becoming law in less than a year. Many of Jersey's competitor jurisdictions look on with envy at the cooperation between Government, Jersey Finance, industry practitioners and the Law Draughtsman that brought this about.

In a similar vein the introduction in 2009 of the Foundations (Jersey) Law represented a major commitment to meet client needs as the concept of foundations originates in civil law jurisdictions and whilst very similar to a trust, the ability of practitioners to offer foundations to those clients was a major step forward.

International trusts have many uses, however they are principally used as a mechanism for transferring wealth between generations in a controlled way.

As an essential tool in the kitbox of estate planning techniques, trusts are an integral part of the succession plan for many if not most wealthy families, providing safety and security for family assets, whilst at the same time providing flexibility over the amount and timing of when heirs receive their inheritance. The settlor transfers his assets to the trustee safe in the knowledge that those assets receive the protection of a trustee with substance and skill to preserve those assets for future generations and the overriding protection of a well developed Court system with a wide choice of quality law firms to represent the parties, in even the largest and most complex of disputes.

Precisely because assets held in trust are held for the long-term, important and resilient relationships are built between trustees and families and the trustee becomes one of the family's key advisers, as well as the owner of what is often a substantial portion of the family's wealth.

Within what is a highly successful trust jurisdiction, Jersey trustees hold assets with enormous values and they are then highly likely to employ local professionals and other service providers to assist them in carrying out their trustee duties. This tends towards the legal profession, banking, investment management and insurance amongst others. This puts trusts and trustees at the centre of the wealth management proposition. Without a trustee relationship it is much harder to maintain a lasting and deeper relationship with wealthy families.

Trustee relationships also tend to exist with wealthier families who are the most attractive clients for other wealth management service providers such as bankers and investment managers. It is not by coincidence that morning flights from London and evening flights back are packed with professionals seeking to do business with Jersey trust companies.

STEP IN JERSEY

STEP (the Society of Trust and Estate Practitioners) is the worldwide professional association for practitioners dealing with family inheritance and succession planning and as Chairman of the Jersey branch I am proud to say that our branch is one of the oldest and is also now the largest with some 1,300 members.

The Jersey branch celebrated its 21st anniversary last year with a gala dinner and continues to support its members through a programme of well supported monthly seminars culminating in an International Conference at the end of the year which presents a panel of top class speakers and attracts around 150 delegates. In addition we support our student members with a free half day student conference and training events relevant to the exam programme.

Committee members are active in many industry working groups and in development of legislative change together with work associated with STEP Worldwide. We have representation on Council, a Deputy Chairman who is on the STEP Board of Directors and even a past Worldwide Chair in Rosemary Marr.

ANTHONY PITCHER

Tony Pitcher is Chairman of the Jersey Branch of the Society of Trust and Estate Practitioners (STEP) and past president of the Jersey Taxation Society.

Tony is a chartered accountant and director of LGL Trustees, a leading, director led, independent provider of Corporate Management & Administration Services and Private Wealth Services for global clients.

He is currently leading relationships of complexity with some of the world's wealthiest families having been Managing Director of one of Jersey's largest trust companies.

A solid foundation for philanthropic structures

By Julian Hayden

Jersey is an ideal jurisdiction for the formation and administration of philanthropic structures. It has the right tools in the form of trusts and foundations and the right skills and experience – the means for providing philanthropic excellence and the opportunity to do so.

It is important to consider Jersey's laws concerning charity, charitable donation and the wider concept of philanthropy, whilst evaluating the present position and certain currents of change which are providing opportunities for Jersey's future development into a philanthropic hub.

CHARITY UNDER JERSEY LAW

Currently the primary implication of whether or not a structure is 'charitable' as a matter of Jersey Law, is the question of whether or not tax relief will be available for the donation but that will only be relevant to a Jersey resident donor. For others, their purposes can be served by a trust or foundation set up for philanthropic purposes, which may or may not fall within Jersey's concept of 'charitable'.

For completeness, it may be noted that though Jersey's Trusts Law allows for the creation of charitable trusts, it does not define 'charity' nor 'charitable purposes'. Instead the position is covered by case law. This requires a clear intention by the settlor to devote the whole of the property to charitable purposes, which must be enforceable by the Court. The purpose must fall within four principal categories derived from the English Charitable Uses Act of 1601 – the relief of poverty; the advancement of education; the advancement of religion; and trusts for other purposes beneficial to the community.

The purpose must be for the public benefit which is rebuttably presumed for the first three of the aforementioned categories, but in trusts for other purposes beneficial to the community, the public benefit element has to be demonstrated.

In all cases the trust must be exclusively charitable.

THE CLIMATE FOR PHILANTHROPY

For many people, not just the wealthy, philanthropy is becoming more important, covering a wide range of initiatives, some of which fall within the technical definition of 'charitable' whereas others, even though they may be for the common good and benevolent in nature, may not. Here I am primarily looking at philanthropy in the sense of all giving initiatives, whether charitable or not.

Though philanthropic donation is not the sole preserve of the wealthy it is an important financial and legal issue for wealthy individuals and families. Many wealthy families see the creation and maintenance of philanthropic structures as part of a wider process of engaging the next generations in the responsibilities of wealth management.

For many there is a religious or cultural impetus to philanthropic donation.

> 'Jersey already has the skills and services to continue to lead the way in providing flexible vehicles for charitable and philanthropic purposes'

There is also a significant increase in social entrepreneurship and in venture philanthropy that is not limited to older generations and the ultra-wealthy. Young entrepreneurs are seeking to make a social impact and social investment may now itself be seen as a growth area. We are seeing significant philanthropic growth within the funds sector in which sustainable investments are developing into a separate asset class. Increasingly, philanthropists are looking to the financial services sector in Jersey and elsewhere for greater engagement in the provision of relevant services.

WHY JERSEY?

It is acknowledged that major charitable benefactors who are resident onshore may not be inclined to set up offshore philanthropic structures if there may be difficulties in securing cross-border tax deductions. However, there can be opportunities for such tax-efficient structuring and in any event there is a huge market where that is not an issue.

Jersey, as well as its expertise in the setting up and administration of trusts and foundations – and its skills base under the rule of a first class system of law – has an immediate opportunity to assist in philanthropy and indeed to develop as a lead jurisdiction, through the wealth already held and administered offshore.

The agglomeration of wealth by substantial families and corporates in tax neutral jurisdictions such as Jersey gives great opportunity to families, individuals and companies to create entities that can serve charitable or philanthropic objectives either directly or as 'feeders' to other institutions. They can structure vehicles for these purposes in a significantly more flexible manner in Jersey than is usually possible in other jurisdictions.

Jersey already has the skills and services to continue to lead the way in providing flexible vehicles for charitable and philanthropic purposes. It is already a preeminent trusts jurisdiction, enjoys modern companies' legislation, has a wide set of partnership structures and an innovative Foundations Law, the use of which is growing in popularity. All of these make Jersey an ideal jurisdiction in which to establish philanthropic structures that are both flexible and tax efficient. Other benefits include political and economic stability, a highly respected judicial system and a robust regulatory regime, coupled with depth and breadth of experience amongst its professional advisers – the same benefits that assist in capital movements for commercial and family purposes. Perhaps above all, the relevant legislation emphasises the importance of flexibility and so allows structures to be created that meet the needs of an individual client.

Jersey's trust legislation allows for both charitable and non-charitable purpose trusts, so enabling the setting up of charitable trusts as such or trusts for philanthropic purposes that might not be characterised as strictly charitable. Trusts can even be established for purposes that are partly personal and/or partly charitable and partly philanthropic.

Non-charitable purpose trusts are often used for altruistic good causes and Jersey trusts allow for a range of structures that can be adapted to suit specific philanthropic objectives. The charitable trust is an attractive option but it is not the only solution

Since their launch in 2009, Jersey Foundations are increasingly used by philanthropists as an alternative to

> 'Approximately one third of foundations set up in Jersey since 2009 are used for philanthropic purposes'

Courtesy Chris George

trusts. As true orphan structures, they are ideal for these purposes and can be used for structures that are either charitable or non-charitable or that are philanthropic but with the capacity to provide personal benefits.

Approximately one third of foundations set up in Jersey since 2009 are used for philanthropic purposes. Amongst their attractions are the clarity of registration with the Jersey Financial Services Commission and the availability (but only if required) of publicity as to the identity of the economic founder and the nature of the purposes. They are also capable of infinite duration. Through the system of having a council of members and a guardian to ensure the council pursues the foundation's objects, both flexibility and safeguards are provided, along with the ability for the economic founder to have a continuing role.

Given Jersey's advantages, it is perhaps surprising that Jersey has not yet become seen as an international hub for charity and philanthropy.

Two potential gaps in Jersey's profile are perhaps:

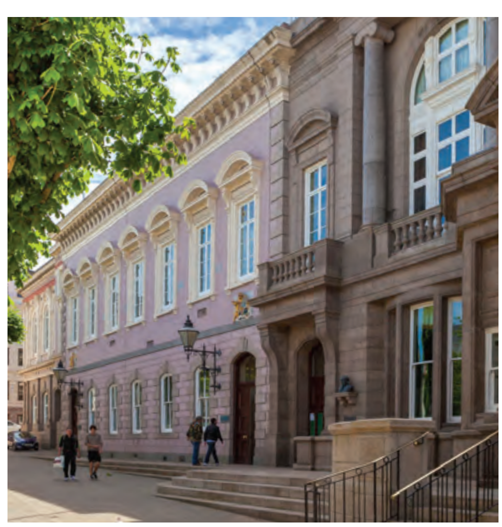
1. The absence of a Jersey statute specifically governing charities, equivalent to the Charities Act 2011 in England and Wales, or a regulatory body like the Charity Commission to maintain a register of charities and to supervise their activities
2. The possible need to clarify the expression 'charitable purposes'.

A NEW CHARITIES LAW

Jersey's Government has recently carried out a consultation process on whether a new charities Law for Jersey should be developed to provide a legal and regulatory framework for Jersey charities.

Current proposals would introduce a 'charities test' setting out a qualifying definition for charitable status; and 'light touch, proportionate regulation' involving the setting up of a Charity Commissioner to regulate Jersey's charities and to maintain a Charities Register.

It is anticipated that through these means Jersey could develop its existing services in respect of public charities, soliciting donations and maintaining full and proper records, as well as private charities receiving donations only from a particular family and so preserving anonymity. Jersey will continue to allow for private orphan structures such as through foundations or through special purpose vehicles in commercial transactions which can provide some charitable or philanthropic benefit.



Courtesy Chris George

Implementation of the proposals would provide an opportunity to clarify that a Jersey charity must provide, or be intended to provide, public benefit and possibly also an opportunity to recognise certain activities as being charitable.

The new Charities Law would provide an up to date definition of charity and a list of eligible charitable purposes.

It is also proposed that only organisations run by 'fit and proper people' would be eligible to be registered as a charity – similar to the test in England and Wales which provides that a charity for tax purposes must be managed by 'fit and proper persons' as determined by HMRC. This would be important if, for example, once an organisation is registered on the Charities Register, it would be entitled to accrue tax benefits without any further need to register with the local tax authority. Such arrangements might be analogous to the system in England and Wales.

That principle is reinforced by the judgement of the European Court of Justice in the case of Hein Persche v Finanzamt Lüdenscheid which, in effect, determined

Courtesy Chris George

that Member States of the EU could not impose a territorial restriction on a charity exemption granted by a Member. This case determined that when a charitable trust or foundation is set up in the EU, or certain other territories, it can nevertheless claim UK tax relief provided it is accepted by HMRC to be charitable for tax purposes (i.e. established for charitable purposes as defined under English Law and meeting conditions as to jurisdiction, registration and management).

Jersey has much to gain and much to offer by emphasising its existing advantages and developing improved solutions, such as through a new Charities Law and a Jersey Charities Commission.

PROMOTING EXISTING PHILANTHROPIC SKILLS AND SERVICES

Jersey Finance Limited is itself active in this area, investigating how the Island is perceived by professional advisers when considering where to locate structures with exclusively or primarily philanthropic purposes.

The vision behind this initiative is that Jersey should become a jurisdiction of choice for philanthropy and recognised as a philanthropic hub. This is based on continuing and developing the skills and services already provided for many years and coordinating with government, regulators, advisers and the trust industry.

Perhaps, as part of this process, the negotiation of TIEA and FATCA arrangements will come to include the securing of automatic tax recognition for Jersey's charitable structures.

CONCLUSION

Jersey already has abundant skills and experience in the provision of charitable and non-charitable trusts and foundations with an excellent legal background and a highly respected judicial system.

Jersey has the people with the necessary skills and experience to act as trustees or as council members. Jersey's financial structures are well regulated and the individuals involved and their companies are already highly skilled in fiduciary duties and in the due diligence that is inherent in considering possible philanthropic activities.

When the pros and cons of establishing philanthropic structures 'onshore' or 'offshore' are weighed, Jersey has several key strategic advantages which can be applied for the benefit of those wishing to set up long term arrangements for charity or for philanthropy in the wider sense. Those advantages can enable Jersey to become – through the cooperation of expert fiduciaries, the finance industry, government and the legal framework – clearly recognised as a leading global centre for philanthropy and for best philanthropic practice.

JULIAN HAYDEN

Julian has more than 25 years' experience in estate and succession planning and specialises in trusts and alternative structures. Julian qualified as a solicitor with Withers and then practised in London. For a number of years he was a partner at Manches & Co and then moved to Jersey in 1997. Julian has been with Hawksford since 2002.

Julian has extensive expertise and experience in providing fiduciary services to a wide range of wealthy clients and their families. He provides sensible advice on all issues of private wealth and wealth planning and has particular expertise in family governance, estate planning and succession planning, protecting a family's wealth for the benefit of future generations.

Julian is part of the executive team that heads up Hawksford Succession Planning, Hawksford Advisory and Hawksford Family Office. He is a member of Hawksford Group board and is one of the members that took part in the management buyout of Rathbone Trust Company Jersey Limited in October 2008. He is a member of the Society of Trust and Estate Practitioners (STEP) and was recognised as Trustee of the Year at the Citywealth Magic Circle Awards 2013.

Courtesy Chris George

A comprehensive approach to contentious trusts

By David Wilson

Jersey's Trust Law, first enacted in 1984, lays down a workable set of core principles for trust professionals and beneficiaries that has proven to be a highly attractive framework over the past 30 years.

Due to the constantly evolving nature of modern trust work, the 1984 Law is subject to continuing review by industry experts in order to ensure Jersey remains a leading trust jurisdiction. In October 2013 Amendment No 6 to the Trusts (Jersey) Law came into force. This Amendment gives the Jersey Court a great deal of flexibility when considering whether to set aside a trust for mistake or to set aside a trustee's action or the basis of the so-called Rule in 'Hastings-Bass'.

The Amendment provides for an extremely useful no-fault based form of discretionary relief for both trustees and beneficiaries, and allows a transaction entered into by a trustee to be unwound where the trustee has made an error in the use of their powers (Hastings-Bass relief). It gives much needed certainty to this complex area of law.

The test for Hastings-Bass relief and the related area of relief for mistake were recently substantially tightened in England by the Supreme Court. Jersey is not bound by decisions of the English Supreme Court but its decisions are

‘The test for Hastings-Bass relief and the related area of relief for mistake were recently substantially tightened in England by the Supreme Court’

influential and this statutory Amendment articulates the flexible approach Jersey intends to take in the future, compared with the more restrictive English law approach.

Jersey is currently the only jurisdiction of the Crown Dependencies to have made statutory provision for the principles on which these equitable remedies will be granted and in doing so remains at the forefront of trust law developments internationally.

As well as comprehensive governing legislation, Jersey also boasts a well-developed body of case law and the Jersey Court is not shy in applying cutting-edge legal principles to provide proper remedies whether they be trustees or beneficiaries in the trust context, or participants in the wider financial services industry.

This firm acted on behalf of the Brazilian Government in *Federal Republic of Brazil and Another v Durant International Corporation and Another [2012] JRC 211*, to recover misappropriated funds by the former mayor of Sao Paulo. On tracing stolen assets using trust law principles, the judgments of both the Jersey Court and Jersey Court of Appeal provide clear statements to the effect that in order to do justice between parties the Jersey courts will not burden themselves with the complex conceptual restrictions which have and continue to burden the approach of the English courts to matters of tracing.

As a result of the *Durant* case, the law of Jersey in respect of the remedy of tracing has now developed in a distinctly more flexible way than in England and other common law jurisdictions.

The Jersey Royal Court has in recent years also demonstrated its willingness to provide assistance and direction for trustees who might, through no fault of their own, find themselves in a difficult position. The recent case of *Lloyds Trust Company (Channel Islands) Limited v Carlos Fragoso & Others [2013] JRC211* – on which this firm also acted on behalf of the trustee – is a prime example.

The settlor of the trust, Carlos Fragoso, had told the Trustee when he settled funds into a trust in 1999 that the settled assets were the proceeds of his work as a civil engineer in the US and Africa.

In separate English proceedings it emerged that there had been a widespread practice of payment of bribes by a UK construction company, Mabey & Johnson, to secure construction contracts in a number of countries including Mozambique. Mabey & Johnson had self-reported to the SFO, leading to a conviction in the English Court on bribery charges. The company admitted in the English criminal proceedings that it had bribed Mr Fragoso.

The trustee became aware of the English criminal proceedings and Mr Fragoso's involvement in the corrupt arrangements from conducting internet searches as part of a periodic review of the trust. The trustee then quite properly conducted its own investigation, leading to the filing of a suspicious activity report with the Jersey Financial Crimes Unit. It asked Mr Fragoso to provide evidence of the source of the funds that it was holding as trustee but he failed to do so. The trustee then sought directions from the Jersey Court as to what it should do.

The Jersey Court, having heard evidence that large ‘commission’ payments had been paid to Mr Fragoso, found, on the balance of probabilities, that all of the funds within the Trust (which substantially exceeded the aggregate of the proven payments) represented the proceeds of bribes received by Fragoso in his position as a public officer for Mozambique. Despite the paucity of the evidence, the Jersey Court made clear that it was willing to draw appropriate inferences, for example, in circumstances where Mr Fragoso, as a full-time public official, could not possibly have set up the trust from his earned income.

The Jersey Court was then faced with a choice between following a line of legal authority in English law that the commission payments were not the property of the Mozambique Government and that the Government

Courtesy Chris George

merely had a right of action against Mr Fragoso, or following a Privy Council decision on the same point that they were and that the Government had a proprietary claim to the trust assets. The Court decided to adopt the latter approach and directed that the trustee should pay all of the trust assets to the Mozambique Government, and not to Mr Fragoso.

The *Fragoso* judgment demonstrates that the Jersey Court is prepared to be of assistance to trustees and also makes clear that it is prepared to adopt an approach to the law and its enforcement which complements Jersey's position as an international finance centre.

A further example of the Jersey Court's willingness to help trustees in the exercise of their powers is the extent to which the Jersey Court is prepared to 'cure' a formally defective exercise of trustees' powers. In the matter of the *Shinorvic Trust [2012] JRC081* was a recent defective execution case, concerned with the proper appointment of a beneficiary and trustee to a Jersey law discretionary trust.

Both the beneficiary and trustee were appointed by deed. There was a concern that the deed appointing the beneficiary had not been witnessed (and was therefore formally defective) and the deed appointing the trustee made no reference to the trustee by name.

The Jersey Court decided that the deed appointing the new trustee could be corrected by construction of the deed without recourse to the more legally complex equitable jurisdiction of rectification. The Court said this route was available where a) there was a clear mistake on the face of the documents and b) it must be clear what correction ought to be made to cure the mistake.

Regarding the deed appointing the beneficiary, in the absence of direct Jersey precedent the Jersey Court looked to English case law on the circumstances in which the court might aid the defective execution of a power. The Jersey Court said that it would be able to assist a trustee if the following five conditions were met:

1. The relevant person had demonstrated an intention to exercise its power.
2. The relevant person had made an attempt to exercise the power, as opposed to failing to exercise it in time or at all.
3. There was a formal, not a substantive, defect in the exercise of the power.
4. The purported exercise was a proper exercise and not a 'fraud' on the power or a breach of trust.
5. The donee of the power fell within one of the classes of person in whose favour the jurisdiction should be exercised.

The Jersey Court held that the scope of the remedy extended not just to powers of appointment from the trust (as had been the position historically) but also to the power to add beneficiaries.

The real issue was whether the beneficiary fell within point five, as a person to whom the donor of the power was naturally or morally bound. The English case law suggested this was a limited class including a wife, a child, a purchaser and a creditor. The beneficiary in this case fell within none of those categories of relationship. The Court took a robust purposive view of the rationale behind the rule and that while the more restrictive class might have been appropriate in another age, a more flexible approach was now appropriate. Under Jersey law, the Jersey Court said that it would aid the defective execution of a power in favour of any person for whom the donee of the power is under a natural or moral obligation to provide.

Jersey's established international reputation as a jurisdiction in which to establish and run a trust is matched by its reputation for trust dispute resolution. Where, as sometimes happens, a matter arises that requires the Court's attention, trustees and beneficiaries can be sure the Royal Court is well equipped to take a pragmatic approach to assist the parties obtain the most appropriate remedies they need.

DAVID WILSON

David Wilson is an Advocate and Partner of Baker & Partners.

A specialist commercial litigator, David's expertise includes trusts, banking and funds disputes, trustee applications, anti-money laundering issues, regulatory investigations, asset recovery, insolvency, professional negligence and partnership and shareholder disputes.

David is regularly instructed by global financial institutions as well as Jersey-based financial services businesses. He acts for the Viscount (the officer of the Royal Court responsible for administering bankruptcies) has acted as an appointed inspector for the Jersey Financial Services Commission and acts for a number of high net worth individuals in a broad variety of complex disputes.

He has acted in some of the leading Jersey cases on trust issues, such as the A Trust, which changed the Jersey law on setting aside a trust and Re the Representation of Lloyds TSB Offshore Trust Company Limited, which settled Jersey law on proprietary claims to trust assets.

Banking
on Jersey's reputation

By Richard Ingle

From its early origins as a financial centre, Jersey was a popular destination for the savings of British expatriates working across the globe who welcomed the proximity to the UK, the cultural familiarity and the security that the Island's banks could offer. Today, whilst there remain strong linkages to the UK, Jersey is a substantial international banking centre drawing clients from across the globe who are attracted to the Island's reputation as one of the highest rated international finance centres.

It is a testament to this long held reputation that a significant number of the world's leading banking organisations choose to operate from the Island. These banks collectively account for the £140 billion of deposits currently placed in Jersey. A cursory glance down the membership list of the Jersey Bankers Association will reveal the names of well known and respected organisations that have been attracted to a jurisdiction that has been at the forefront of international finance for over 50 years.

With such established organisations operating in the Island, banking clients can expect a full range of savings, investment, wealth management and institutional services from a broad selection of clearing banks, merchant banks and international banks. Such banks originate from across the globe including the UK, Europe, North America, the Middle East and Africa. This broad base ensures that the needs of the most discerning clients can be accommodated and the diversity helps minimise the impact of difficult economic times in any one sector.

The world of international finance is an increasingly competitive environment and credible reputations can only be built over a sustainable period. Jersey has an enviable track record of hosting banks that have both weathered the storms of financial recession and prospered during times of economic growth. Indeed, the Island policy of only permitting banks of the highest quality to establish a presence in the Island has helped to prevent any bank failures in Jersey.

Despite a period of low saving returns, the security, stability and reputation of Jersey as a finance centre have helped to ensure that there has been a relatively resilient performance by Jersey banks following the most recent financial crisis.

Courtesy Chris George

'...increased business confidence bodes well for Jersey's banks that are often specialised towards particular geographies or markets'

Courtesy Chris George

The good news is that the worst of the latest financial crisis now appears to be some way behind us and we have reason to be optimistic for the future. There are some encouraging signs of recovery from the developed world and – despite some slow down – continued growth in the world's emerging markets.

This increased business confidence bodes well for Jersey's banks that are often specialised towards particular geographies or markets and, therefore, are well equipped to serve the banking needs of clients from diverse geographic backgrounds or segments and their particular banking and investment needs.

It is often said that a good reputation is hard won and easily lost. This expression applies equally to Jersey's reputation as a finance centre. The secret to Jersey's success is, in part, the continuous work and combined efforts of Jersey Finance, the Government, the regulator and the industry, to ensure that the jurisdiction remains at the forefront of offshore banking and continues to be relevant in today's fast paced, highly regulated and ever changing financial landscape.

The Jersey Bankers Association (JBA) acts as a consultative body and discussion/lobby group on a wide range of topics including regulatory matters, legal, marketing, taxation, recruitment, risk & compliance and occasionally product matters. The JBA works closely with the States of Jersey, Jersey Finance and the Jersey Financial Services Commission (JFSC) to address the various industry challenges that arise from time-to-time.

The aftermath of the most recent financial crisis has led to a significant number of international and national legislative and regulatory initiatives that are now just starting to come to fruition. As a result, the banking industry is now facing an unprecedented wave of new regulations. A number of these changes impact the Jersey banking industry and have certainly occupied the collective minds of the JBA membership to help ensure that Jersey responds appropriately.

It is somewhat ironic that whilst the value of Jersey's banks was recognised as a valuable source of liquidity during the financial crisis, international banking reform is introducing concepts such as Liquidity Asset Buffers which are posing a number of challenges that may well influence the typical Jersey banking 'up-streaming' model where surplus deposits have historically been provided to Head Office.

With regards to UK banking reform, the work in 2013 by the leading independent economic research company, Capital Economics, was undoubtedly useful in the UK Government revising its reform proposals to allow ring-fenced banks to maintain branches in Jersey. This important research demonstrated the significant net positive contribution that Jersey makes to the UK economy and contributed to Prime Minister Cameron's recognition of Jersey as an international financial centre of repute.

Jersey is a jurisdiction with long established banking confidentiality laws and data protection principles. However, another area of change that Jersey is confronting is the sustained international move to 'tax transparency' that continues to be promoted by a number of governments and international bodies representing developed countries.

In common with its stated aims of being a jurisdiction that seeks to accommodate high quality, tax compliant business, it is right that Jersey is also embracing the transparency agenda to identify those seeking to illegally evade their obligations. The recent signing of FATCA style agreements with the US and the UK Governments is a positive sign that Jersey will continue to be regarded as a reputable jurisdiction in the international community and can continue to be regarded at the forefront of measures to tackle financial crime.

However, it is also important that the legitimate confidentiality of clients who have their affairs in order are protected – particularly those clients located in less developed countries where the protection of client information helps provide understandable assurances around personal safety and security.

With this background, it is refreshing that the Island's authorities have recognised the growth opportunities of developing and emerging markets as part of the Island's financial services strategic review. There are already a number of Island banks that are aligned to these exciting, dynamic growth markets which should help to contribute to Jersey's continued prosperity for many more years to come.

Over fifty years on from its early beginnings, the reputation of Jersey as a leading offshore banking centre remains stronger than ever. These solid foundations will support continued growth of those banks already present in Jersey and should also attract new banks looking to establish a presence in Jersey.

RICHARD INGLE

Richard Ingle is President of the Jersey Bankers Association.

Richard has spent over 27 years in the financial services industry based in both the UK and Jersey. He has been the Chief Executive Officer of Standard Chartered Bank in Jersey since 2010. His role also involves providing area governance oversight to the Standard Chartered businesses in Guernsey and the Falkland Islands.

His career prior to joining Standard Chartered included positions with the wealth management arm of a UK based insurer, the asset management and private banking divisions of a leading US bank and a period with a UK regulatory body.

Private banking
in Jersey: thinking big

By Tim Houghton

Five years on from the financial crisis, Jersey has benefitted from a 'flight to quality' as investors have sought the stability and safety that the Island provides, in contrast to some of its traditional competing jurisdictions.

As the economic outlook has slowly become more positive, this trend is set to continue, driven by the Island's track record and proactive approach. Despite this success, Jersey has the potential to achieve even more and can stand on equal terms with even the large onshore financial centres.

TRACKING THE ISLAND'S RECORD

Jersey has established a strong and long-standing global reputation as a premium offshore centre. The tax environment has rapidly become a sideshow to Jersey's robust and transparent financial infrastructure, which has attracted clients and advisors from around the globe. In addition, Jersey boasts a populous and well-qualified workforce as well as a healthy budgetary surplus, unlike many of its global financial centre counterparts.

In anticipation of the global trend towards greater transparency, Jersey has proactively engaged with regulators and policy makers to ensure it is well-positioned to comply with new regulations, such as the Foreign Account Tax Compliance Act (FATCA) and other measures implemented by global authorities. The result has been a financial system that constantly innovates to maintain its position as a forerunner in the industry.

Courtesy Chris George

WHAT NOW?

Despite the success that Jersey has achieved to date, there is even greater scope for the Island to make its mark globally. While we may be a small Island, in many areas we are able to compete with the larger financial centres like London, New York and Singapore, instead of just setting our sights on the competitor 'offshore jurisdictions'. This is a realistic and attainable aspiration that admittedly may require a change in mindset on the Island and a deeper acknowledgement of how the global market is evolving.

The number of high net worth individuals (HNWI) seeking wealth management services has grown consistently, as has the size of their wealth. The 2013 World Wealth Report, produced by RBC Wealth Management and Capgemini, showed that the global HNWI population has grown to 12 million with their total wealth adding up to over $46 trillion. The report also forecasts that this figure will grow by 6.5% annually to $55.8 trillion by 2015.

Beyond the numbers, it is even more interesting to consider how the profile of these individuals is changing; where they are based; and the wealth management services that they require.

This presents both opportunities and challenges for private bankers and advisors on the Island. For instance, the new generation of wealthy, whether they have inherited their wealth, or earned it through entrepreneurial endeavours, are extremely tech savvy and accustomed to real-time updates and analysis. While it is futile to try to be all things to all people, firms in the private banking industry will need to respond and adapt to the speed of change while remaining clear about their proposition.

The geographical location of potential clients in regions like the Middle East and Asia-Pacific also presents a challenge for Jersey professionals. Beyond qualifications, firms that wish to target these markets must exhibit the diversity of skills in terms of languages and an understanding of cultural affinity to enable doing business with these parts of the world.

Furthermore, investors have often come to Jersey for single products: trust structures, investment management and banking services. Yet with many of these clients now seeking a wider set of services managed in multiple jurisdictions, wealth managers increasingly need to be able to provide them with truly integrated solutions. The aforementioned World Wealth Report shows that HNWIs prefer to deal with a single firm – just over 41% of those surveyed – compared with only 14.4% who said they preferred to work with multiple firms.

TRUST IS CRUCIAL

It is fundamental that clients have trust in the organisations that manage their money. This has become even more pressing post-financial crisis, when confidence and trust in the banking industry has fallen significantly. Strong performance data is no longer enough, as trust and good stewardship of wealth have become the main drivers behind choosing a manager. This was also borne out in the results of the World Wealth Report, which found that less than half of those interviewed had trust in financial markets and regulators, while 61% said they trusted their wealth managers and firms.

WHAT WILL IT TAKE?

Improving on an already positive track record is no easy task. The firms that will succeed will be those that can make their actions speak louder than words and be clear about their strategy and target market. There is a clear role for advisers to play in helping to rebuild confidence and guide HNWIs through uncertain times while adeptly navigating an increasingly stringent regulatory landscape.

Firms with a culture of accountability at all levels, a reputation for stability in conducting their own affairs, real choice in terms of variety of product and operational jurisdictions and an understanding of the role of business in tending to the fabric of the Island community, will all be standing in good stead as we take on global competitors.

The future will come with its own challenges but the scope of opportunity will make them worth tackling head on as Jersey seeks to maintain its positive growth trajectory and take on the larger international finance centres.

> 'Despite the success that Jersey has achieved to date, there is even greater scope for the Island to make its mark globally'

TIM HOUGHTON

Tim Houghton is Head of Business Development, RBC Wealth Management - British Isles and Caribbean. He is responsible for developing and leading a consolidated business development function across the Channel Islands, UK and Caribbean, and acts as the key facilitator between the business' manufacturing solutions and distribution activities.

Tim holds a diploma from the Institute of Chartered Secretaries and is a member of this organisation as well as the Chartered Management Institute. He is also a Chartered Member of the Institute of Securities and Investments.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Courtesy Chris George

A future-proof funds regime

By Ben Robins

For over 40 years now, funds business has been at the heart of Jersey's finance industry. Today the sector is one of the most prominent and successful amongst its range of financial services.

The international funds landscape in 2014 is, however, very different from the retail orientated focus of the 1970s and early 80s, and Jersey has worked hard to adapt, evolve with the times and remain at the cutting edge as a domicile for alternative funds.

Jersey's funds industry has continued to perform well in recent times, despite challenging global fundraising conditions. The net asset value of funds being administered in Jersey stayed resilient throughout last year, ending the year at £192.1 billion. There are over 1,500 regulated and unregulated funds registered in Jersey (the majority regulated), with the fund formation rate currently at its highest since 2008.

The investment management sector continues to perform well too, with assets under management rising during 2013 by around 5%. Alternative asset classes, including hedge, private equity and real estate, still represent over 70% of Jersey's funds business.

> 'The overall result is a funds landscape in Jersey that offers a full spectrum of fund solutions, from highly regulated retail funds to lighter touch options'

With its current focus on giving the international funds community certainty and confidence in its response to regulation on one hand and a welcome degree of flexibility and product innovation on the other, Jersey is in good shape to capitalise on the strengths of its funds industry in the years ahead.

FULL SPECTRUM

Back in the 1970s, Jersey's reputation as a centre for funds business was largely based on fund groups making use of redeemable share capital companies, accumulation and distribution share arrangements and early umbrella funds. It was a retail funds environment and, as other financial centres within the European Union also began to move into the same area under the UCITS directive, Jersey's fund product necessarily became more diversified with a gradual shift towards funds for institutional and expert investors.

This prompted the introduction of Jersey's Expert Fund Regime of 2004 – which can claim its 10th anniversary this year and is still hugely popular. At the heart of these reforms was an emphasis on making the authorisation of funds targeting expert investors simpler, with a more streamlined approval process that helped Jersey position itself strongly within the alternative investment funds market.

Moving increasingly towards the institutional and sophisticated end of the market, 2008 saw the launch in Jersey of the unregulated 'Eligible Investor' and 'Exchange Traded' fund classifications and these were complemented further by the introduction of the lightly regulated Private Placement funds regime in early 2012, specifically geared to raise funds from limited numbers of sophisticated investors.

The overall result is a funds landscape in Jersey that offers a full spectrum of fund solutions, from highly regulated retail funds to lighter touch options for more experienced, sophisticated, institutional investors.

Courtesy Chris George

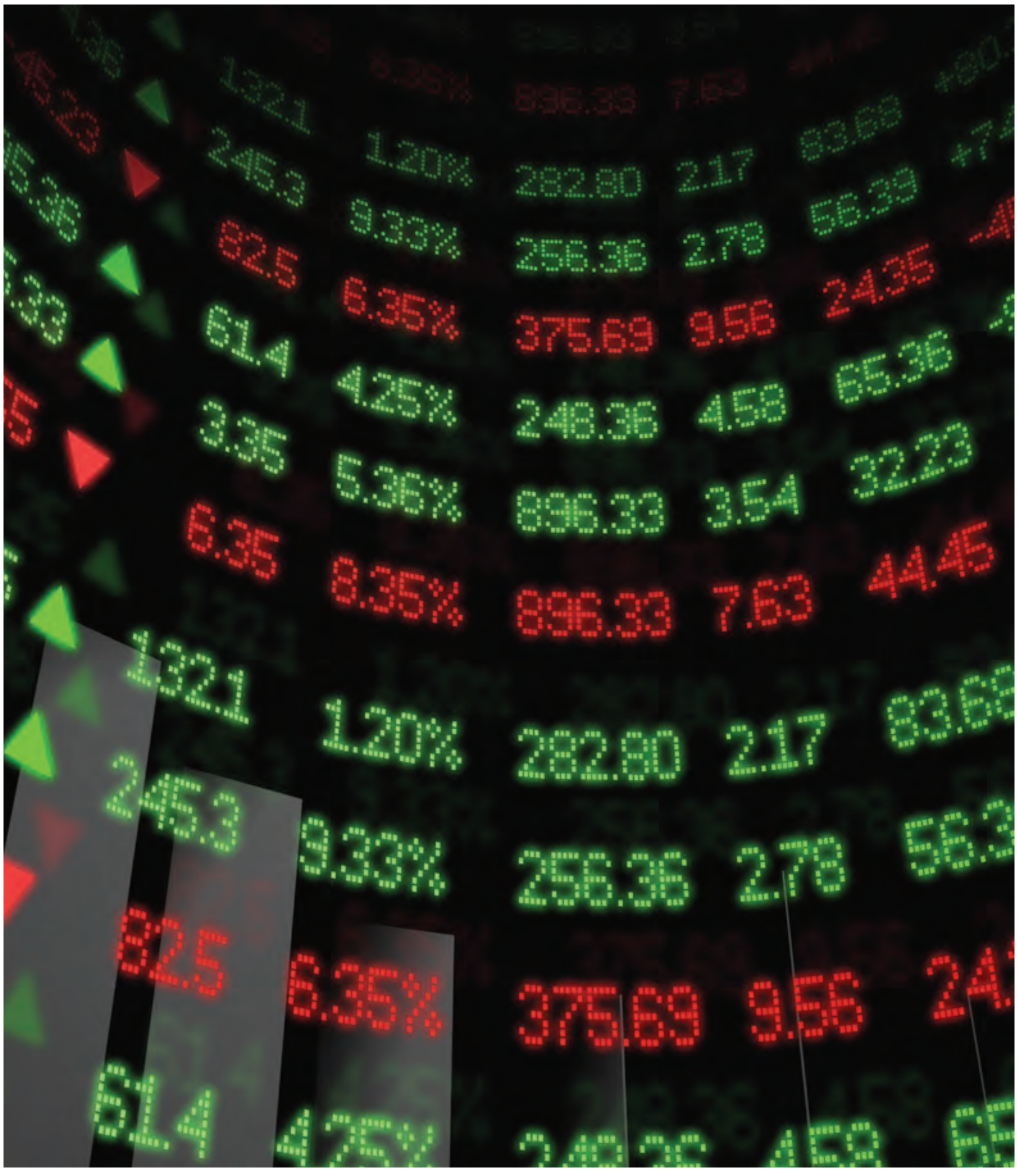
REGULATION

Regulation continues to form a major point of discussion within the global funds community and a major change in the last year has of course been the introduction of the EU Alternative Investment Fund Managers Directive (AIFMD), which came into play in July 2013, followed by a year-long transitional period for implementation by EEA Member States.

Having engaged heavily with the European Securities and Markets Authority (ESMA) and EEA regulators, Jersey has produced a distinct, flexible and 'future proof' response to this regulation and now offers stakeholders a number of different options.

First, having signed regulatory cooperation agreements with regulators in 27 EEA countries in 2013, Jersey can allow managers to maintain EU-focused marketing through private placement arrangements available in EEA Member States. Second, Jersey is – to date – the only third country to create the option of a fully-compliant AIFMD regime for managers to potentially gain an EU-wide marketing passport from July 2015. Third, managers can use Jersey to market their funds to the rest of the world through existing regimes that fall outside the scope of the AIFMD completely. Jersey fund managers that have completed their marketing into the EEA will also not be impacted.

With the transitional period for AIFMD implementation



coming to an end this year, it is a critical time for fund structuring in Europe. The response from the fund management community to Jersey's approach, though, is extremely positive, with all the evidence to date pointing to current users of the Island consolidating their substance in the Island and numbers of new Jersey fund applications increasing. With the UK Treasury confirming its national private placement regime will be in place until 2018, Jersey is continuing to give managers certainty of access to the hugely important UK investor market.

Jersey's existing fund governance expertise, combined with a depth of seasoned fund administration capability, enables Jersey to provide the local substance required to demonstrate that Jersey managers are not mere 'letter-box entities', whilst enabling those managers to comply with the increasingly complex reporting requirements that apply under the AIFMD where they market into the EEA.

GROWTH

Beyond the immediate transition to the AIFMD, maintaining flexibility and developing innovative products remains vital.

With this in mind, Jersey's broad range of fund regimes are kept under constant review - for instance, there are plans to look at enhancing Jersey's funds regime further in due course to make the authorisation process simpler and clearer for new fund promoters.

The crucial importance of maintaining Jersey's position as a key player in the alternative funds sector is clearly recognised by Jersey's Government. The industry is also working closely with Government and the regulator to implement the recommendations of the 'Finance Industry Strategic Jurisdictional Review' report, published last year. This includes looking at enhancing Jersey's presence in areas like cleantech.

In terms of current trends, at the Jersey Finance Annual London Funds Conference this year, 33% of the audience of senior funds professionals indicated that real estate was the biggest growth area for them, with 27% indicating that they saw most potential in private equity.

At the same event, attendees also indicated that they saw real opportunities outside of Europe, with 37% suggesting Asia was their most interesting growth market, closely followed by Africa and Latin America (26% each).

Jersey is well placed to meet both of these trends. The largest private equity fund launched in Europe last year was a Jersey fund promoted by CVC and it was accompanied by a number of other Jersey private equity mega-fund launches. A number of landmark real estate funds have been structured through Jersey recently - for example, the largest ever real estate fund to be listed on the London Stock Exchange, the Kennedy Wilson European Real Estate fund, with a capital raise of over £1bn and one of the largest real estate transactions in UK, the sale of Blackstone's interest in the Broadgate Estate. Investment in several major UK property assets, such as The Shard, Battersea Power Station and parts of Canary Wharf, are also structured through Jersey vehicles. Moreover, an increasing number of major asset managers and service providers have committed to the Island recently, through expansion or relocation, such as Brevan Howard, CVC and Ardian.

At the same time, there has been a noticeable increase in the volume of non-European fund activity being channelled through the Island recently. A rise in the number of Jersey funds targeting assets and investors in growth markets across Russia, Africa and Asia is certainly on the cards this year, where sophisticated investors are increasingly looking at major global property investment opportunities through Jersey.

Whilst managers are still cautious about the full impact of regulation, Jersey offers a compelling solution. Its commitment to innovation and its stance on regulation, means it is in a very strong position indeed. Backed up by a highly skilled workforce and a first class infrastructure, Jersey can continue to give investors, fund promoters and managers the confidence they need in the long term.

BEN ROBINS

Ben is Chairman of the Jersey Funds Association (JFA).

A partner and head of the funds practice area at Mourant Ozannes in Jersey, Ben has extensive experience in investment funds, offshore capital markets and structured finance.

Having qualified as an English solicitor with Speechly Bircham in London, he returned to Jersey to join Mourant Ozannes (then Mourant du Feu & Jeune) in 1997. He became a partner at the firm in 2002 and has headed its Jersey and global funds practice areas since 2008.

Ben has been a frequent participant in local industry working groups looking at key regulatory changes, including most recently the implementation of the EU Alternative Investment Manager's Directive (AIFMD). He was appointed Chairman of the Jersey Funds Association in July 2013.

Jersey: offering alternative fund managers choice

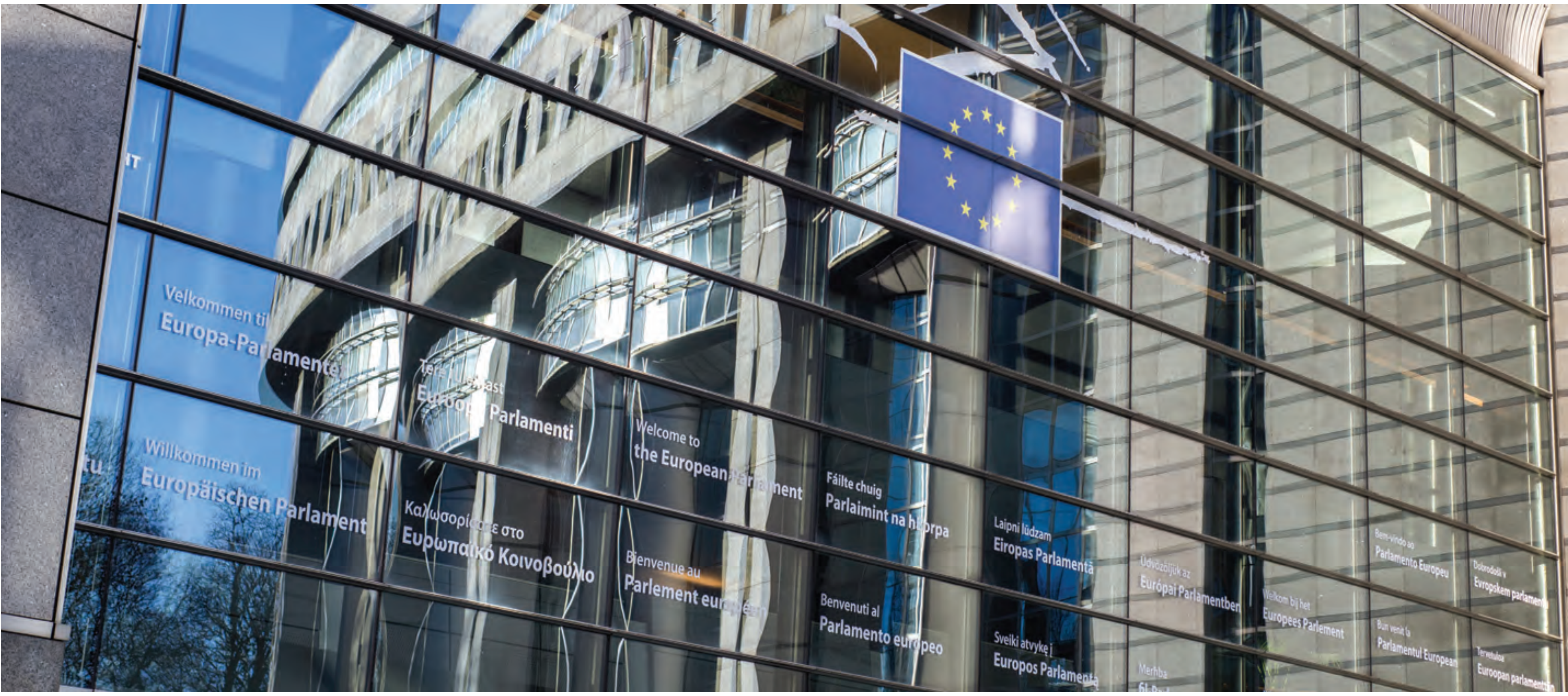
By Jenny Swan

The Alternative Investment Funds Directive (AIFMD) has certainly been eventful and there continues to be increasing interest in understanding the various facets of the Directive and the impact on the way alternative fund managers conduct business going forward. As the Directive's transitional period ends in July, many alternative fund managers are continuing to re-evaluate their funds' arrangements - in particular, the location of their management entity and the implications for their administration and depositary requirements.

Jersey has been a key player in the international investment funds market for over 40 years and has continually adapted its regulatory regime to facilitate the establishment and servicing of alternative investment funds. The jurisdiction is a well known centre of excellence for funds catering specifically for professional and sophisticated investors. Fund promoters are attracted to Jersey by the jurisdiction's stable Government, proximity to both the UK and continental Europe, the expertise developed by the funds industry and a cooperative and well regulated tax environment.

Courtesy Chris George

‘Jersey has a unique position as the first non EU jurisdiction (third country) to offer a fully functional dual regime under AIFMD’



Jersey plays host to a broad range of alternative investment fund managers and continues to see a flow of new managers and applications to establish a physical presence in the market.

Jersey has a unique position as the first non EU jurisdiction (third country) to offer a fully functional dual regime under AIFMD. Regulations have been introduced to ensure compliance, where required, with all the criteria of the AIFMD, including those needed for the European wide passport regime expected to be implemented after 2015.

Jersey offers a variety of fund structures; corporate, unit trust and limited partnership, which provide flexibility to managers and investors seeking substance and lower operational costs. It has signed AIFMD cooperation agreements with 27 European Union (EU)/European Economic Area countries to facilitate continued access to EU markets through National Private Placement Regime (NPPR) arrangements. It will also continue to enjoy easy access to the major UK investor market, with HM Treasury confirming NPPRs will remain in place until 2018.

So the jurisdiction provides managers with options, both in terms of structuring arrangements and routes to market. Managers can establish funds and access EU markets through available national private placement regimes with only, in the majority of cases, the AIFMD's transparency and reporting requirements to contend with. Additionally managers can opt in to a fully-compliant AIFMD regime that provides regulatory equivalence with onshore EU jurisdictions and which may assist with marketing in certain EU jurisdictions.

This early availability of an AIFMD regime gives Jersey a competitive advantage when the AIFMD passport is introduced to non EU jurisdictions which is expected to be after 2015.

As a non EU jurisdiction, Jersey offers a regime that is fully outside the scope of AIFMD for managers that do not require access to EU markets. A June 2013 survey of asset managers and fund administrators by fund software provider Multifonds showed 77% of respondents believe that EU Managers will domicile or co-domicile funds offshore to avoid the costs of AIFMD for non EU investors.

Demonstrating an appropriate level of substance for their offshore funds is also highly important for managers. Jersey is a well respected jurisdiction with a robust operating model that provides substance and oversight in terms of management, administration and depositary services to meet managers' regulatory requirements and tax objectives.

So as managers re-consider their fund arrangements in light of AIFMD, Jersey can present attractive options. The dual regime can accommodate both managers who plan to distribute within the EU and are willing to comply with AIFMD equivalent standards, as well as those who do not. It also provides an opportunity for managers to continue with business as usual whilst assessing the full breadth and costs of the AIFMD.

Managers have the option to convert to a fully-compliant structure with limited disruption in the knowledge that the jurisdiction can provide any prerequisite new services to support the new structure, for example the provision of an independent depositary.

JENNY SWAN

Jenny Swan is the Senior Country Officer for J.P. Morgan's business in the Channel Islands.

With offices in Jersey and Guernsey, J.P. Morgan supports a diverse range of fund structures for Channel Island domiciled and non-domiciled investment vehicles. Jenny has over 20 years experience in offshore financial services and has held senior positions within J.P. Morgan's Investment Bank. Jenny is MBA educated, holds qualifications in Company Directorship and is a member of the Institute of Directors. Jenny also serves on the Executive Committee of the Jersey Funds Association.

Jersey companies listing on markets worldwide

By Guy Coltman

Jersey is renowned as a finance centre and Jersey companies are regularly listed on the world's stock exchanges. The Island continues to build on its appeal as a place of incorporation for companies seeking to list, with many groups seeking listings via a Jersey company on stock exchanges including main market and the Alternative Investment Market (AIM) of the London Stock Exchange (LSE), the New York Stock Exchange (NYSE) and the Hong Kong Stock Exchange (HKSE).

WHY JERSEY?

There are a number of reasons why Jersey is increasingly being chosen as the place of incorporation for a holding company of international groups that are seeking to list shares on the world's markets. Not least is the Island's reputation as an established offshore jurisdiction providing world-class financial services in a well regulated, stable and reliable environment.

The Organisation for Economic Development (OECD) has placed Jersey on its 'white list' along with jurisdictions

'Jersey has, in particular, attracted companies seeking a listing on the LSE, on both the main market and AIM'

such as the UK and the US, and the International Monetary Fund (IMF) ranks Jersey among the leading international finance centres. Endorsement from the OECD and IMF is powerful testament to Jersey's reputation and ensures international confidence in Jersey as a jurisdiction.

Companies looking to list benefit from a large pool of legal, accountancy, banking and other financial expertise available in Jersey and transactions are often easier and more cost-effective as a consequence.

What is also attractive to investors is that Jersey's court system is well developed and is capable of handling the most complex and difficult cases.

Jersey provides a stable, tax-neutral environment in which to establish and maintain corporate structures. Jersey companies (apart from locally regulated financial services companies and utility companies) are, typically, zero rated for income tax and are not subject to capital gains tax within the jurisdiction. Jersey does not levy any withholding tax on dividends and there is no Jersey stamp duty on share transfers. Companies can also be incorporated in Jersey but can be resident for tax purposes in another jurisdiction if certain criteria are met.

Modelled on English company law, Jersey company law is familiar to investors around the world making it easier to understand the implications of using a Jersey company. The law provides further flexibility such as the choice of types of corporate entity available and more flexible options on dividends, share issues and financial assistance regimes (there is no prohibition on financial assistance in Jersey for either public or private companies). In addition, the share buyback, share redemption and capital reduction regimes are straightforward. The flexibility of Jersey law is highly attractive to companies and investors when seeking the place of incorporation for a holding company.

If needs be investors can also replicate investor protection and other market standards through a Jersey company's memorandum and articles of association.

LONDON MARKETS

Jersey has, in particular, attracted companies seeking a listing on the LSE, on both the main market and AIM. This is partly because Jersey company shares settle in the same way as UK shares on the London market (either through the paperless CREST system or through stock transfer forms). This removes the need for a depository receipt programme or branch register and associated costs. In addition, the UK Takeover Code now applies to a Jersey company listed on AIM and the main market of the LSE (other than an open-ended investment company), irrespective of where it is managed and controlled. This is attractive to investors as the Takeover Code is highly regarded among many investor circles.

Polymetal International plc, a leading precious metals mining company, is an example of a Jersey company that is listed on the main market of the LSE. Other examples of Jersey incorporated group holding companies which are also listed on the main board include Cape plc, who moved from AIM to the main board of the LSE, as well as Henderson Group plc and Wolseley plc. Recent examples of Jersey companies listing on AIM are XLMedia plc, WANdisco plc and Safestyle UK plc.

NEW YORK MARKET

There are several Jersey companies currently listed on the NYSE and NASDAQ. Jersey company law is flexible enough to largely reflect the market standards that US investors would expect to see in a company listed on the NYSE. In addition, there are certain share registrars that have operations in both the US and Jersey which enhances Jersey's offering regarding listings in New

York. An example of a Jersey company that is listed on the NYSE is Delphi Automotive plc.

HONG KONG MARKET

Following the decision of the HKSE to approve Jersey as a jurisdiction of incorporation for admission, there has been an increasing amount of investor appeal to list on the Hong Kong market. The first Chinese business listed through a Jersey holding vehicle, West China Cement, was admitted to the HKSE in August 2010. While Jersey and Hong Kong company law are both largely based on English company law, where there are differences between the two, the HKSE will expect any issues to be bridged by way of amendments to a Jersey company's articles of association. The company's internal management and the protections and control afforded to the shareholders will therefore largely reflect the 'norms' under Hong Kong law and will be in line with local market expectations.

THE FUTURE

It is expected that the trend of using Jersey companies to secure listings on stock exchanges around the world will continue. Jersey is also in the process of making further amendments to its companies law which will reflect – among other things – certain innovations brought in by legislation in the United Kingdom which will make it even more attractive as a jurisdiction in which to incorporate a holding company for the purposes of seeking a listing.

Prospective amendments – which are anticipated to be accepted, enacted into law and are wide ranging – include specific provisions dealing with the redemption and buy-back of depositary receipts, removal of the prohibition on the issue of shares at a discount and restrictions on commissions, as well as other developments that may assist publicly traded companies: e.g. the provision of a capital reduction mechanism for Jersey companies to be effected by way of shareholder special resolution and a directors' solvency statement rather than mandatorily requiring court approval (although that route will remain available when the legislation is adopted).

GUY COLTMAN

Guy Coltman is a Partner at Carey Olsen, Jersey.

Guy has worked on a number of high profile transactions in respect of UK and cross-border M&A and private equity transactions. He focuses on corporate finance, particularly AIM and main market listings of Jersey companies, mergers and acquisitions, corporate re-structuring, structured investments, joint venture vehicles and general corporate advice.

His IPO work has included the first listing of PRC assets held by a Jersey company on the Hong Kong Stock Exchange (West China Cement).

Guy recently advised on the Jersey aspects of the listing of XLMedia plc, on its recent migration to Jersey and subsequent listing on the AIM market of the London Stock Exchange.

He completed the most complex acquisition by way of scheme of arrangement in Jersey to date, when he acted for FRM Holdings on its acquisition by MAN Group.

The Corporate Advisers Rankings Guide (February 2014) places Carey Olsen in the top five law firms by the number of London Stock Exchange and AIM clients it advises.

Jersey: a centre for Islamic finance

By Trevor Norman

In October 2013, the 9th World Islamic Economic Forum (WIEF) was held at the ExCel centre in London. This was the Forum's first annual event in Europe and the first in a non-Muslim country, having previously been held in Malaysia, Kazakhstan, Indonesia, Kuwait and Pakistan. As will be seen from other articles in this publication, the links between Jersey and the City of London, together with other financial hubs throughout the UK, are long established and many would argue interdependent.

This article will explore the particular synergy between Jersey as a centre for Islamic finance and the financial centres in the UK that are utilised by institutional and personal clients from the Middle East, and more recently those from the Far East.

At the opening of WIEF, the British Prime Minister David Cameron announced that the UK is working on issuing a debut sovereign Sukuk in the wholesale Sterling market and launching several other initiatives. This has renewed interest in Islamic finance across a

'... in almost 20 years of structuring Shariah-compliant vehicles, I have yet to encounter a problem with a structure or contract that could not be accommodated within Jersey's laws'

wide spectrum of business interests both in the UK and other finance centres associated with the UK but this is an area of expertise where Jersey can rightfully claim something of a head start over many other finance centres as will be discussed further on in this article.

The Prime Minister was quoted as having said: "For years people have been talking about creating an Islamic bond – or Sukuk – outside the Islamic world. But it's just never quite happened. Changing that is a question of pragmatism and political will and here in Britain we've got both. This Government wants Britain to become the first sovereign outside the Islamic world to issue an Islamic bond. So the Treasury is working on the practicalities of issuing a bond-like Sukuk worth around £200 million and we very much welcome the involvement of industry in developing this initiative which we hope to launch as early as next year."

These comments did not go unnoticed in Jersey, particularly by those practitioners who worked on the first Sukuk based structure issued through a Jersey company that was established in the Island as long ago as 2004.

Mr Cameron went on to state that the ambition for London is not merely to be the biggest centre for Islamic Finance outside the Muslim world: "Our ambition is to go further still, because, I don't just want London to be a great capital of Islamic Finance in the Western world. I want London to stand alongside Dubai and Kuala Lumpur as one of the great capitals of Islamic Finance anywhere in the world."

Financial institutions in Jersey have been providing services to Muslim clients and in particular those resident in the GCC, for many years. One of the main advantages of Jersey is that it has not had to make any changes to its laws to permit Islamic financial transactions or investment, thereby ensuring that conventional and Islamic financial products are governed, regulated and administered on the same basis. Often the changes to the laws of other countries derive from having to determine the taxation treatment of financial contracts under Shariah where interest is forbidden and where the profits arising from the Shariah-compliant contract do not readily fit within the countries tax laws. Jersey's position as a tax-neutral jurisdiction means that no such amendments are necessary but also our other corporate laws and regulations are such that in almost 20 years of structuring Shariah-compliant vehicles, I have yet to encounter a problem with a structure or contract that could not be accommodated within Jersey's laws.

Set out below are some examples of some recent transactions structured using Shariah-compliant vehicles established in Jersey:

- Gatehouse Bank, one of the five Islamic banks registered in the UK, has issued two Sukuk through a Jersey Protected Cell Company structure, that are secured by UK real estate assets-under-management and have structured the acquisition of a number of

> "Financial institutions in Jersey have been providing services to Muslim clients and in particular those resident in the GCC, for many years"

other commercial properties in various sectors including industrial, student accommodation and offices on behalf of their clients

- In addition, Gatehouse established, alongside Sidra Capital (a Saudi Arabian and CMA-regulated Shariah-compliant financial services company), the Sterling UK Real Estate Fund (SURF) to invest in Shariah-compliant commercial real estate in the UK
- Lembaga Tabung Haji of Malaysia have invested in two substantial Central London commercial properties and another in the Greater London area
- London Central Portfolio have established two Shariah-compliant funds in Jersey that invest in prime residential property in Central London
- Sukuk Trust certificates for up to US$6.5bn are issued by IDB Trust Services Limited, a Jersey company that is part of the Islamic Development Bank Group, have been admitted to trading on the London Stock Exchange, as well as trust certificates being listed (but not quoted for trading) on the Bursa Malaysia
- A Jersey legal firm acted for Qatar Islamic Bank and Qatar National Bank (acting through its Islamic branch QNB Al-Islami) as advisors and arrangers in connection with Qatari Diar Real Estate Investment Company's Shariah compliant facility for LBQ Limited, the developer of the landmark Shard of Glass building at London Bridge

Whilst the activities of Islamic Financial Institutions are widely reported, either by themselves or their advisers, such that it is relatively easy to find evidence of increasing activity in this market, the same cannot be said for private individuals, many of who will be looking to benefit from the confidentiality and privacy of using trusts and other vehicles established in Jersey. There are many reasons why an individual may wish to establish such an entity ranging from the simple creation of a company to own, for example, a holiday residence in London, to the more complex structures required by a family office or the ownership of a family business to ensure that this is not broken up on the death of the patriarch and founder.

There is a lot of empirical evidence of a number of families from the Middle East purchasing a property (or properties) in the European countries, both as means of diversifying their portfolio and as a potential refuge in the event of political disturbance in their home country. Many have purchased substantial properties in the UK and many of these are owned through Jersey companies, which in turn are owned through a trust established in order to maintain confidentiality over the ownership of the property and/or to eliminate any issues over obtaining probate in the event of the death of the beneficial owner.

CONCLUSION

Islamic finance and Shariah-compliant structures cover a wide variety of business needs from Collective Investment Funds, through Sukuk investment and funding structures, to family offices and private wealth holding vehicles. As previously mentioned, in almost 20 years of working in Islamic finance, I have yet to encounter a structure or form of contract that could not be accommodated within Jersey's laws. Add to this the depth of knowledge, expertise and experience in Jersey relating to establishing these structures in a Shariah-compliant manner, together with Jersey's long-standing connections and relationship with London and other financial centres, leads to an expectation that the Island will continue to grow and develop the financial services offered to Muslims throughout the world.

TREVOR NORMAN

Trevor Norman is the Chairman of the Islamic Finance Community of Interest Group of Jersey Finance.

He joined Volaw in 1988, becoming a director in 1989 and is responsible for the management of Volaw's Funds and Special Purpose Vehicles team, together with their Islamic Finance team. He is an acknowledged industry specialist in Islamic finance work, having specialised in this work for over 15 years. He has worked on a wide variety of Shari'a-compliant transactions, including several real estate funds, various specialist Shari'a screened equity funds and the award-winning Caravan I securitisation Sukuk. The author of several definitive articles on Islamic finance, Trevor is a regular speaker on the subject at international conferences.

He is a Fellow of The Institute of Chartered Accountants in England and Wales and a member of the Society of Trust and Estate Practitioners (STEP), the Institute of Islamic Banking and Insurance, the International Tax Planning Association and the Institute of Directors.

Developing a Digital Jersey

By Paul Masterton

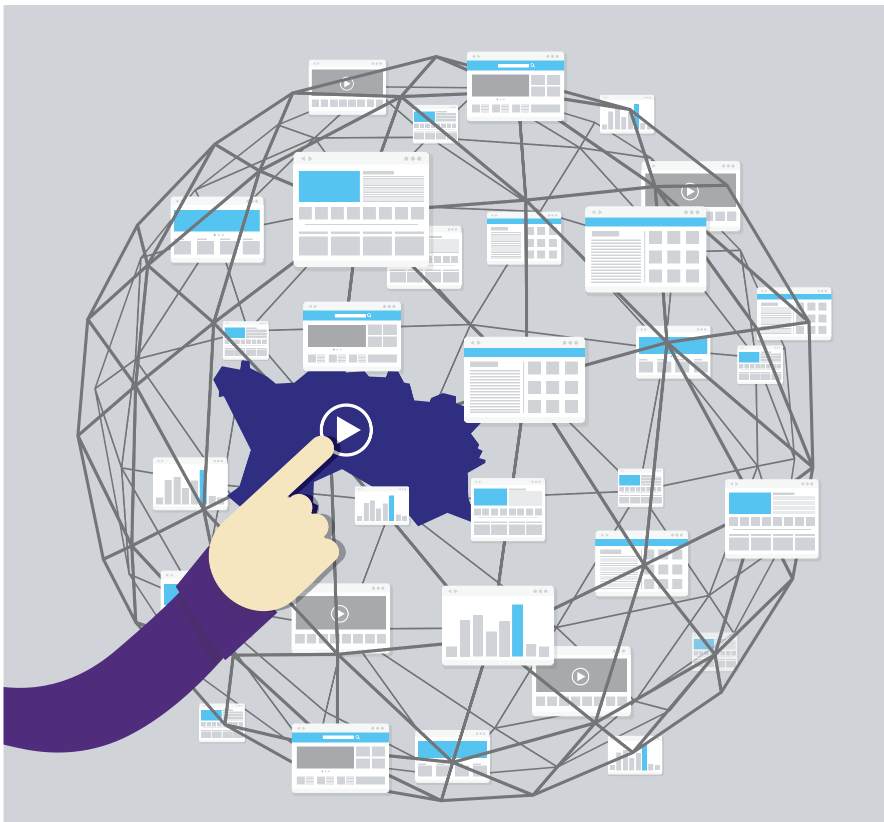
The pace of technology change is a torrent, sweeping through structures and institutions, both business and social. It is impacting everything we do, how we work, play, communicate and even who we are.

Standing, Canute like, in front of this is impossible even for the most entrenched 'Luddite', neither is it enticing. Yet how do individuals, companies, industries and countries keep up, survive and, more importantly, thrive in this new dynamic? This is a questions for us all, not least the finance industry and, therefore, not least Jersey.

While considering this, we need to acknowledge that there is no respite on the horizon and that the factors driving technology are only accelerating.

It took 75 years for the telephone to get into 90% of households, mobile phones only 15 years and smart phones far less. Facebook has done in just eight years what the CIA failed to do in over 60 years – to find out what over a billion people around the world are thinking, feeling and doing. Inexorably it goes on, driven by Moore's Law – not a 'law' at all but an

'Recognising the crucial role that technology plays and the opportunity for growth in the digital sector, Jersey made a commitment to the future'



observation that the power of computing doubles approximately every two years – which has become the driving force for technological and social change in the 20th and 21st centuries.

Added to this, by the end of 2012 'only' 35% of the world's population was online – that is over 2.4 billion, up from 360 million at the turn of the century, with the growth rate accelerating. The 'pipes' that connect us – mobile and fixed – are getting bigger, allowing more and more data and services, at almost instantaneous speeds, accessible almost anywhere at anytime via mobile devices and through new tools such as Google glass. Even our cars and fridges are now 'smart'.

Add to this tsunami of change the deep and complex challenges that all societies face – population growth, aging population, strained infrastructure, depleting natural resources, economic growth, environment, education, crime and much more – make the future a scary place. Scary or not, daunting or not, it is not going to wait for us and we cannot ignore it, not here in Jersey, not anywhere. Consequently we need to be positive and get on with it.

Now how does this match with drivers in the financial world and the fundamental desire for stability, robust and fair regulatory systems, transparent and ethical practices, accountability and delivery of excellent services?

The answer is that the match is excellent and the financial world is quickly waking up to evolving technology and the benefits of 'FinTech'. FinTech has the ability to dramatically and beneficially impact the financial services sector both 'behind the curtain' – essentially all the procedures, processes and structures that enable financial organisations to operate, and 'in front of the curtain' – how it delivers services to and communicates with its customers. The application and introduction of new applications and services is both necessary and impressive, not least demonstrated by the amount of investment money flowing to this sector and the growing number of highly successful exits.

While set to continue, growing 'friction' in the system is beginning to act as an unnecessary brake, not least the growing mismatch in speed with the challenge of regulation and legislation keeping up with new developments.

Recognising the crucial role that technology plays and the opportunity for growth in the digital sector, Jersey made a commitment to the future, a commitment that led to the launch of Digital Jersey in January 2013. Contributing to this was the compelling need to sustain the traditional and critical drivers of the economy, particularly the finance sector, while also aiming to develop additional economic drivers. What does this mean for the Island as Digital Jersey gets going?

For a start, Digital Jersey has set three high level objectives: economic, societal and reputational. The economic objectives are centred on business growth and job creation, supporting businesses already here and attracting new companies to the Island. The reputational objectives are around putting Jersey on the world map as an attractive place for digital business, by which we mean anything with bits and bytes, from software development through to animation. Our societal objectives are those which will be experienced by Jersey's residents, businesses and visitors and focus on education and training, plus how technology can improve the quality of life. Jersey thrives on social capital – that is the networking that does not involve wires and

WiFi. Having Government, businesses and the population in close proximity gives us a valuable opportunity to connect the means of deploying technology with those who may benefit from it.

Delivering these objectives, needs to reflect the major technology trends that are emerging globally, not least that we increasingly live in an 'always on' and an 'always connected' world.

At the same time, Jersey will achieve these aims by ensuring that critical dependencies are in place to support the growth of the digital sector, including skills availability and development, competitive telecommunications infrastructure, a compelling suite of incentives to attract business to the Island, an agile and effective regulatory regime and a commitment to eGovernment.

Many countries with successful growth in the digital sector have prioritised the need for eGovernment, meaning how governments use the internet to get information and services to citizens and, in return, how citizens interact and communicate with government.

The States of Jersey have delivered a bold eGov vision that is gathering pace, with a 'citizen-centric' approach, which means delivering services in a way that makes it easy for each of us – and business – to handle the many ways we deal with the Government, whether this is for our tax, health, social services or employment. There are huge advantages that this brings – ease of use, less time required, more cost effective – while a strong eGovernment structure also stimulates innovative services and drives new business development. The target is that by 2016 75% of our interactions with Government will be 'digital', a massive change from today which stands at less than 10%. This ambitious target will have huge societal benefits and implications.

In the past Jersey has been viewed and used as an ideal market to test new products and services – the same holds true for new technologies. For example there are huge opportunities in eHealth, where Jersey could, potentially, be the first jurisdiction in the world to benefit from services which will help us to continually monitor our health and interact with clinicians for preventative programmes or without having to travel to a doctor's office as often. Similarly, we could be the first to give everyone access to wearable health monitors.

Aside from developing or testing new technologies in the Island, Jersey can and should benefit from deploying digital services in traditional sectors, in tourism, retail and most especially in the finance sector. Working together, Jersey Finance and Digital Jersey can identify ways to encourage and incentivise the development and roll out of new FinTech to major benefit for the industry and to this new digital sector.

Technology cannot generate growth or new services without new skills, meaning that technology education and training is a priority for the Island and for Digital Jersey. Early in 2014, we are launching the Digital Learning Hub, which will give those seeking a career in the digital sector a chance to develop their knowledge, working alongside companies, aiming to be in specialist employment within a year. The hub will also provide a location for students to interact with companies, while hosting coding clubs, meet ups and adult skills courses.

With completion of the Gigabit Jersey project, which provides fibre connectivity to all homes and all businesses, the on- and off-island data capacity will be world class in terms of bandwidth and unique in terms of ubiquity. The availability of high speed wireless connectivity in Jersey from 2014, with the roll-out of 4G networks, will make this Island a great place not only to conduct data-centric business but also to develop new enterprise. The high bandwidth of the Island's networks have a capacity for significant growth in the digital and financial service sectors and there is a supportive business community ready to engage in the development and delivery of innovation in fields such as data administration, retail and eCommerce services, eHealth and energy management.

This competitive position will play to Jersey's strengths, including its strong reputation as a well regulated and governed finance centre, its agility as a small jurisdiction and its high degree of social capital – all important elements for a 'digital ecosystem' that enables growth, fosters talent and supports new enterprise and business practices.

PAUL MASTERTON

Paul Masterton is Chairman of Digital Jersey.

Following a 30 year career in printing, business outsourcing and data management, Paul was chief executive of the Durrell Wildlife Conservation Trust from 2008-13. In addition to Digital Jersey, Paul holds non-executive positions in finance, insurance and property development, is a Governor of Highlands College and Vice President of the Jersey Hockey Association.


The forecast is for Cloud
Freedom to do business anywhere with JT Cloud
JT's Cloud Service offers the first Enterprise grade cloud platform in the Channel Islands backed by a world class vendor with international reach.
With access to your business critical data anytime and from anywhere, our new Cloud Service comes with the high security, trust, performance and dynamic agility that our customers have come to expect.
JT is the only Channel Island based service provider with 120 years of local and international experience that truly offers a complete, fully managed suite of world class products and services.
We're so confident about our Cloud Services, we'll let you try it for FREE. Contact our Business Solutions team today to sign up.
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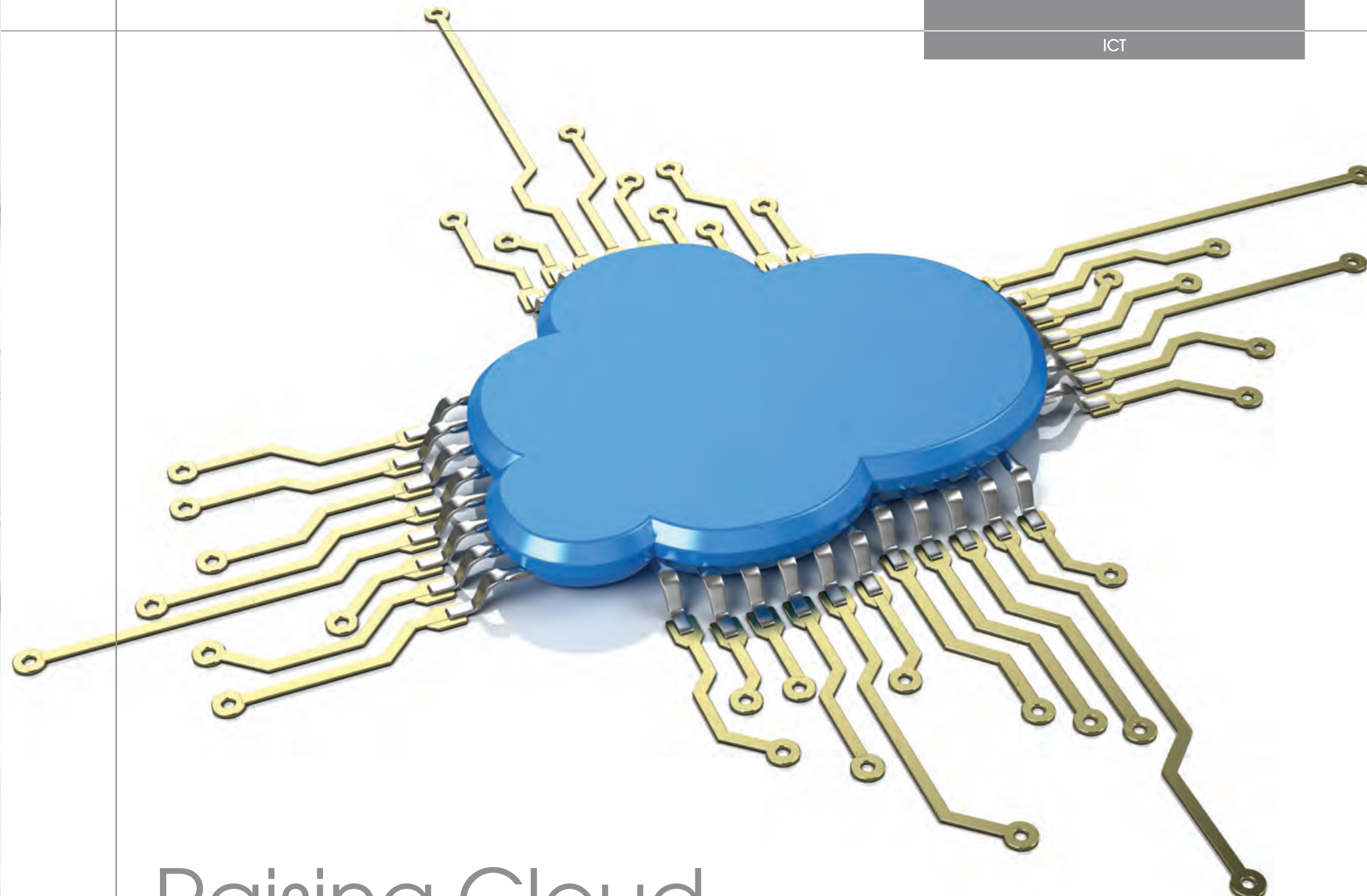

Raising Cloud security solutions

By Paul Taylor

The face of cyber crime is changing. It is no longer the sole reserve of politically-motivated bedroom hackers, or small gangs looking to extort money by exploiting breaches. It is now part of the organised crime mainstream, with well-resourced and highly-skilled gangs targeting any kind of company where they can find a weakness. However it has also taken a step further – the ability to attack a site has become commoditised, so that anyone can anonymously 'buy' an attack to hit a website or online service, seeking to slow it down or take it offline completely.

An estimate from industry leaders Symantec put the cost of cyber crime in 2013 at some $113 billion, with 93% of large UK firms reporting an attack in 2013. The UK figures led the Coalition Government to establish a National Cyber Crime Unit and marked a new sense of political urgency about cyber security – US President Barack Obama has said that 'cyber threat is one of the most serious economic and national security challenges we face as a nation'.

The response to this shift – largely driven by organised gangs from Russia and China – has been a dramatic change in the way that we all think about online security (driven also by the Snowden/NSA revelations) which has opened an international debate about the meaning of privacy in an age where just about anyone can publish just about anything, at just about any time.

It has also led to enormous changes in the way that companies treat their data and systems.

Essentially, it is a new arms race. As the hackers become more sophisticated and better-resourced, businesses that are targeted must invest and become more creative about keeping their data and systems secure. Why the need for

'...if defences are breached entirely and key data stolen, (it) is not just strictly a commercial issue, it is also reputational'

investment and innovation? Because the damage that comes from an attack on a site, whether it is brought down or simply slowed, or if defences are breached entirely and key data stolen, is not just strictly a commercial issue, it is also reputational and can affect an organisation's brand.

One of the most straight forward steps is to place your data and systems in the Cloud, where they will be protected by a purpose-built data centre run by specialists, in an environment that is dedicated to security. That also offers two levels of security – one outward facing, that aims to deal with threats from hackers and DDoS (Distributed Denial of Service) attacks where a server is flooded with attacks; and one inward facing, to ensure that the different users of a Data Centre cannot access each other's information.

Outward facing security systems, such as the one JT has developed in line with partners SecurityDAM and Radware, work through the Cloud, monitoring all traffic in and out of the data centres and are able to deal dynamically with attacks from sophisticated hackers that start with a 'low and slow' intrusion to stay under the radar and then shift to a volumetric attack that could threaten a website's ability to maintain service. Those attacks are getting more and more intense – February saw a massive DDoS attack on US and EU-based servers that are thought to have reached 400 gigabits-per-second in power, that is around 100 gigabits stronger than the Spamhaus attack in February that was thought to be the biggest of all time.

Equally important is the inward facing protection. Every business relies on its data whether that is in terms of client records, file management or data underpinning core systems and processes. That is why our cloud management systems sit on dedicated network and server infrastructure, with robust multi-tenancy safeguards insulating virtual servers and using enterprise-grade network segmentation. Clients manage all access to their networks, restricting traffic as they see fit – and the whole system is subjected to regular penetration tests by external testing firms to make sure that there are no exploitable vulnerabilities.

However, it is not just hackers that this solution offers protection from. While there are cheaper server farms around the world that offer low-cost no-frills Cloud solutions, that cheapness comes with a price tag. By putting data on a server in another country, it might open it up to scrutiny from that country's authorities. Some clients who value their privacy might not like that idea and from a regulatory point of view it makes more sense to keep the data offshore so that you are dealing with one coherent suite of legislation and regulation.

There is physical security and utility infrastructure in place too, at a level that in-house providers will not have invested in. It goes beyond 24/7 presence by guards and CCTV monitoring – it reaches the realms of requiring biometric authentication to gain access to the heart of the data centre, as well as state-of-the-art power generation, early-warning laser smoke sampling systems and resilient cooling systems to keep your data not just secure but also accessible too.

What all of this adds up to is that security is an issue that has to be taken seriously, particularly right now. For a variety of reasons – certification by the relevant authorities, partnerships with industry leaders in the field and the benefits provided by an independent Tier one operator – such a solution is the right choice for those in the international finance sector.

PAUL TAYLOR

Paul D. Taylor is the Managing Director of JT's Global Enterprise Business Unit.

He has over 25 years telecom industry experience working in the UK, Caribbean, Channel Islands and the Isle of Man, overseeing global projects in countries as far afield as Panama, the US and Bermuda.

Throughout his career, he has held a number of senior leadership roles within global telecoms companies that took him to Guernsey in 2008 where three years later Paul joined the JT Group as Managing Director for JT (Guernsey). He has now been promoted to Managing Director for JT's Global Enterprise Business Unit, where he is now responsible for developing the business across both the Channel Islands and globally.

First for global business

By Graham Hughes

Connectivity is crucial to Jersey's finance sector. Over 40% of the Island's economic activity is generated by the industry and the Island's position at the top of international financial league tables is underpinned by effective, world-class, global communications.

Jersey's situation as a key international finance centre is not without its challenges. First, there is the issue that it needs to overcome on a daily basis – it is an island that needs to be kept in constant contact with the rest of the world if it is to maintain its position as a reputable and efficient business centre. If Jersey is to continue playing an important role within the machinery of global financial systems it can only do so because its communications infrastructure is robust, resilient and most importantly, reliable.

Second, a multitude of political, economic and competitive pressures are being brought to bear on the Island's finance sector, requiring Jersey to look further afield than it traditionally has in order to find new markets in emerging economic regions such as the Middle East & Northern Africa and the Far East.

I am keenly aware of the need to keep Jersey connected. Our off-island links are fast, diverse and have ample

‘As the digital economy grows, Jersey is well placed to provide digital services to businesses and consumers wherever they are based’

capacity to carry the terabytes of information that are sent to and from the Island.

We not only carry information but offer the means to store and process it in our world-class data centres. As Sure has enormous experience serving the demands of the international eGaming industry as well as Island-based businesses, it means our data centre facilities and expertise are robust and secure.

We have also built an Enterprise Network Team that is dedicated to working with you to ensure you have the means to operate locally or globally. No matter what the size of your business or how quickly you wish to grow, the Network Team works with you over time to ensure you have the right network for your circumstances.

Whether you are involved in trading and eCommerce, which requires up to the second information and decision making or you are focused on the security, adaptability and reliability of your communications infrastructure, our Network Team can provide networks and systems to ensure means of communication are fast, robust and resilient.

The need for businesses to have resilient global networks makes the choice of communications partner extremely important. As organisations build a global footprint, they need to be confident they are working with the right people and should choose a company that has the expertise and the global reach to design, build and most importantly, to maintain infrastructure that needs to be working 24/7, no matter where in the world the company has its bases. Headquartered in Bahrain, our parent company, Batelco Group, is a global communications business operating in 17 jurisdictions on four continents. This structure helps us deliver local solutions backed up with the global knowledge and resources that companies located in Jersey need to succeed. Batelco has vast experience of doing business in the Middle East and Africa, which are key areas in which the Island is looking to increase its presence.

At the heart of the communications industry is its ability to deliver high quality, extremely functional networks that enable a business to reach far beyond its home base. However, as we deliver today, we are also looking and building for the future and are ideally positioned geographically to support Jersey’s finance industry in its search for new markets.

Innovation and customer care are the foundation stones of the communications sector and we are focused on delivering state of the art communications and networking expertise in Jersey, bringing quality of service and technological innovation to local businesses.

A key element of this is the implementation of a 4G mobile network. Sure has partnered with communications equipment provider, Huawei, to construct a 4G network as soon as regulatory approval is received. This latest generation technology will provide mobiles with superfast connectivity, giving Jersey businesses a competitive advantage as they become able to access and provide high-bandwidth services via mobile devices.

As the digital economy grows, Jersey is well placed to provide digital services to businesses and consumers wherever they are based.

The latest high quality communications technology available in the Island means that companies working in, moving to or doing business in Jersey, can expect to receive the highest levels of service and skills based upon a foundation of global, world-class expertise combined with the insight that only local knowledge can deliver.

GRAHAM HUGHES

Graham Hughes is Chief Executive of Sure Jersey and a member of the Sure group’s Executive Committee.

Graham was born in Jersey and following a career in Aeronautical Engineering with the Royal Navy, returned to the Island working as Senior Company Officer for Reuters in Jersey, Guernsey and the Isle of Man. He joined Sure in 2004 for the launch of Sure’s Jersey operations and leads the firm’s commercial, operational, sales and revenue strategy in the Island. Graham’s appointment to the Executive Committee in 2013 highlights the strategic importance of the Jersey business to the Group.

Courtesy Chris George

Jersey's new enterprising economy

By Senator Alan Maclean

In the new economic landscape that is emerging from the global downturn of recent years, opportunities are now beginning to present themselves.

Those who want to do business here must be able to make the most of those opportunities and it is up to Government to make sure that Jersey provides an environment which actively encourages the competitiveness and diversification which will lead to economic growth.

One of the key factors in achieving this will be Jersey's ability to promote and support enterprise in our economy: enterprise which is driven by entrepreneurs, local businesses and inward investors; increases economic output and productivity and, importantly, drives a broadening of the Island's employment and fiscal base.
The 2014 – 2015 Enterprise Action Plan lays out this Government's commitment to development and entrepreneurial activity across all sectors of the Jersey economy.

It recognises that wealth is created by the actions of businesses of all sizes and in all sectors, and that Government should not duplicate or substitute private sector activity. There is however an important role for more targeted Government interventions to address market failures and ensure the best outcome for the economy as a whole.

The plan is a recognition that whilst Jersey has a strong economic base to build on, continued growth is needed to fund increasing demands on public services and the need to invest in the Island's infrastructure.

Photos: Chris George



The priorities in our new Enterprise Action Plan are to:

- Improve the productivity of all sectors
- Improve the competitiveness of all sectors
- Encourage and support innovation
- Reduce the barriers to doing business
- Support the development of skills, leadership and management
- Encourage and support Inward investment
- Improve access to business finance
- Enhance the amount of business support available.

The successful delivery of these priorities will depend on the partnerships Government forges with private sector businesses across a variety of sectors and with business interest organisations. The Chamber of Commerce and Institute of Directors will both have an important role to play in encouraging enterprise in our economy, as will industry and specific organisations such as Locate Jersey, Digital Jersey, Jersey Business and Skills Jersey. Between them, these groups will have lead responsibility and accountability for delivering the majority of the actions within the plan.

Our Enterprise Action Plan aims to improve upon what has been achieved to date and be more targeted in its delivery. It balances encouraging investment in high value added activity across all non-finance sectors with raising the productivity of our traditional sectors such as tourism and agriculture.

Since the late 1970s, economic growth in Jersey has been largely the result of a change in the makeup of our economy to high value added activity, primarily focused on financial and professional services. Within the last decade, this focus has started to shift and we will be encouraging new, strong innovative enterprise across all sectors.

As such, the plan is not sector specific and presents a range of new policies closely aligned with the priorities established in the Island's 2012 Economic Growth and Diversification Strategy, which was itself developed to answer the commitments made by the Council of Ministers in their Strategic Plan. The Plan supports the need to continue developing a modern framework for intellectual property legislation as well as the diversification into completely new areas, such as the creation of a Jersey Aircraft Registry and developing a digital economy.

Wealth is created by businesses of all sizes and in all sectors. Our plan is not only to support this fact but also to acknowledge that Government should not seek to duplicate or substitute private sector activity. Instead, there is an important role for Government to play in targeted interventions to address market failures and ensure the best outcome for the economy as a whole.

Our best measure for success of the Enterprise Action Plan will be in the increase in productivity in all existing sectors and job creation in high value activity businesses.

Given the constraints on land and labour in Jersey, businesses still need a good supply of a broad range of skilled staff to ensure they can reach their full potential and deliver economic growth.

Government's continued commitment to investing in home-grown talent are reinforced in a new skills strategy. This new strategy places the development of the Island's current and future workforce at the top of Government's priority list.

We actively encourage businesses with growth potential – and this includes inward investment to the Island. In so doing we recognise that certain specialist skills are not always available locally and will need to be imported to enable growth. A flexible approach to staffing is critical if we aim to stimulate growth and diversification of the economy and more importantly create a variety of new job opportunities for locals.

To maximise the contribution of enterprise, productivity improvements must be supported throughout the economy in both new start-up enterprises and established businesses. Our investment in enterprise will create new business, develop new activity in existing sectors and provide the driver for sustained economic growth.

Government's ability to encourage enterprise and the commitment outlined in the Enterprise Action Plan will help us ensure that a varied and vibrant economy continues to underpin our prosperity for the benefit of future generations.

SENATOR ALAN MACLEAN

Senator Alan Maclean is the Minister for Economic Development, States of Jersey.

Before being elected to the States of Jersey in 2005 Senator Maclean had extensive private sector business experience in both the UK and Jersey including a marketing and public relations company, an estate agency, a property management business and a property development and investment business.

Senator Maclean has political responsibility for the Ministry for Economic Development since 2008. The Department has responsibility for supporting and encouraging growth in all sectors, including financial services, tourism and agriculture, plus new emerging marketing in the digital economies.

In addition to his Ministerial responsibilities Senator Maclean also has political lead for reform across the public sector in Jersey.

A targeted approach to inward investment

By Wayne Gallichan

For some years, Jersey has provided an attractive environment for businesses to flourish and that appeal persists in today's ever more competitive, globally-focused business landscape.

As part of the Economic Development Department within the States of Jersey, Locate Jersey is responsible for promoting attracting and retaining inward investment for Jersey. We advocate sustainable economic growth, development and employment within the Island, as well as supporting high value individuals and their families who are looking to relocate.

These efforts are paying real dividends. Over the past four years, we have seen noticeable increases in enquiries from businesses wishing to establish a presence in Jersey. In 2013 alone, Locate Jersey handled 158 enquiries from businesses and individuals about moving to Jersey and assisted 28 businesses in achieving licence approval, creating 245 job opportunities as a result, 235 of which were for local people.

This is a reflection of the fact that business heads continue to find Jersey a welcoming, sophisticated, friendly

‘Across its finance, tourism, retail, digital and eCommerce sectors, Jersey has a great deal to offer the Chinese market’

jurisdiction where everything is geared up to enable their internationally-focused businesses to prosper.

As well as offering some of the lowest direct tax rates in Europe, they are attracted by Jersey’s well established financial and professional services infrastructure, its highly experienced network of professional services firms and globally-renowned experts, and by the approach of its business-focused, independent Government.

SECTORS

Complementing Jersey’s ongoing efforts to promote its financial services through Jersey Finance, we are seeing sectorial growth in a number of different areas, including mining, technology, cleantech and eCommerce, as well as high end luxury goods.

Mining executives, for example, are looking increasingly for financial expertise, access to capital markets and business support that can both protect their worldwide assets and help their businesses grow. Jersey fits the bill as a credible jurisdiction to locate the headquarters of exploration and mining companies.

There are currently 11 mining companies in Jersey with a significant management and executive presence, some having had their headquarters in the Island for over 10 years and five having relocated in the past three years alone. They are involved in the exploration, development and processing of a range of minerals, with sites ranging from Armenia and the Middle East, to Ghana, Papua New Guinea, Australia and New Zealand.

Meanwhile, within the technology sphere, there is growing interest in Jersey from a broad range of tech firms – both established names and innovative start-ups – as a location to support their ambitions. There are a number of reasons for this, including Jersey’s financial expertise, stable and resilient communications infrastructure and position as one of the first jurisdictions in the world where all residents and businesses will be connected at gigabit speed through a fibre network.

Jersey has formed a particularly strong partnership with Israel in this area and a number of Israeli tech companies are considering establishing a presence in Jersey to help support their expansion, are currently using Jersey as a centre for research and development; whilst fund, company and fiduciary administration services are also being provided by Jersey firms to a number of Israeli tech businesses.

It was particularly exciting that Locate Jersey, together with Digital Jersey, hosted an ‘Island Innovators’ unConference event in April 2014, in conjunction with Israeli entrepreneur Yossi Vardi, when over 140

Courtesy Chris George

technologists and digital entrepreneurs from 15 different countries visited Jersey to discuss developments in the tech sector.

OVERSEAS MARKETS

Jersey's future success rests on building strong relationships with targeted growth markets around the world.

Over the past year, we have put in place a comprehensive programme of activity to position Jersey as an attractive relocation prospect for both businesses and individuals, through regular attendance at events in the UK and promotional efforts in key overseas markets, stretching from Hong Kong and mainland China, through to Israel and South Africa.

This strategy resulted in the establishment last year of a business development presence for Locate Jersey in Beijing, using the China Britain Business Council (CBBC) Launchpad service, in order to focus efforts in an increasingly important market for Jersey.

Across its finance, tourism, retail, digital and eCommerce sectors, Jersey has a great deal to offer the Chinese market and the Island is very well placed to act as a gateway to Europe for the raft of Chinese firms seeking to expand globally, thanks to its flexible company law and listings expertise.

To support that, Locate Jersey has held successful events in Hong Kong, Hangzhou and Shenzhen, whilst Jersey Dairy's venture in exporting Jersey milk to Asia continues to be highlighted as an example of innovative business, cementing that relationship.

Beyond China, we continue to talk to growing businesses in other regions too, including Israel and South Africa, which are keen to access investor capital by listing on exchanges in key markets such as London. We will continue to promote Jersey's expertise in this area through our programme of overseas markets activity.

RESIDENCY

Another strand of Locate Jersey's work, is attracting high value residents.

New rules provide greater clarity and have narrowed the gap on competitor jurisdictions, with a much greater focus now on ensuring that all high value residents contribute actively in some way to Jersey's economy.

Jersey is a very open jurisdiction with a simple relocation process and last year 14 high value residency approvals were granted, with 11 high value residents actually relocating during the year. This was a real success and has reversed the trend over the past five years.

Because there is more focus on high value residents actively contributing to the local economy, Jersey's business and tax environment and its standing as a well-regulated IFC, with a mature network of professional services firms and an appropriate approach to safety and privacy, are key factors in the decision making process. Business heads also appreciate just how accessible Jersey is from major cities and European hubs including London, Geneva, Paris and Dublin.

Families are however also looking for a location that offers a life beyond work. The appeal lies in Jersey's high quality health and leisure facilities, world class education and health systems, a rich rural heritage and a vibrant countryside with the very best produce from land and sea, first class range of restaurants (four of which are Michelin starred) and an ability to be home, on the beach or in breath-taking countryside within minutes of leaving the office.

We frequently hear that Jersey's unparalleled quality of life presents something of a unique proposition and is a key driver behind business and personal relocation decisions.

Jersey is very much open for business and is serious about diversifying into new sectors. Thanks to the Government's support of Locate Jersey, Jersey's inward investment capability is now significantly enhanced in terms of sophistication and reach into international markets. This is undoubtedly helping position Jersey strongly for growth and diversification in the years ahead.

WAYNE GALLICHAN

Wayne Gallichan is the Director for International Trade and Inward Investment at Locate Jersey within the States of Jersey Economic Development Department.

Following 12 years in the finance industry working for Barclaytrust International and Abacus and then five years in his family retail business, he joined the States of Jersey in 1995.

Wayne started in the Desastre department (bankruptcies) before moving to the Chief Advisers Department as Executive Officer to the Policy and Resources Committee. From 2002 until the summer of 2007, Wayne was the Director of Regulation of Undertakings which issues licences to businesses for commencement and engaging staff.

Wayne's current role at Locate Jersey is to attract high value, low resource inward investment, to facilitate inward investment enquiries, provide aftercare to new businesses, to promote Jersey business products and services overseas. Wayne has been instrumental in developing business links with UK, India, China, France, Malta, Israel.

Wayne enjoys travelling, good food and is a keen sportsman, particularly golf, cricket, football and rugby.


MARK
THE FIRST NAME
IN IDEAS