Innovation counters impact of downturn on Guernsey funds

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It is fair to say that few, if any, in the fund industry are untouched by the global economic downturn although, due to the diversity of fund structures being administered, Guernsey successfully avoided the worst of the impact. The question remains as to the possibility of a double-dip recession, and fundraising continues to be the challenge for fund promoters.

Inevitably the spotlight has turned on the role of offshore jurisdictions, providing Guernsey with an opportunity to further enhance its international reputation following assessments by international bodies such as FATF, IMF and the OECD. The G-7 judged Guernsey to be a Group 1 jurisdiction, the top tier of offshore centres.

This is unsurprising given that Guernsey has over 50 years of proven and successful financial services experience, offering excellent standards of administration, world class, award winning lawyers and legal firms, and plays host to the big four and other significant audit firms.

Having always adopted an innovative approach to fund structuring, Guernsey originated the protected cell company, now followed extensively by other offshore jurisdictions. Current proposals for amendments to Guernsey limited partnerships law would allow protected cell limited partnerships. Guernsey's Registered Fund regime, available for open-ended and closed-ended funds, facilitates a three day approval process and is proving a popular choice for new fund structures.

Playing host to the Channel Islands Stock Exchange, an internationally recognised Market Authority which is FSA approved, Guernsey continues to successfully draw in business. Its competitive pricing and responsive approach makes it an attractive alternative to other exchanges.

The Guernsey Financial Services Commission is recognised for its pragmatic approach. As a well regulated jurisdiction, the increasing focus on compliance and regulation means Guernsey is well positioned for the future compared to those jurisdictions offering lighter touch regulation. Mindful of the emphasis on good corporate governance, the GFSC will shortly issue formal guidance on the Code of Corporate Governance.

Finally, after more than 18 months of uncertainly, negotiations on the Alternative Investment Fund Managers Directive (AIFMD) concluded on 11 November 2010.

In spite of initial concerns that the AIFMD would impose constraints on the ability of offshore alternative fund managers to manage or market funds in the EU, the final text preserves the ability of offshore managers based in well regulated and co-operative jurisdictions such as Guernsey to continue to operate. National private placement regimes will remain in place until at least 2018, and passive marketing of funds is not regulated by the AIFMD.

The detailed level 2 legislation is scheduled for completion in 2012 and we are in a good position to take advantage of the opportunities for the continued use of alternative funds arising from the availability of EU marketing routes through national private placement regimes, passporting and passive marketing.

Consideration should also be given to opportunities that present themselves for Guernsey in terms of providing some form of lighter touch regulatory regime for those products which have no EU connections, bearing in mind that industry cost of implementing the requirements of the AIFM Directive should not be underestimated.

The indicators for the future of Guernsey are very positive and green shoots are evident. Recent figures show that fund business has seen five consecutive quarters of growth, taking the net asset value of assets to a new record high. Figures released in November 2010 shows assets under administration and management at over £243bn, up 34% a year.

LSE statistics shows more Guernsey companies listed on each of the main market, AIM and the SFM than any of its competitor finance centres; indeed a Guernsey fund was the first SFM listing. Furthermore the latest five AIM listings for Indian entities were all Guernsey incorporated. In its continuing efforts to forge links with China, Guernsey recently signed a Memorandum of Understanding.

We are seeing growth in private equity and alternative asset classes generally, including infrastructure, Shariah compliant and green technology funds as well as fund of hedge funds. The flexibility of our fund regime sees Guernsey gaining a reputation as a centre of excellence for more esoteric asset classes such as fine art, wine, timber and classic cars. Guernsey funds are now promoted or sponsored by leading institutions in more than 50 countries, using a wide range of investment vehicles including unit trusts, PCCs, ICCs and limited partnerships.

Furthermore Guernsey has lately been expanding its reach as a base for fund management companies, attracting large multinational companies as well as independent boutiques, further complementing the funds industry.

Guernsey is the gold standard in terms of offshore jurisdictions but we must not overlook the fact that above all it is a wonderful place to do business. With our continued focus on reputation and a robust but balanced level of regulation, my feeling is that as a highly respected and sophisticated jurisdiction Guernsey can look forward to a prosperous future in fund administration.