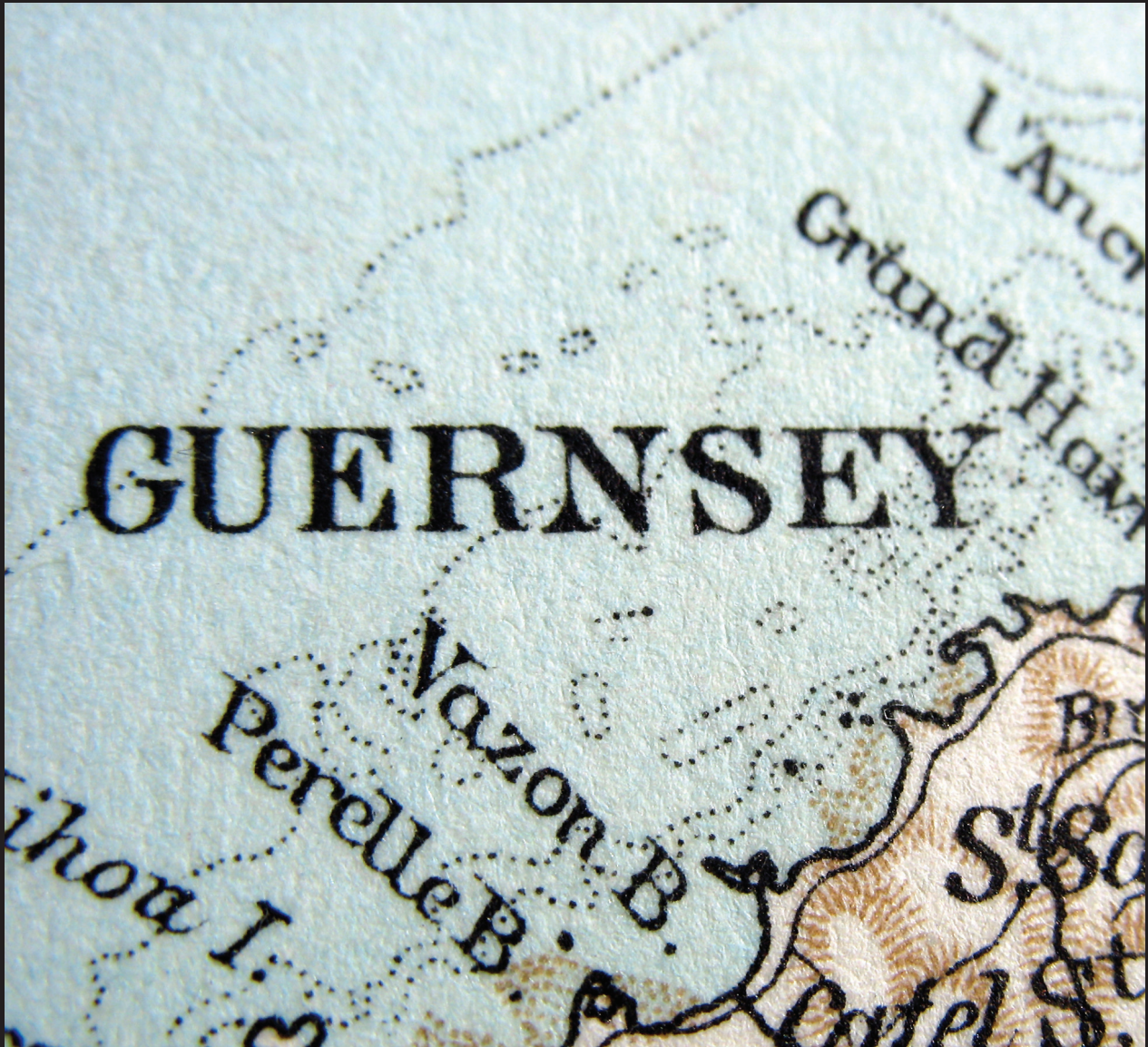




TAMARA MENTESHVILI

OPPORTUNITIES ABOUND

Tamara Menteshvili of the Channel Islands Stock Exchange, Stuart Tyler of Babbé and Martin Tolcher of Legis speak to *Mena Fund Manager* about the ways Guernsey is attracting fund managers from the Mena region





STUART TYLER

Guernsey's reputation among investors continues to be robust, with the jurisdiction's strong regulatory environment and stability enticing an increasing number of fund managers from the Mena region. The jurisdiction weathered the financial crisis better than most, with Guernsey's stability paving the way for growth in the Islamic financial markets. Tamara Menteshvili of the Channel Islands Stock Exchange, Stuart Tyler of Babbé and Martin Tolcher of Legis speak to *Mena Fund Manager* about the opportunities Guernsey offers now and in the future.

Mena Fund Manager (MFM): How does Guernsey differ from other jurisdictions and what advantages does it offer fund managers in the Mena region?

Tamara Menteshvili (TM): The Channel Islands are in the premier league of international financial centres and continue to demonstrate their commitment to the highest of regulatory standards. Guernsey is within OECD jurisdictions and OECD conventions apply. Furthermore, in May 2000 the G-7 financial stability forum (established by the G-7 Ministers) judged Guernsey to be a Group 1 jurisdiction, the top group of offshore financial centres, considering it to have appropriate legal infrastructures, supervisory practices and levels of resources devoted to supervision and co-operation relative to the size of their financial activities.

Listing membership of the Channel Islands Stock Exchange (CISX) is limited to Channel Islands' businesses. It seems membership of the exchange creates an advantage for

individual fund administrators and custodians, particularly when working in conjunction with legal practitioners who are also members of the exchange, in providing a one-stop-shop.

Stuart Tyler (ST): Guernsey is a well-established jurisdiction with a positive regulatory environment which seeks to accommodate business innovation. In addition, it has a significant industry presence to support its finance industry, coupled with strong interaction with onshore jurisdictions. Its recently amended commercial laws in relation to corporate bodies, innovation in respect of protected cell companies and incorporated cell companies and updated regulatory regime for collective investment schemes means it has modern laws and a practical regulatory regime which some rival jurisdictions cannot accommodate. Having not suffered the criticism directed at other offshore jurisdictions regarding regulatory requirements, client due diligence and tax arbitrage, Guernsey is able to offer a safe and respectable domicile for investment vehicles at a level available in few other jurisdictions.

Martin Tolcher (MT): Guernsey has a demonstrable track record of providing financial products and services for nearly 50 years. In times of increasing demand from investors for high levels of independence and corporate governance, Guernsey has developed an enviable reputation as a highly respected offshore jurisdiction. The Guernsey Financial Services Commission is seen to be flexible and pragmatic while seeking to ensure high standards of regulation are maintained. Guernsey is also

home to the CISX, which continues to attract international recognition.

MFM: In what areas is Guernsey currently experiencing growth?

TM: The rapid growth in the Islamic financial markets, both in terms of institutions and products available over the past 10 years, has prompted increasing interest from conventional managers to develop products to serve this market. For example, the UK now has five Islamic Banks and a growing number of banks are offering Islamic products.

ST: Recent indications are of collective investment schemes migrating to Guernsey for a variety of positive reasons. In Guernsey, this is regarded as a seal of approval for the quality of the regulatory regime, making it an attractive jurisdiction for those who want to emphasise good regulation and respectability of their product. As has often been the case, real property investment is currently the most active area in the market.

MT: Guernsey continues to attract open and closed-ended funds with a wide variety of investment profiles. For example, Legis has recently been directly involved in providing services to funds investing in real estate in the UK and further afield, and for structures established from an Islamic finance perspective, looking to ensure compliance with Shariah law. As Guernsey is acknowledged as an innovative jurisdiction, it also continues to grow its involvement with funds looking to invest in a wide range of alternative asset classes.

MFM: What challenges is the domicile facing?

TM: In recent years, Sukuk have become the primary method by which countries in the Gulf Co-operation Council (GCC) have raised funds, and several European governments have announced they are seeking to emulate this by issuing Sukuk. The UK Treasury has made several announcements on this over the past four years, but seems to have

“The Channel Islands are in the premier league of international financial centres” - *Tamara Menteshvili*



MARTIN TOLCHER

become bogged down by various stumbling blocks, in particular the taxation treatment of the return paid on the Sukuk and in finding appropriate assets to underpin the Sukuk.

ST: The greatest challenges may come from European measures seeking to undermine competitive jurisdictions utilising devices founded in corporate governance and consumer protection measures. In many cases, however, the arguments for these actions will be difficult to impose on a well-regulated and ostensibly transparent jurisdiction. Therefore Guernsey is probably better placed to weather these threats than most of its rivals.

MT: As with every other domicile in the world, the recent global financial crisis had a negative impact on Guernsey, particularly with respect to new fund launches. Not only did the flow of new business decrease significantly, but the level of assets also reduced, compounded by the increase in the time it often took the sponsor or promoter to raise the level of investment needed for the fund to be able to meet its objectives.

Along with other offshore jurisdictions, Guernsey has also faced some criticism as to its perceived involvement in the economic crisis. However, the island always seeks to turn challenges into opportunities, and it is pleasing to see it demonstrate its position within the upper echelons of financial centres. For example, Guernsey was white-listed in 2009 by the OECD and has engaged in ongoing dialogue at regulatory and political levels internationally.

MFM: What is the domicile doing to attract business from the emerging markets and Mena region in particular?

TM: Recently, a number of our members have asked whether the CISX has listed any Sukuk bonds. To date, the Market Authority has approved one Sukuk issuing and Shariah-compliant programme – Milestone Capi-

“Guernsey prides itself on being fleet-footed when it comes to dealing with challenges” - *Martin Tolcher*

tal PCC – \$1bn programme for the issuance of Sukuk certificates and a number of other Sukuk bonds which have matured and are thus no longer on the Official List.

The CISX has Shariah-compliant investment funds listed as well. One such Shariah-compliant fund admitted to the official list is IIAB PCC – IIAB Sukuk & Murabaha Mena Fund – participating redeemable preference shares of US\$0.01 each. Another notable listing is that on the Arab Bank – AB International Fund PCC.

MT: Guernsey continues to seek to maintain and enhance connectivity with the Mena region through a number of initiatives, including providing a Guernsey presence at appropriate Middle East fund conferences facilitated by Guernsey Finance. It is important to keep up the momentum generated by the existing Mena business within Guernsey. With an ever-growing number of clients and contacts in the region, such as Dubai, Abu Dhabi, Bahrain and Lebanon, it is essential Guernsey maintains regular contact with them, including face-to-face dialogue outside the framework of board meetings. The growing reputation the island has for servicing Shariah-compliant structures from Guernsey has also resulted in further positive results.

MFM: What opportunities do you see arising for Guernsey in the future?

TM: A recent development in the structuring of Sukuk-issuance vehicles is the listing of the Sukuk on various exchanges. Corporate issues are generally listed on domestic rather than international exchanges,

primarily as these tend to be smaller and can be targeted at a local market where demand far outstrips supply, such that several recent issues have been heavily over-subscribed.

There are exceptions, with some corporate issues being listed on either Luxembourg or London and we see the CISX as offering a cost-effective alternative for future structures.

ST: Our perception is there will be a flight to quality for investors, as a result both of investor priorities and the regulatory requirements of their domiciles. This will lead to opportunities in all investment products, including pensions, insurance and collective investment schemes. The island is better placed than many rivals to overcome the objections raised, often artificially, to offshore jurisdictions.

MT: Guernsey prides itself on being flexible and fleet-footed when it comes to dealing with the various changes and challenges it has faced, especially in recent times. Guernsey continues to be perceived as a domicile specialising in the provision of high-quality services to fund structures, built around its expertise in the fields of administration, legal, custodial and accounting services (in particular closed-ended alternative-fund mechanisms) which is the area where the majority of new fund business to the island is focused.

The anticipated finalisation of the Alternative Investment Fund Managers (AIFM) Directive will offer further opportunities for Guernsey once the previous uncertainties are resolved, resulting in Guernsey remaining an attractive and competitive jurisdiction.