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Jersey
First for Finance

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3-4 Rumsey House, Locks Hill, Rochford, Essex, SS4 1BB, UK.
T: +44 (0)1702 53 0000 | **F:** +44 (0)1702 53 3088
E: mail@timesgroup.co.uk | **www.timesgroup.co.uk**

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In partnership with: Jersey Finance Limited
4th Floor, Sir Walter Raleigh House, 48-50 Esplanade,
St Helier, Jersey JE2 3QB, Channel Islands.
T: +44 (0)1534 836000 | **F:** +44 (0)1534 836001
E: jersey@jerseyfinance.je | **www.jerseyfinance.je**

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Publication Consultants: Claire Lyons, Head of Marketing and
Joshua Bisson, Marketing and Communications Manager, Jersey Finance Limited

Editorial Department: Wayne Fessey, Editor
John Willman, Consulting Editor

Production Department: Design Vision (UK) Ltd,
E: designvision123@outlook.com
Ethan Cobbing, Production Coordinator

Publisher: Kevin Sammon
Directors: Mark Brown and Kevin Sammon

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Jersey Finance Offices

Jersey
Jersey Finance Limited, 4th Floor, Sir Walter Raleigh House, 48-50 Esplanade, St Helier, Jersey JE2 3QB
Tel: +44 (0)1534 836000
Email: jersey@jerseyfinance.je

London
Jersey Finance Limited, 4th Floor, 2 Queen Anne's Gate Buildings, Dartmouth Street, London SW1H 9BP
Tel: +44 (0) 207 808 1140
Email: robert.moore@jerseyfinance.je

Hong Kong
Jersey Finance Limited, Room 5, 20th Floor, Central Tower, 28 Queen's Road Central, Hong Kong
Tel: +852 2159 9652
Email: an.kelles@jerseyfinance.je

New York
Jersey Finance Limited, Suite 341, 1185 Avenue of the Americas, New York, NY 10036, USA
Tel: +1 201 370 1749
Email: philip.perecki@jerseyfinance.je

Dubai
Jersey Finance Limited, Level 41, Emirates Towers, Dubai, UAE, PO BOX 31303
Tel: +971 (0)4 319 9923
Email: richard.nunn@jerseyfinance.je

Shanghai (Virtual Office)
Unit 8170, Level 8, International Finance Centre Tower 2, 8 Century Avenue, Pudong Shanghai 200120, P.R.China
Tel: +86 (21) 6062 27170
Email: an.kelles@jerseyfinance.je

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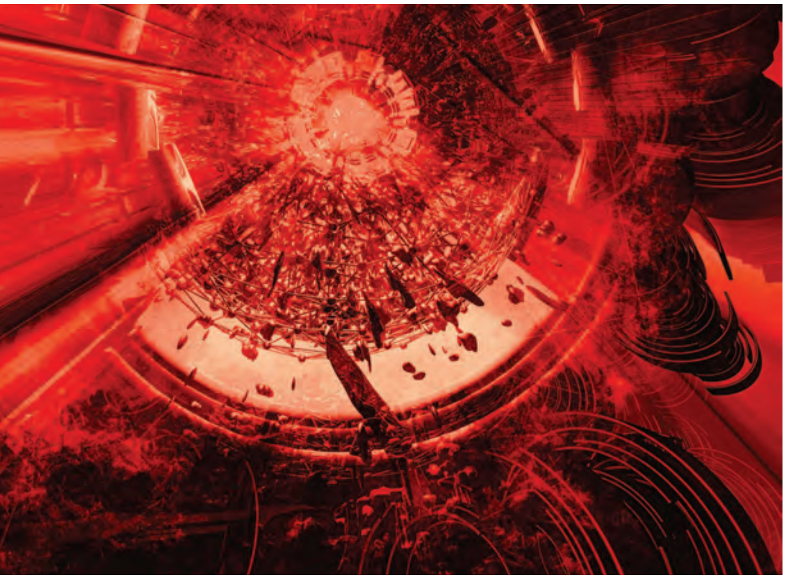

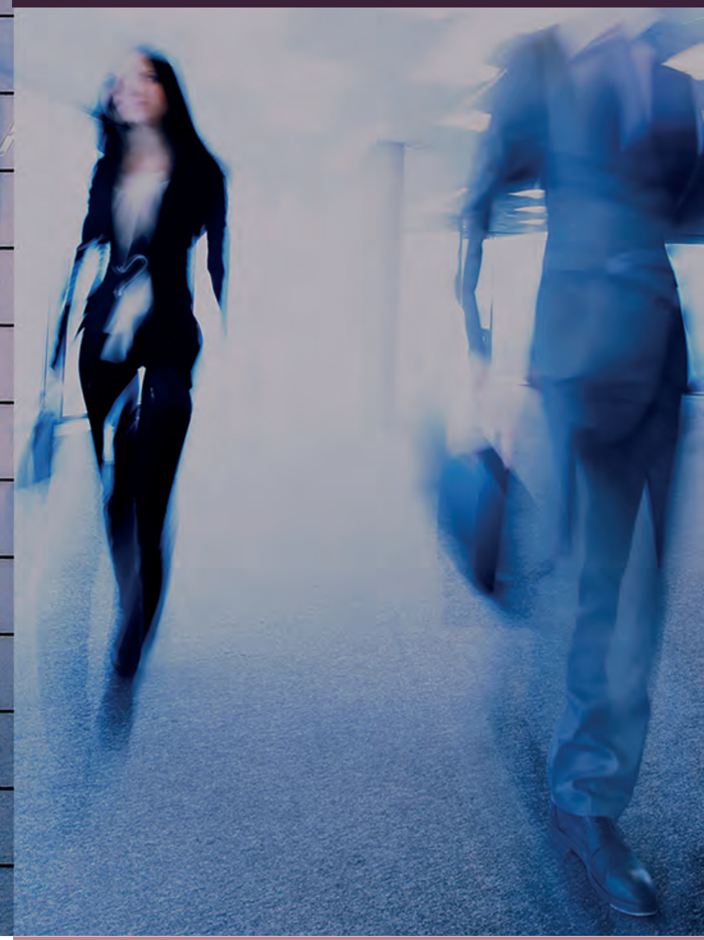

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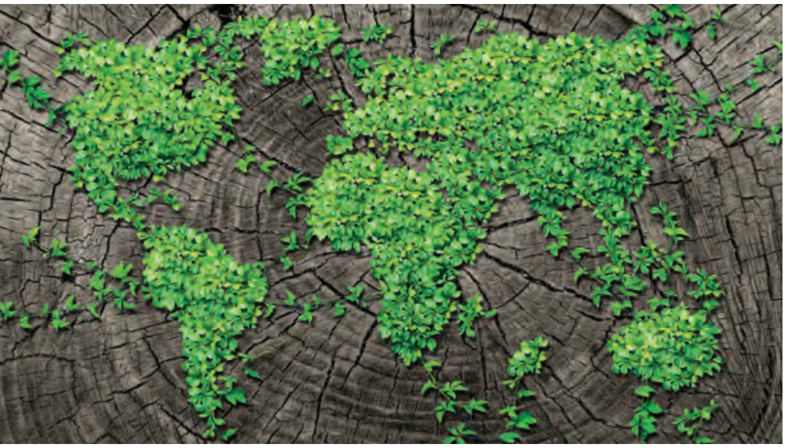

Preface

By Senator John Le Fondré, Chief Minister, Government of Jersey

I am delighted to provide my first Preface as Chief Minister to this important annual publication.

When the new Council of Ministers sat to develop our Common Strategic Policy in October 2018, we recognised the important role that our financial services plays in sustaining and strengthening our economy.

The government understands the value that our finance community brings to the Island – from the thousands of Islanders working in an industry that offers jobs at a variety of levels to the ways in which Jersey's international identity benefits from a global, highly regulated and reliable financial services sector.

I thoroughly appreciate the value that the financial services industry brings to Jersey, not only in terms of inward investment and economic growth but also in the continued employment of more than 13,000 residents and the significant impact of the Corporate Social Responsibility programmes provided by the businesses that call Jersey their home.

Financial services constitutes 40% of our Island's economy and is responsible for 21% of total employment. It is a sector with high productivity and is the bedrock of our economy and tax income.

It is for that reason that Jersey invests in its finance industry.

As a government, we invest in Jersey Finance, supporting the good work the organisation does and which is the focus of this publication. The Island's global reach is strengthened by the organisation's presence around the world, most recently in the Dubai International Finance Centre (DIFC), marking another milestone in the Island's relationship with the country and in New York, where a Jersey Finance office is soon to be opened and a project of which I have been personally supportive. These Jersey Finance offices also work alongside our government offices in London, Brussels and Normandy, promoting Jersey as a place to invest and do business, both regionally and at a global level.

We work with the finance community to protect the industry we have and I am particularly grateful for the work of the dedicated Financial Services and Digital Economy policy team who have shown the ability to innovate to find new business. Additionally, we have an excellent External Relations Ministry that represents our interests both on the mainland and further abroad and in the Jersey Financial Services Commission (JFSC) the Island has a strong and independent regulator we can be proud of.

We do, however, face a number of challenges. I expect that this publication will dedicate some page space to Brexit and what it will mean for Jersey. Whatever the outcome, it is important to remember that, through our extensive contingency planning and collaboration with the UK Government, we are in a strong position. In addition, the finance industry has played a key part in our Brexit plans, working with government on a number of initiatives, including the well-attended Ready for Brexit week in January which highlighted the many preparations that are underway. >>

Looking beyond our shores, Jersey's 'third country' financial services relationship with the European Union (EU) will not change through withdrawal and transition, therefore no disruption to market access is anticipated. Likewise, our relationship with the UK will be unchanged due to the UK's policy of 'onshoring' faithfully all EU financial services legislation and decisions, including decisions on Jersey's equivalence status.

We mitigate potential risks to our stability by demonstrating that we are a good neighbour; by passing the new Economic Substance Law; by extending relations with other friends in the EU, through the good work of our Channel Islands Brussels Office; and by expanding our horizons, looking towards other, non-EU markets.

Furthermore, we consistently work alongside our finance community to reaffirm our international reputation as a well-regulated and desirable place to do business. A good example is the decision in March by EU Finance Ministers (ECOFIN) to formally confirm our position as a cooperative jurisdiction, after placing Jersey, along with many other locations, in 'Annex II'. The JFSC and members of the financial services industry offered productive engagement in the significant work undertaken by the Government of Jersey in order to bring about this positive result.

Yet the passage of the Financial Services (Implementation of Legislation) Bill and its associated amendments, has drawn a renewed focus on public registers of beneficial ownership. The authors of the proposed amendments maintain that increased transparency in the Bill will function as a tool to fight aggressive tax avoidance, money laundering and other financial crime. The Government of Jersey and the other Crown Dependencies already share a commitment to the highest standards of financial services regulation and transparency. We are determined that the Crown Dependencies are not used as centres for processing illicit funds raised through criminal conduct.

This is nothing new: in 2016, Jersey and the other Crown Dependencies entered into an Exchange of Notes with the UK to enhance the existing provisions to exchange beneficial ownership between law enforcement and tax authorities. That agreement provides for information to be provided, as standard, within 24 hours of request or in urgent matters, within an hour.

We are supportive of developing standards to increase the effectiveness of registers of beneficial ownership around the world. Jersey's exchanges of tax and beneficial ownership with around 50 other countries under the OECD's Common Reporting Standard (CRS) is evidence of this, as is our role in the OECD Base Erosion and Profit Shifting (BEPS) programme as a BEPS Associate and a member of the Inclusive Framework, established to ensure implementation of BEPS worldwide. We remain willing to work with the UK Government and the relevant international bodies to meet global standards on financial services regulation and we have reached out in this regard to instigate discussions.

Moreover, we are setting our own approach for engaging with global markets outside of the EU. As an outcome of our Brexit preparations, we have made a substantial investment in our global markets team within the Ministry of External Relations. This has included visits to major economies outside the EU to develop the Island's reputation as a centre of excellence and as an outstanding place to do business.

The government is committed to enhancing Jersey's international profile and to developing broad relationships with international partners based on shared interests. I believe that Jersey will continue to thrive as a trusted trading partner and financial services centre of choice, ready to face the challenges of tomorrow.

Senator John Le Fondré

Senator John Le Fondré, Chief Minister, Government of Jersey.

He was elected as Jersey's fourth Chief Minister on 4th June 2018, following his election as Senator in May's General Election.

Senator Le Fondré has previously served as Deputy of St Lawrence from 2005 to 2018. During this time he held a number of Assistant Ministerial positions within the Treasury, the Chief Minister's and the Infrastructure Departments.

In 2014, he became Chairman of the Corporate Services Scrutiny Panel within the States Assembly. From 2017 he was also Chairman of the Brexit Scrutiny Panel. He has also represented the Island within the Assemblée Parlementaire de la Francophonie and the British Irish Parliamentary Assembly.

Prior to entering the States, Senator Le Fondré was a Chartered Accountant for Ernst and Young, working in Jersey and Luxembourg. He has also held a number of voluntary positions, including over 20 years as Honorary Secretary for a local Housing Trust.

Born and raised in Jersey, Senator Le Fondré is a keen sailor, skier and enjoys competitive target shooting. He is a fluent French speaker, having studied at the Montpellier Business School in France.

Foreword

By Senator Ian Gorst, Minister for External Relations, Government of Jersey

Jersey has a strong record of overcoming challenges presented to the Island by external influences.

From meeting the demands of increased global scrutiny in our role as a leading finance centre to positioning ourselves as world leaders in financial regulation, Jersey has fostered a robust international reputation. Also, in light of the challenges presented by Brexit, the continuing development of Jersey's resilience has never been more important.

Jersey will, however, continue to thrive whatever the outcome of Brexit negotiations. The Ministry of External Relations works across the government to identify and mitigate the risks posed by the UK's exit from the European Union, to ensure that Jersey has a continued representation within Europe and that the interests of Islanders, including those originally from the EU, are protected.

Our planning is shaped by the Government of Jersey's Common Strategic Policy and the specific priority to create a sustainable, vibrant economy and a skilled local workforce for the future. In order to deliver the best outcomes from Brexit, our work broadly follows three key themes: looking after our people; maintaining Jersey's high standards; and taking advantage of the opportunities that Brexit presents.

PEOPLE

Economically, socially and culturally, Jersey benefits greatly from the contribution of the approximately 20,000 non-British EU citizens resident in the Island. Following Brexit, the status of all EU citizens and their families in Jersey will change. The government wants to ensure that Jersey-resident EU citizens are not disadvantaged by these changes.

That is why all EU citizens and their families will be able to continue to live and work in the Island after Brexit by applying to the Jersey EU Settlement Scheme. Applications to the Settlement Scheme are already being accepted from any EU citizen who arrives in Jersey before Brexit day, whenever it takes place. This ensures that those EU citizens, who are hugely valued members of Jersey's community, will be able to remain in Jersey after Brexit without a fee. Further work will be required to protect the rights of those who arrive after Brexit and plans are underway to safeguard these future members of our community.

It is unavoidable that Islanders travelling out of Jersey will be impacted by the new rules for British and Jersey passport holders after Brexit. Of course, any arrangements for travel to the Schengen area of the EU will depend on the timing and nature of Brexit but, due to our work to maintain participation in the Common Travel Area, Jersey residents will continue to be able to travel to the UK, Ireland and Crown Dependencies as they do now.

The uncertainty over the timing and impact of Brexit means that we are communicating daily the practical effects of Brexit on Islanders and ensuring that these are as easy to understand as possible. Although Jersey did not have a say in the UK's referendum on EU Membership, we have a duty to ensure that all Islanders are ready for all Brexit scenarios and continue to enjoy easy access to the goods and services they need and the Island has access to the justice and security measures that help ensure it is a safe place to live. >>

STANDARDS

It is in Jersey's best interests that the UK leaves the EU with a deal. Once the terms of any Withdrawal Agreement have been accepted by the UK Parliament, Jersey will enter a period of orderly engagement with the UK Government over its forthcoming negotiations with the EU over the future partnership.

We will maintain our objective that any transition period should apply to Jersey and on the basis of the current Protocol 3 arrangements, with Jersey continuing to be part of the Customs Union and able to trade in goods as if part of the EU.

Jersey will follow these negotiations closely, as part of our extensive ongoing engagement with the UK Government over Brexit. Notwithstanding the historical and constitutional relationship we have with the UK, we will need to determine and undertake work to assess, whether it would be in our interests for any agreement on the future UK-EU economic and security partnership to be extended in whole or in part to the Island.

The next phase of the Brexit negotiations will inevitably bring a much greater focus on trade between the UK and Jersey, complementing the existing customs union arrangements. The new regulatory relationships we establish, on the basis of the current Protocol 3 arrangements, will initially be focused on protecting key markets and preventing any avoidable barriers.

Furthermore, Jersey is already outside the EU for financial services and our ability to retain a strong and respected regulatory framework and access to EU markets will not be directly affected by the UK's departure, on whatever terms that may be.

OPPORTUNITIES

Once the UK leaves the EU and the Customs Union, it will be responsible for negotiating its own international trade agreements with the EU and others. This shift could have a significant impact on Jersey in terms of our trading relationships with the EU and a range of global markets. >>

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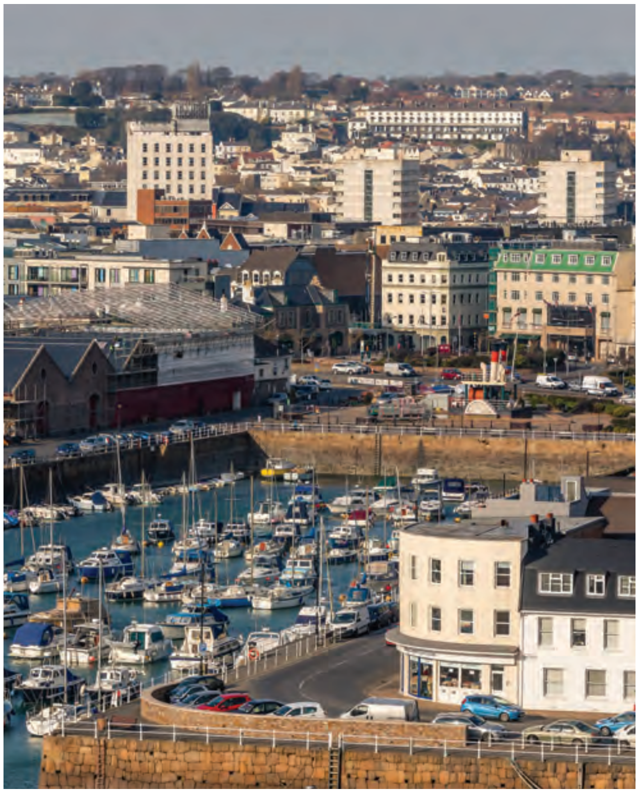
St Helier, Jersey. © Gary Grimshaw – Photoreportage



Jersey is already outside the EU for financial services and our ability to retain a strong and respected regulatory framework and access to EU markets will not be directly affected by the UK's departure

We are broadening and deepening Jersey's relationships with priority global markets, including Commonwealth, sub-Saharan Africa, Asia, the Middle East and North America.

The focus of this work is building long-term relationships with priority partners and to expand and upgrade Jersey's network of international agreements, including Bilateral Investment Treaties – a brand new form of international agreement for Jersey – in addition to Double Taxation Agreements (DTAs), Asset Sharing Agreements and Memoranda of Understanding (MoUs) to promote cooperation and knowledge sharing.

To this end, the Government of Jersey is actively engaged in discussions with the UK to include Jersey in its membership of the World Trade Organisation (WTO), a long-held policy objective to help improve access to markets around the world and, beyond that, the development of a future trade policy that recognises Jersey's unique international identity.

Clearly, different Brexit scenarios will have different impacts on different aspects of the local economy and wider society.

Jersey has a rich economic history, based on fisheries, agriculture, tourism and the now-dominant financial sector. We have successfully maintained all of these sectors within our economy and must recognise their importance in our shared history, culture and prosperity.

The financial and professional services sector has been the bedrock of our economy over recent decades. The focus going forward will be to continue to protect and invest in this sector, while embracing new opportunities in both long-standing and contemporary economic sectors.

The uncertain impact of Brexit remains the biggest immediate challenge for our Island's economy but it highlights the importance of continuing to promote Jersey on the international stage, as a safe, stable and secure business centre, with a supportive regulatory environment and a beautiful Island to live in and visit.

Whatever form Brexit finally takes, Jersey will continue to navigate these uncertain times with success and resilience, building on our long history of overcoming external challenges. I am certain that, no matter how Britain leaves the EU, our Island will be a place where business and residents can remain confident in their future.

Senator Ian Gorst

Senator Ian Gorst, Minister for External Relations, Government of Jersey.

He was first elected to the States of Jersey in 2005 and from 2008 to 2011, served as Minister for Social Security.

Ian was elected as Jersey's third Chief Minister in November 2011 and subsequently re-elected in November 2014. He became Minister for External Relations in June 2018 under the new government.

An accountant with significant experience in private client, private equity and retail fund sectors, he has also served as Chairman of the Jersey Overseas Aid Commission and acted as an Assistant Minister in both the Chief Minister's Department and in the Treasury Department prior to becoming a Minister. He is also an Honorary Fellow of UNICEF UK.

Introduction

By Joe Moynihan

Jersey's finance industry is such an integral and enduring part of the Island's economy that the story of its success is now told at the Jersey Museum in a new exhibition.

The overall impression of the exhibition, which Jersey Finance is proud to sponsor, is of a jurisdiction that demonstrates an entrepreneurial spirit, an ability to innovate and an Island that works in partnership to build success for everyone.

These are themes that emerge in many of the articles in this year's edition of *Jersey ~ First for Finance*, in which our ability to adapt and enhance our offering to the international finance community is demonstrated. This publication highlights Jersey's willingness to work with international partners, governments and global standard setters to ensure that it has the highest regulatory standards and can cooperate where necessary to tackle financial crime and tax malpractice.

Most recently that cooperation has been evident in the work that the Government of Jersey and financial regulator, the Jersey Financial Services Commission (JFSC), have undertaken – with support from the industry – to implement economic substance legislation. This has delivered measures that have been recognised by the European Union, whose Finance Ministers formally confirmed in March our position as a cooperative jurisdiction. It followed further enhancements to our anti-money laundering and financial crime framework to ensure we meet the highest global standards of regulation.

Introducing legislative amendments to improve the financial services offering is something that the Island now takes in its stride as it continues to remain at the forefront of international finance centres (IFCs).

The adoption of a new Charities Law by the Jersey authorities, including charity registration, positions us front and centre in the rapidly developing philanthropic market and helps us create an environment that will appeal to global investors keen to demonstrate their philanthropic activity.

Trust law amendments have also been introduced, for only the seventh time since the original law was introduced in 1984 and these latest measures provide clarity for investors in a number of areas, ensuring the law – the blueprint for so many similar trust laws around the world – remains competitive and meets the requirements of clients.

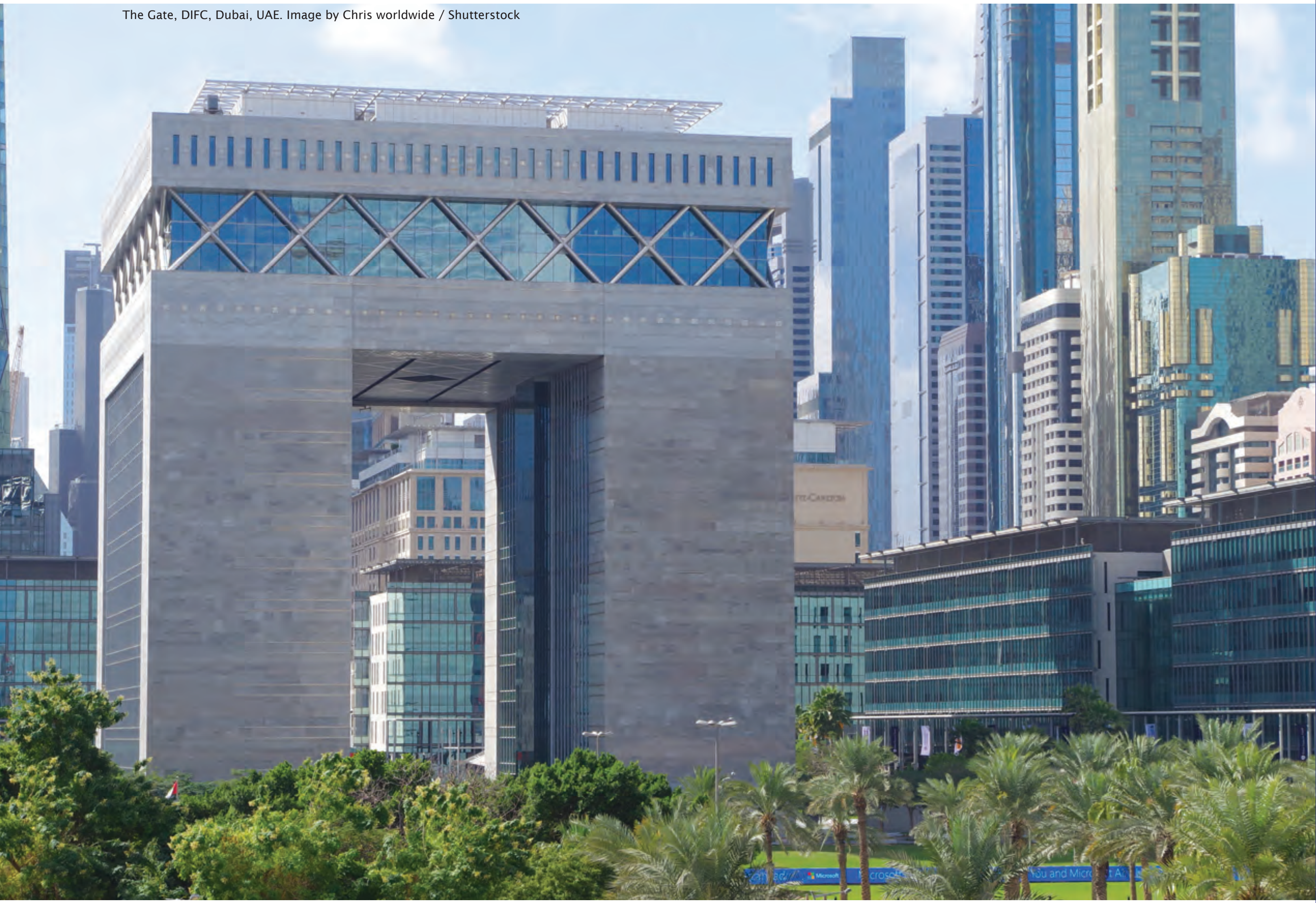
On the corporate front, enhancements to our Limited Liability Partnership (LLP) law have given professional service providers and investors more choice of options, whilst demerger regulations – The Companies (Demerger) (Jersey) Regulations 2018 – which simplified the process of demerging a Jersey company, was a welcome move for those involved in merger and acquisition activity and restructuring through Jersey.

INTERNATIONAL REACH

Meanwhile, there has been a further concerted effort to develop our international presence as an industry. Last year, we became the first IFC to open an office in the Dubai International Finance Centre (DIFC), which enhanced our platform to do business in the Gulf region where we are frequently the 'go to' jurisdiction for our key services. >>

Introducing legislative amendments to improve the financial services offering is something that the Island now takes in its stride

The Gate, DIFC, Dubai, UAE. Image by Chris worldwide / Shutterstock



To support that growth, Jersey has this year launched the International Savings Plan (ISP) product, which enables multinationals and international companies to set up savings plans in Jersey for non-resident employees. From our knowledge of the Gulf market, we know that ISPs will be attractive to institutions based in the Gulf Cooperation Council (GCC) States.

This year we are celebrating our 10th anniversary since the opening of an office in Hong Kong and we intend to broaden our reach and partnerships in Asia, including in Singapore and Malaysia, to widen our appeal with mainland Chinese investors with international investment ambitions and those requiring cross-border structuring. >>

The adoption of a new Charities Law by the Jersey authorities, including charity registration, positions us front and centre in the rapidly developing philanthropic market

Financial district of New York. Image by Zanna Lecko / Shutterstock

On the other side of the world, we have committed to the opening of our first office in New York, where we anticipate that our expertise and range of structures will appeal to the institutional market, especially US fund managers who are looking to access European markets. Africa also remains a key priority for us and Jersey Finance delegations continue to visit regularly to build business connections. It is significant that half of financial services business attracted to Jersey now comes from outside Europe, reflecting Jersey's evolution as a centre for facilitating global financial flows.

The UK of course remains a key partner for us and, assuming Brexit is eventually agreed, we believe Jersey is in a strong position to play a positive role as the UK develops new international partnerships, while also maintaining a gateway to the EU. For example, our ability to market investment funds into the EU has a proven track record and we will also be well placed to enable EU managers to efficiently market their funds into London's investor market.

INNOVATION AND DIGITAL

The industry is forging close links with Digital Jersey and aims to be at the forefront of developments in fintech, regtech and wealthtech. Jersey already has 1Gigabyte high-speed fibre optic connections in place throughout the Island, which is of huge benefit to business and our ambition is to be the easiest IFC to do business with remotely in a digital world. With the support of government, a robust digital infrastructure, skilled IT firms and the existing network of experienced finance professionals, we are in pole position to provide innovative solutions to the digital revolution that is sweeping through financial sectors. Our forward-thinking approach extends to specialist areas such as the growing family office industry, Islamic finance, socially responsible investing (SRI) and the capital markets sector.

Encouragingly, as we adapt to changing market conditions, we continue to record bullish growth across our key sectors, not least the funds industry where we are administering more than £320 billion in assets*, the highest recorded figure to date. Banking, meanwhile, has stayed resilient with core customer deposits remaining stable, the pillar that supports our £400 billion private wealth trust industry.

In support of these high levels of financial services activity, the numbers employed in the finance industry are also at an all-time high at nearly 14,000 and we have new strategies in place to encourage more young Islanders to consider the benefits of a career in international finance.

Alongside this, the network of experienced professionals also continues to expand, with the arrival of increasing numbers of fund managers fully resident in the Island across private equity, hedge, debt, real estate and crypto funds. They add to the existing range of accountants, administrators, lawyers and advisers, one of the largest networks of finance industry professionals of any IFC, helping to contribute further depth and diversity to our industry.

As this latest edition of *Jersey ~ First for Finance* vividly illustrates, Jersey – a consistent winner of awards for its business environment and the quality of its output – remains perfectly placed to capture more global business for its core markets, while its regulatory armoury continues to evolve to meet the demand for global capital flows among international investors.

Footnote: *Figures from the Jersey Financial Services Commission (JFSC).

Joe Moynihan

Joe Moynihan, Chief Executive Officer, Jersey Finance.

With a career in financial services spanning four decades, Joe has a strong commitment to the future success of the industry in Jersey.

Joe commenced his professional life in the banking sector, rising to the position of CEO of Jersey and the Isle of Man for a major bank, which included responsibilities for trusts and investments. In recent years, he expanded his focus as Director of Financial Services within the Government of Jersey, where he worked closely with industry and the regulator to ensure the Island's position as a leading international finance centre.

Before joining Jersey Finance in February 2019, Joe was working to establish high-reputation regulatory frameworks and business models for IFCs in the Middle East and Africa.

Colin Powell CBE

Colin Powell CBE passed away peacefully on 13th May this year and has received many tributes, not just from Jersey but from around the world.

Colin was instrumental in supporting the development of Jersey's financial services sector since being appointed Economic Advisor to the States of Jersey in 1969 and helped the jurisdiction lead the way on the introduction of global standards, as it secured its position as one of the world's premier international finance centres. Regarded as the architect of Jersey's finance industry, he worked with international fora such as the OECD, speaking and writing authoritatively on international standards and the need for a level playing field. His contribution to every edition of the *Jersey ~ First for Finance* publication was invaluable – many of which featured his most insightful articles – particularly the editions marking the 50th Anniversary of Jersey's Finance Industry and the 10th anniversary of the title itself last year.

A fount of knowledge on many subjects, Colin had incredible powers of recall, with a wealth of expertise in financial services, its legislation and regulation, that spanned decades. His wisdom and insight helped to guide Jersey's economy and its finance industry, having headed the Island's regulatory body – the Jersey Financial Services Commission (JFSC) – for a decade and been an advisor to the government on international affairs within the Chief Minister's department. In recognition of his services to financial regulation and Jersey's community, he was awarded a CBE in 2005.

Colin will always be remembered not only as a great statesman but also a kind gentleman who was selfless in his dedication to good causes, for example as a Rotarian and in his role as Ambassador of the NSPCC Jersey branch, serving to provide an understanding voice of reason in support of the Island and its inhabitants. He will be sorely missed by all who knew him.

"Colin was instrumental in the evolution of Jersey as an international finance centre. He had an immense knowledge of financial services going back decades and was an internationally respected figure which undoubtedly contributed enormously to the success of the industry. It's no understatement to say that Jersey's finance industry simply would not be what it is today if it were not for Colin's foresight. I had the pleasure of working closely with Colin for almost four years in the Government of Jersey and he was a man of considerable wisdom, integrity and wit. He made a huge contribution to the success of our Island."

– **Joe Moynihan, Chief Executive, Jersey Finance**

"I first met Colin when I was 18 years old. He served both my father and me with distinction and his contribution to Jersey's financial services industry and to the Island itself, is incalculable. For more than 50 years Colin guided the Island's economy with wisdom and foresight.

"Colin shared his expertise with generations of officials working in economics and external relations and his dedication was instrumental in forging the Island as we know it today. He will be greatly missed."

"Colin was respected globally throughout the financial services world and will be missed by all of us who have worked with him over the years.

– **John Le Fondré, Chief Minister, Government of Jersey**

"Colin Powell is irreplaceable. His hard work and commitment have made a positive contribution to Jersey's economy for 50 years. His wise counsel and clear thinking on a broad range of subjects have guided generations of politicians and officials and his recognition of the importance of the Island meeting international standards has strengthened our finance industry.

"Colin was respected globally for his work on international affairs and was appreciated locally for his fundraising and support for Island charities.

"Colin was instrumental in the evolution of Jersey as an international finance centre and he leaves us with a robust framework for fair decision-making that will continue to serve his adopted Island-home in the years to come."

– **Senator Ian Gorst, Minister for External Relations, Government of Jersey**

Effective international engagement is required in order to meet international standards and obligations, such as those on economic substance

Berlaymont Building, Brussels. Image by EQRoy / Shutterstock

Jersey:
an IFC of substance

By Tom Le Feuvre

Jersey must compete against many places to attract and retain companies and skilled workers. Maintaining an attractive, competitive and outward-looking environment for businesses is essential if the Island's economy is to thrive, create better employment opportunities and help fund Jersey's infrastructure and services.

The Government of Jersey's investment in promoting the Island's international identity is critical for achieving these objectives. Effective international engagement is required in order to meet international standards and obligations, such as those on economic substance, whilst strengthening diplomatic and trade relationships, especially with high-growth non-EU markets. The Government of Jersey has been active in both areas over the past 12 months through the successful response to the EU's development of a list of non-cooperative tax jurisdictions and through the delivery of the Global Markets Strategy.

Jersey's position as one of the most stable and successful international finance centres in the world is well deserved and it is the responsibility of government to continue to drive excellence and ensure the Island adheres to international good practice. These principles change and evolve over time – and Jersey has a proven record of adapting to – and shaping – the development of international standards in tax transparency and tax good governance. Jersey's new Economic Substance Law, approved by the States Assembly in December 2018, is the latest example.

The impetus for introducing the law is the EU consolidated list of non-cooperative tax jurisdictions, informally known as the 'EU Blacklist'. In December 2017, EU Finance Ministers (ECOFIN) placed Jersey, along with many other jurisdictions, in "Annex II". This meant ECOFIN had assessed Jersey as cooperative, subject to the implementation by 31st December 2018 of commitments made to the EU's Code of Conduct Group on Business Taxation. Jersey's commitments related to concerns identified by the Group about the possibility of registering profits from relevant activities in Jersey without adequate economic activity taking place in the Island.

Accordingly, the law introduces the requirement that Jersey tax resident companies carrying out certain relevant activities have adequate people, expenditure and physical assets in the Island. The legislation contains three main pillars: i) identify those activities that companies are undertaking which are relevant; ii) impose the economic substance requirements in relation to these activities; iii) ensure there are enforcement provisions in place where there are failures.

Under Step 1, all tax resident companies will have to identify if they perform any geographically mobile activities as defined by the OECD's Forum on Harmful Tax Practices (FHTP). The relevant activities include: banking; insurance; fund management; finance and leasing; headquarters activity; shipping; distribution and service centres; intellectual property holding; holding company business. Under Step 2, companies will have to report this information to the Taxes Office annually in respect of each fiscal year starting on or after 1st January 2019. The Taxes Office will assess this information to ensure accuracy. Under Step 3, the draft legislation includes three types of appropriate sanctions: i) exchange of information (where there is a failure of the company as a high risk IP company); ii) financial penalties (progressive sanctions up to £100,000); and iii) winding up / strike off (in the event of persistent non-compliance).

On 12th March 2018, ECOFIN formally confirmed Jersey's position as a cooperative jurisdiction. The 'whitelisting' of Jersey is a major achievement. It continues Jersey's good neighbour policy towards the EU, which is vital in the context of Brexit and it places the Island at the forefront of jurisdictions committed to eliminating harmful tax practices. The legislation is the product of two years of intensive work involving the Government of Jersey, Jersey Finance Ltd, the Jersey Financial Services Commission and industry representatives.

Jersey worked in lockstep with the Crown Dependencies in agreeing a common set of proposals. Officials engaged in successive rounds of dialogue with the EU Commission and worked closely with technical experts from the OECD. This was particularly important for ensuring that Jersey's Economic Substance Law aligns with international standards and preserves the principle of the level playing field on international tax. >>

The Bahrain World Trade Centre, Manama City.
Image by Satheesh Cholakkal / Shutterstock

Although originally conceived in response to a request from the EU, economic substance is fast becoming a global standard. Although it will require companies that fall in scope to ensure compliance, it should ultimately be a positive development for Jersey given the high levels of substance and real economic activity already required by our regulatory laws. It also provides a strong basis for promoting the Island's reputation as a transparent, well-regulated jurisdiction built on substance.

GLOBAL MARKETS

Developing trade relationships with high-growth markets outside the EU has never been more important for Jersey's continued economic success. These countries are increasingly becoming centres of wealth creation: the EU itself estimates that approximately 90% of global economic growth in the next 10 to 15 years will come from outside Europe.

Weaker economic conditions in Europe in light of Brexit only serve to emphasise Jersey's need to secure increased business flows with high-growth priority markets in Asia, the Middle East, sub-Saharan Africa and the Americas.

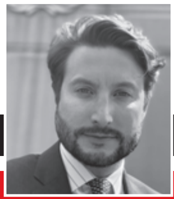
The Government of Jersey is already taking every opportunity to position the Island as a more influential partner internationally, with maturing commercial and political relationships with non-EU partners. The Ministry of External Relations has established a dedicated Global Markets Team, which is already working to strengthen our links with partner countries across the full range of commercial, political, cultural and educational cooperation. This requires a whole-of-Island approach with the Ministry bringing together government, business representatives and arms-length bodies to collaborate in delivering a cohesive global markets strategy.

This strategy has three pillars: increasing Jersey's visibility in target markets; improving access to key decision-makers in government and in business; and facilitating greater business flows with priority global markets. In so doing, Jersey's government is building on strong foundations: the Island is already a truly global centre for business and professional services – for example, over three quarters of the wealth for which Jersey is a custodian comes from non-UK domiciled beneficial owners.

Expanding Jersey's network of international agreements is a priority as they strengthen ties between partner jurisdictions, encourage greater business flows and promote Jersey's good reputation as a trusted and responsible international actor. Jersey's Global Markets Team is therefore developing the legislative and treaty framework that underpins trade flows. This includes negotiation of Double Taxation Agreements (DTAs) and Bilateral Investment Treaties (BITs). The Jersey model DTA is based on the OECD Model Convention and has been updated in line with the anti-Base Erosion and Profit Shifting (BEPS) project. In 2018, Jersey ratified three new DTAs with the UK, Mauritius and Liechtenstein.

We have also developed a model BIT with the benefit of expert legal advice and tailored it specifically to reflect the nature of Jersey's sophisticated, service-driven economy. We held Jersey's first-ever negotiations on a BIT with the UAE and reached agreement on a draft text in January 2019. Jersey is continuing to negotiate and conclude Asset Sharing Agreements and bilateral Memorandums of Understanding (MoUs) with Global Markets partners including Bahrain, South Africa, Kenya and Nigeria. The MoUs provide a framework within which to further knowledge-sharing and international cooperation across a range of sectors, such as tourism, conservation, agriculture, heritage, digital, culture and education.

Taken together, these efforts highlight the Government of Jersey's ambition for ensuring the Island is at the forefront of international standards and in a leading position for winning new business with global markets – remaining agile and flexible in seizing new opportunities to support Jersey's long-term jobs and growth objectives.



Tom Le Feuvre

Tom Le Feuvre, Director – Global Markets and International Agreements, Government of Jersey.

Born and educated in Jersey, Tom read History and French at Durham University, gaining a First Class degree with Distinction. He joined HM Diplomatic Service in 2008, initially working on corporate strategy and Afghanistan-Pakistan relations, based in London. Deployed to Doha in January 2011 to manage the trade visits to Qatar of the Lord Mayor of London and the UK Prime Minister, he then spent a year on full-time Arabic language training in Jordan, before serving as First Secretary in the UK's Syria Office in Beirut, Lebanon (2012-2014). He then returned to London as head of international engagement within the FCO's Ebola Taskforce, before serving as the FCO's Head of East Africa.

Returning to Jersey in 2015, Tom is now primarily responsible for Jersey's global markets. Elected Vice-Chair of the OECD's Ad Hoc Group on Country-by-Country Reporting in 2017, Tom regularly represents Jersey within multinational institutions, including the IMF, World Bank, OECD Global Forum and OECD Inclusive Framework.

A positive global force

By Richard Nunn and Allan Wood

The environment for international investors in 2019 is a complex one. On the one hand, investors are continuing to grapple with regulation, reporting obligations and ongoing market and political instability. On the other, the clear indications are that investors remain firmly fixed on the future, with global ambitions and keen to put their capital to work in increasingly sophisticated ways.

To manage these complexities, they need a platform that is stable, straightforward and that offers easy access to expertise – and over the past 12 months, Jersey has been successful in underlining its positive role in enabling investors to realise their ambitions.

In fact, the past year has been significant for us as we have continued to see an evolution from Jersey as a jurisdiction facilitating predominantly European capital to a centre that is focused on global investment flows.

That has been reflected in Jersey Finance's overseas strategy. While Jersey has for years been focused on building positive relationships with international markets from Europe to Asia, North America and Africa, in the past year we have taken an increasingly global view, adding considerably to our capabilities in the Gulf region and broadening our focus in Africa too.

Our proposition is clearly resonating; today, Jersey is helping investors in all corners of the world to put their assets to work in a robust, transparent way. Jersey mediates around £1.3 trillion of global assets, with around 50% of new business attracted to Jersey now coming from outside Europe.

As we look forward to the coming years, our ambition is to continue to extend our reach by working with partners in overseas markets to highlight our expertise, regulatory environment and stability as a jurisdiction.

GLOBAL CERTAINTY

Figures provide a good indication of Jersey's capabilities in facilitating global trade and investment. Research reveals that not only does Jersey act as a pipeline for around £1/2 trillion of foreign direct investment (FDI) into the UK and almost €200 billion into EU Member States ('Jersey's Value to Europe' and 'Jersey's Value to Britain', 2016) but it also facilitates FDI of some US$13 billion each year to support greenfield site investment in a broad range of developed and developing countries.

In addition, research on Jersey's funds landscape found that, after Brexit, almost three quarters of capital in Jersey alternative funds will come from non-EU sources ('Analysis of the Jersey Alternative Funds Sector Investor Base', 2017). All the indications suggest that investors are finding growing appeal in Jersey's approach and, with market and political stability around the world still far from certain, we fully expect that the platform Jersey offers will become increasingly desirable in the years ahead – which is why we continue to invest in overseas markets.

Last year, for instance, Jersey Finance formally opened its new office in Dubai and in doing so became the first IFC to open an office in the Dubai International Finance Centre (DIFC). This was a hugely significant move for Jersey in a market where we already have a long and solid history, with Jersey Finance having a physical presence in the UAE since 2011.

Meanwhile, 2019 marks the 10th anniversary of Jersey Finance's office in Hong Kong, reflecting not only our commitment to another key region for us but also our forward-thinking approach in establishing an office way ahead of most other IFCs.

This year, we have also established our first permanent presence in the US through an office in New York. Through this office, Jersey can play a vital role in supporting US asset managers with their European and wider global distribution. >>

Image by Coffeemill / Shutterstock

Jersey mediates around £1.3 trillion of global assets, with around 50% of new business attracted to Jersey now coming from outside Europe

Our overseas office network is supported by a formidable market outreach programme. In the past year, Jersey Finance has hosted roadshow events in Cape Town and Johannesburg, breakfast events in Nairobi, roundtables in the US and events focused on women in wealth management in the Kingdom of Saudi Arabia.

In 2019, we are maintaining that momentum with a series of events for women in Jeddah, Kuwait and Dubai as well as further events in the DIFC, Abu Dhabi and Beirut, whilst also supporting a range of international third-party events across our target markets.

It is testament to the strength of Jersey's global reach and the certainty Jersey is providing to investors that record numbers of Jersey firms are investing in flyout activity to these markets and attending Jersey Finance roadshow events, as well as bolstering their own operations in those markets.

INNOVATION

Being able to work effectively with key overseas markets, of course, means having a deep understanding of trends and an appreciation of what matters to investors in those markets.

To that end, Jersey invests heavily in cutting-edge research to provide deeper insights and in developing innovative products to support those trends.

Jersey's International Savings Plan (ISP) product, introduced in January this year, is a clear example. Designed to meet the needs of multinational businesses, the Jersey ISP enables international companies to set up robust, yet flexible savings plans for non-resident employees.

While the appeal for such products is international, it is anticipated that the ISPs will have a particular appeal in the Gulf region, where there is a strong demand for such schemes.

Meanwhile, in order to better understand our core overseas markets and differentiate Jersey as a thought-leading jurisdiction, Jersey Finance is continuing to bolster its library of evidence-based research.

In the past year, we have published white papers exploring trends in the Chinese and GCC wealth management sectors and how IFCs can support wealth and succession planning needs in those markets.

These reports are proving instrumental in informing our activity in Asia and there are plans to continue with this work this year, complementing our overseas strategy. New papers on Hong Kong and Islamic finance are in the pipeline, as well as new publications focused on the Kingdom of Saudi Arabia and Africa.

FUTURE OBJECTIVES

In an increasingly complex and diverse global market, investors are looking for safe and robust jurisdictions to support their capital flows and future objectives. With a clear commitment to extending and enhancing its global reach to better serve investors, Jersey is ideally placed to meet that demand.

Richard Nunn

Richard Nunn, Regional Head – East, Jersey Finance.

Richard joined Jersey Finance in 2014, originally as Business Development Director for the UK, before relocating to the Middle East in 2016 to cover the Gulf region. Prior to Jersey Finance, he spent eight years with Barclays International and led the UK Resident Non-Domicile business within Barclays International Banking, based in Canary Wharf. Before that he spent six years in their Jersey office as an Investment Manager, before going on to lead the business development and client relationship teams. Richard is a holder of the Investment Management Certificate (IMC) and through the Society of Trust and Estate Practitioners (STEP) obtained the Diploma of International Trust Management with distinction, entitling the TEP designation.

Allan Wood

Allan Wood, Regional Head – West, Jersey Finance.

Allan joined Jersey Finance as Business Development Director following five years with Barclays International in Jersey. Born in Liverpool, he has more than 25 years' financial service experience in Jersey and the UK. Prior to Jersey Finance, Allan was Vice President and leader of the Jersey International business within Barclays Wealth & Investment Management division. Prior to this, Allan spent 20 years with Royal Bank of Scotland and has extensive experience managing business units, teams and clients within the international arena. Professionally, he is a member of the Chartered Institute for Securities & Investment (CISI).

A centre for global finance

By Dr Gunther Thumann

In a world of uncertainty and volatility, what the global finance industry needs is strength – people you can rely on. This is where Jersey has taken the bull by the horns and seized the opportunity to provide a hub of expertise, innovation and security for high net worth individuals (HNWIs) and companies across the globe.

While Jersey has always been known for its strong connections to Europe and the UK, it has built on this solid foundation and is now also respected internationally. Jersey Finance has been working with professionals and HNWIs in Africa, Asia, the Gulf and US, to nurture these connections and help create a healthy system of global finance, with Jersey as the linchpin for success.

It is worth noting that 50% of new business attracted to Jersey now comes from outside Europe and, with Brexit casting a shadow for the last few years, it is just as well. Markets around the world see Jersey as a trustworthy jurisdiction, independent from these uncertainties and it is our forward-thinking attitude that has led us to this place of confidence.

From the UK's perspective, Jersey is now helping to facilitate around £0.5 trillion of inward foreign investment each year. This equates to around 5% of the UK's total foreign investment stock, adding £14 billion to the UK economy and supporting approximately 250,000 jobs.

On the flip side, Jersey is also playing a key role in putting UK investor capital to work overseas. Jersey's strong relationship with Europe, for instance, enables it to facilitate around €200 billion of high-quality inward investment into the EU each year.

THE WEALTH EPIDEMIC

According to Knight Frank's 2019 Wealth Report, the global ultra-high net worth (UHNW) population is set to increase by 22% over the next five years, meaning an extra 43,000 people will be worth more than US$30 million by 2023. Notably, Asia is a real hotspot, with the fastest growing UHNW population in the world and the number of US dollar millionaires set to reach more than 20 million for the first time this year.

Of course, with the increase of wealthy individuals across the globe, comes a very specific set of needs. From private wealth management, to family office and investor relations, Jersey is well versed in unique, region-specific requirements and is increasingly seen as the go-to jurisdiction for this area of work.

The reason for this broad brush of expertise comes from Jersey's effort in understanding global markets, incoming trends and the potential challenges HNWIs might be facing, through regular commissioned research. Recent papers include 'Wealth Structuring and the International Financial Centres: Perspectives from the GCC' and 'The Future for International Finance Centres (IFCs): Views from Asia's Wealth Management Market' (both 2018). Other areas where we have continued to bring new insights to market are in more emerging spaces such as debt funds, sustainable investing and technology and life sciences.

A GLOBAL OUTLOOK

Not only is Jersey contributing important insights regarding global markets and trends but it is also expanding its reach geographically. Jersey became the first IFC to open an office in the Dubai International Finance Centre (DIFC) last year and this year opened a New York office. >>

While Jersey has always been known for its strong connections to Europe and the UK, it has built on this solid foundation and is now also respected internationally

Image by SassyWitch-Studio / Shutterstock

THE GULF REGION

Jersey Finance has worked with countries across the Gulf region for many years and, with a presence in the UAE since 2011, Jersey has established itself as a leading jurisdiction for private wealth management, supporting the increasingly sophisticated international wealth and succession planning strategies for families in the region.

Our 2018 GCC paper revealed that with an estimated US$1 trillion in assets expected to be transitioned between generations over the coming decade; this presents considerable opportunities for IFCs seeking to support families in the region by providing a full suite of cross-border, corporate, funds and wealth management services for HNWIs. Also, the younger generation increasingly appreciates the importance of transparent wealth preservation, planning and the use of leading, compliant IFCs such as Jersey.

GREATER CHINA

Similarly, China is continuing to offer a significant opportunity for Jersey as was highlighted in 'The Future for IFCs: Views from Asia's Wealth Management Market'. Tax compliance was one of the highest priorities for Asian HNWIs when considering an overseas structure, driven by global and local regulations covering disclosures and cross-border exchange of data. More than 46% of respondents also believed succession planning was the key motivator when selecting an IFC. Again, these are areas where Jersey excels and we are harnessing these opportunities based on the forward-thinking, proactive approach we place on sourcing this information, as well as ongoing relationship building.

AFRICA

For more than two decades, Jersey has earned a reputation amongst African investors as a jurisdiction of choice for private wealth management, working extensively with HNWIs to internationalise their wealth and support cross-border investment, wealth structuring and succession planning.

The IMF predicts that economic growth in Africa will accelerate from 3.4% in 2018 to 4.1% by 2023, which is where Jersey can step in to support outbound investment into new markets and sectors such as philanthropy, impact investing and alternative assets.

In addition, a study published in 2014 by Jersey Finance found that over the next 30 years, Africa would need to invest US$85 trillion in infrastructure to support its growing population. Additionally, in order to meet that demand, it would need to attract in excess of US$6 trillion of foreign direct investment. Jersey is perfectly placed to assist with this and a growing number of Island firms are working with African businesses to provide robust access to pools of capital in key investor markets, such as London and Europe.

HARNESSING JERSEY'S CONNECTIONS

Optimism dictates that from challenge comes opportunity and Jersey is an Island of optimists – backed up by talent, professionalism and expertise. Our foresight to evolve from being a hub for UK and European capital to also being a reputable centre for facilitating global financial flows, building relationships with important global markets such as the Gulf region, Greater China and Africa, as well as the US and our European and UK neighbours, is what has secured our position as a leading IFC.

Jersey became the first IFC to open an office in the Dubai International Finance Centre (DIFC) last year and this year opened a New York office

We see that this is an exciting time for Jersey as we harness opportunities to not only show our worth as a well-regulated IFC of substance and expertise but also as an important jurisdiction for supporting other markets.

It is by working together that we succeed and that is Jersey's ethos on a global scale.

Dr Gunther Thumann

Dr Gunther Thumann, Chairman, Jersey Finance.

Gunther was appointed Chairman of Jersey Finance Ltd on 19th May 2017, following a successful career in the private financial and the public sector that spans four decades.

Gunther graduated with a PhD in economics and statistics from the Friedrich-Alexander University Erlangen-Nurnberg (summa cum laude) and, between 1978 and 1994, was an economist in the German civil service and subsequently senior economist for the International Monetary Fund in Washington DC.

After working for Salomon Brothers in London as Managing Director, he founded a consultancy specialising in the analysis of central banks. In 2007, Gunther was appointed partner, CEO and Chairman of the Board of Brevan Howard Capital Management in Jersey. During his 10 years there, he built the offshore business and established the Jersey business as the hub of the Brevan Howard Group.

Below: (left to right) Tony Moretta, Naomi Rive, Martin Moloney, Senator Ian Gorst, Joe Moynihan, Ann Marie Vibert, John Willman & Mike Byrne at the Jersey Finance Roundtable, May 2019.

Jersey Finance Roundtable 2019

Participants:
Chairman: John Willman, former UK Business Editor of the *Financial Times*
Joe Moynihan: Chief Executive of Jersey Finance
Martin Moloney: Director General of the Jersey Financial Services Commission (JFSC)
Senator Ian Gorst: Minister for External Relations, Government of Jersey
Tony Moretta: Chief Executive, Digital Jersey
Naomi Rive: Group Director and Head of Family Office, Highvern
Ann Marie Vibert: Managing Director, Royal Bank of Canada (CI) Ltd
Mike Byrne: Partner at PwC in Jersey and former Chairman of the Jersey Funds Association (JFA)

John Willman: Two thousand and eighteen was a year of significant geopolitical developments around the world, with weaknesses emerging in economies such as China and EU member states. Meanwhile, negotiations on Brexit have continued to stall and there has so far been little clarity on the outcome. However, legislation on international financial regulation passed after the 2008 financial crisis is beginning to be implemented, with praise for Jersey's leadership role in the taxation and transparency developments now coming into effect. In this Roundtable discussion, I want to examine how Jersey has responded to the events of the last 12 months, look at the progress of Jersey Finance's strategic projects and discuss developments in its core sectors in 2018 and beyond. Also, since it has been a year of change in Jersey's financial industry leadership, I want to start by inviting Joe Moynihan, the new Chief Executive of Jersey Finance and Martin Moloney, who has just become Director General of the Jersey Financial Services Commission, to give their initial impressions of the industry and outline their priorities for the coming period.

Joe Moynihan: I'm very pleased to join Jersey Finance, which I have been a member of and worked with as the senior civil servant in the government responsible for funding. I also did some consultancy for Jersey Finance in the early part of last year, so I had a pretty good idea of what I was letting myself in for. I've always been impressed with Jersey Finance but since I've come in now and got to know it a bit better, I'm even more impressed. There's a superb team here, right across the board in all areas. The priority is to make sure that we continue to do what we have been doing, supporting the industry, promoting it and working with the strategic partners in government and the Financial Services Commission to ensure that Jersey remains relevant to its customers and continues to provide solutions for what is increasingly becoming a global client base.

Martin Moloney: I've been here for a slightly shorter time than Joe and have been talking to as many people as I can to get a sense of where Jersey is. I have identified several challenges that we may have to wrestle with over the next couple of years. One is the changing strategic importance of money laundering regulation, requiring the regulator to maintain its supervisory capacity to meet global best practice standards. A second is whether the JFSC is well-positioned globally in terms of our regulation. A third issue is around enforcement and regulation – in particular, whether we need civil sanctions against individuals and the role of a robust enforcement regime as part of our supervisory model. We also need to discuss the financing of the regulatory system. Finally, the JFSC needs a dialogue with the finance industry on how well it is structured and whether it is turning Jersey's small size into an advantage.

John Willman: What developments have there been over the last year that have affected Jersey's reputation as an international financial centre (IFC)?

Joe Moynihan: The most significant step this year was the confirmation by European Union finance ministers that Jersey is a cooperative jurisdiction. That was a result of the substance legislation we put in place to achieve and meet the objectives of the OECD base erosion and profit-shifting agenda. We weren't hugely concerned about meeting the objectives because we've always said this is a substance jurisdiction: you can't set up shell companies here – that's not our business. The legislation made it very clear what was meant by substance and the Government of Jersey worked with the OECD and senior EU officials to ensure that we met the requirements. Being seen as cooperative was really significant for Jersey's reputation, demonstrating the quality of our jurisdiction.

Mike Byrne: That quality is also shown by the continuing choice of the Island by some of the world's largest funds for the domicile of their long-term funds which need to be located in a jurisdiction that will be stable over the life of their funds. These are large funds of $5-10 billion and even if they are already in Jersey, launching a new fund is not just simple repeat business. Funds owe it to their investors to make sure they've made the right decision on location and will often take advice from an international law firm that will conduct a global search to see whether there is a better jurisdiction for the new fund. Jersey comes out as pre-eminent in the vast majority of those cases – very few funds do not continue to use us.

Naomi Rive: On balance I think that the economic substance legislation is a positive story for Jersey and that few businesses on the Island will experience difficulty in demonstrating substance in relation to the companies that they manage and administer. Speaking for Highvern, we have been through a process of categorising all of our Jersey tax-resident companies to determine whether they undertake relevant activities and then assessing the level of services provided to those companies. I believe most trust companies are undertaking similar activities and are not finding it an unduly onerous task. More challenging is the task of explaining the new legislation to clients but most seem accepting of the position.

Ann Marie Vibert: I've had a 35-year career in banking, holding various roles and am now Managing Director of the Royal Bank of Canada, Channel Islands Limited. Being part of a large global bank, I know how important reputation is to such organisations and I have seen at firsthand how they choose Jersey or the Channel Islands as the jurisdiction where they want to be represented because they know that we are well-recognised and well-regulated jurisdictions.

John Willman: Let's now move on to Private Wealth, a core sector for the finance industry in Jersey. One of the most important changes implemented in the last three years after the 2008 financial crisis has been the automatic exchange of tax information between jurisdictions under the OECD's Common Reporting Standard (CRS). How is this change progressing?

Photo Chris George

Naomi Rive: For many years, there was considerable discussion at conferences about CRS and the move towards a much more tax transparent global environment. Jersey was an early adopter of CRS, of course, and we're now into our third year of reporting. Increasingly then it is becoming a part of our DNA and that of our clients. The quality and sophistication of our client base certainly helps as our clients appreciate the political drive for tax transparency and the extensive media reporting means our clients know it is a global shift and not just one jurisdiction or organisation being difficult. In general then, we've had very constructive engagement with clients and have seen very little business move away as a result of CRS, or seek to restructure to alter reporting which would, in any event, ordinarily have to be notified to the authorities under the mandatory disclosure rules.

Martin Moloney: Talking to people since I came here, the CRS process is just not an issue – not one person has spoken to me about this as a point of tension. It's something that Jersey is entirely comfortable with doing and that reflects, I think, what people have said to me about why the majority of the finance comes here. It doesn't come here for any reason that would make automatic exchange of information a difficulty.

John Willman: Are there any further reforms to trust law to strengthen the Jersey offering?

Naomi Rive: We regularly talk about innovation in the private wealth industry but the innovation doesn't so much come from constantly amending legislation as from enhancements to the services we provide. We think that we've got a very good legal framework, so we don't constantly amend our legislation just for the sake of it. Some amendments were introduced in June 2018 which, amongst other changes, extended the provisions relating to the court's power to vary trusts, so as to make the law slightly more pragmatic. As I mentioned, however, we're increasingly focused on how we work with our clients and ensuring we provide them with sustainable solutions and a personalised and efficient service.

John Willman: The subject of public registers of the beneficial ownership of companies is back in the news, with a realisation that the UK's public register is not audited – unlike the Jersey system.

Martin Moloney: There's a good and a bad way to introduce registers of beneficial ownership. The good way is to start with an entirely private register and build up the reporting arrangements and the technology. Then build up the arrangements for the exchange of information with the relevant enforcement and tax authorities which is how it was done in Jersey. The much less effective way is to start with the idea of a public register, persuade company-owners to register on it and then patch it up if people point out that it is not accurate information. Jersey's approach is a more effective way of differentiating between legitimate businesses and those that abuse tax laws on money laundering: it's not about doing things that look good in the press but investing the money, resources, time and effort into making a system that works. And if there is some benefit in going public, we should not rule it out as an option at some relevant date in the future.

John Willman: For the first time at this Roundtable we have a section on digital finance and it's good to welcome Tony Moretta who is Chief Executive of Digital Jersey and will update us on what has been happening on this very hot topic.

Tony Moretta: One of the major drivers of Digital Jersey is the need to support the organisations that support the Island's finance industry – which involves between a quarter to a third of the digital sector. And it is growing as the various sectors of industry explore the different ideas and technologies around processes such as know your customer procedures, risk-screening and document management. Progress is uneven, because while larger companies have been using digital for a long time, there are lots of smaller companies in sectors such as private wealth that lack the resources needed to invest in digital. However, there has been a growing awakening in the private wealth sector that the requirements of their clients are changing – younger customers will want digital reports on their phones, for example. And among the bigger organisations in banking and funds there are much larger projects in progress – I think that RBC has been pushing robotic process automation for a while.

Ann Marie Vibert: We have. Robotic Process Automation is bringing more innovation and automation to the banks to serve customers better, not by replacing people but freeing them from more mundane tasks in banking to allow more focus on activities that add more client value.

Tony Moretta: We have some world-class advisors at Digital Jersey and one recently reported that Mark Carney, the Bank of England Governor, had said that the lack of technologies such as digital ID was causing some real friction in financial services. Although we work in an industry in the digital world, we're still using physical passports for ID with many banks just photocopying them and putting the copies in a drawer. In any case, bankers are not exactly experts in spotting forgeries of their own country's passports, let alone those of countries around the world – we need better ID processes.

John Willman: What progress is Jersey making in its aspiration to become the easiest IFC to do business with remotely in a digital world?

Tony Moretta: We have four organisations – the Government of Jersey, Jersey Finance, Digital Jersey and the JFSC – working together on a fintech roadmap which builds on what has already been achieved. The roadmap has plans for increasing the resources dedicated to a variety of fintech initiatives, including digital ID and other projects which remain confidential. However, Jersey has an excellent record for pioneering digital innovations, such as the launch of Worldpay, a digital start-up which is now a global leader in payments processing. We had the world's first

regulated bitcoin fund five years ago and the world's largest cryptocurrency exchange outside Asia-Pacific was launched in Jersey. And there are risk-screening companies such as KYC Global which started in Jersey and are now working globally with the likes of Dow Jones. We are also working on regtech solutions which we hope could be effective in exporting workable fintech innovations.

Martin Moloney: It has been very interesting as a regulator over the last five years to engage with the fintech debate and what different countries have achieved. There were a lot of early ideas from industry that didn't work out well. The JFSC is always learning lessons about what will be successful. Often fintech firms don't have the experience of engaging with regulators and our legal framework. In some cases, we have had concerns over speculative investments such as crypto assets and blockchain. But some of the blockchain proposals are now beginning to look credible and may have competitive advantages in sectors like funds. And fintech innovators are beginning to develop partnerships with well-established financial services firms that give them the confidence to engage with regulators. We're optimistic that we're getting to a point on fintech where we'll have some interesting proposals to engage with.

John Willman: It's been a year of change following the 2018 general election in Jersey and I am delighted to introduce another first-time appearance at this Roundtable by Senator Ian Gorst who is now Minister for External Relations for the Government of Jersey. He will brief us on how Jersey's relationship with the outside world is shaping up in the Brexit era.

Senator Gorst: It has been a very interesting year from a Brexit perspective. Jersey was well-prepared for all Brexit eventualities but at the start of this year, it looked as though there was increased chance that the UK might leave the EU without a deal. Ironically, Brexit has enabled us to build stronger and broader relationships with departments right across the British government and with ministers and to feed in the policy outcomes which Jersey would desire from Brexit. We remain of the view that an orderly Brexit with a negotiated withdrawal is not only in our interests but also the interests of the broader UK and the British family. The withdrawal agreement clearly represented our interests, whatever UK politicians might think of it: it put us into a prospective transition period with an appropriate length of time to discuss a future economic and security partnership.

We are refocusing the structure that we put in place to get us to this point on that future partnership. It will create challenges for the UK as it will for us, because there will need to be trade-offs and decisions around regulatory alignment and access to markets – and the economic consequences of those decisions. Any new arrangements agreed between the UK and EU will have consequences for Jersey and we will continue to engage with business about our trade policy into the future. Questions will arise about whether we are content with the way that we deal with services in Europe, for example, or whether there are other opportunities that we should be trying to focus on.

John Willman: What about non-Brexit policy developments, Senator?

Senator Gorst: We have been building and enhancing our global Jersey brand, which is aligned very much with the global Britain brand. We are increasing resources in the Middle East and the Far East and supporting the work that Jersey Finance is doing in America. We are expanding the work that we do in Africa, which is not only about building financial services capacity and enabling foreign direct investment in developing countries but also ensuring that funds which have found their way to Jersey in the past that we didn't welcome are repatriated in a responsible manner so that citizens of those developing countries can feel the benefit of them. We are coordinating with the UK, Switzerland and Kenya to make sure that we can demonstrate our competence in that drive.

We're signing double taxation agreements and memorandums of understanding with countries such as Bahrain, strengthening relationships that will be of great benefit to financial services businesses, as well as other businesses in Jersey.

We also welcome the work that Tony Moretta is doing in the digital sector to enhance Jersey's productivity. These activities are absolutely aligned with the strategic review and the strategic refresh that we in government did several years ago, working with Jersey Finance and the regulator. We continue to be surrounded by uncertainty in global geopolitics but we are putting resources, people and money into building our markets and our brand to ensure a strong future for the financial services industry in Jersey.

John Willman: I'm interested that North America is becoming more of a target for the Government of Jersey and Jersey Finance. What is the thinking behind this, Joe?

Joe Moynihan: Jersey has been identified by US fund managers as a good location for investment into Europe and for attracting European investment in recent years and the industry has felt for some time that the business coming to us is a very tiny portion of the business available in that market. The view was that Jersey Finance representation would help to grow the Jersey brand significantly in the US and provide opportunities for practitioners wishing to enter the market. We have made several exploratory trips to New York and identified premises and we hope to appoint a business development director for the region soon. Funds were always going to be the main focus but discussions within the industry have suggested that our private client offering will also be attractive, particularly for international assets. Some of this is perhaps winning business that currently goes to the Caribbean and some is winning business that is not necessarily well organised – as we've seen in the Middle East, families grow wealth massively and invest internationally but it is often not properly structured. Traditionally we have been cautious about private client business in America, because we don't want to fall foul of the US authorities but with FATCA and CRS now operating, industry is used to and has the systems in place, to deal with information sharing and as a result the US doesn't present the same level of risk for Jersey as in the past.

Mike Byrne: I think that this move by Jersey Finance is absolutely right. Half of all global assets in funds is based in North America with a concentration of management activity in New York and Connecticut, so locating in Manhattan would address that market very clearly. At a time when onshore EU locations may be considered by US managers, it would be great to present the alternative of marketing funds in Europe through Jersey's National Private Placement Regimes, avoiding the regulatory obligations of marketing through a fully regulated AIFMD product.

John Willman: Continuing with funds, Mike, would you like to say more about the wonderful success story of Jersey funds?

Mike Byrne: Jersey has had a focus on alternative investment funds for 20-odd years which has created a very stable platform of long-term capital which is largely insulated from short-term markets sentiment. The global appetite for alternatives such as real estate, private equity, private debt and infrastructure, has never been higher. A recent PwC report expects alternative funds to double from US$10 trillion globally to US$21 trillion by 2025. The most recent figures for Jersey assets under administration is over £320 billion for our regulated fund sector, which has risen £40 billion over the year to 31st September 2018 – a 15% increase. With another £20 billion plus in our Jersey Private Fund regime which has launched over 225 funds in two years, this is a really healthy industry.

Joe Moynihan: And all these funds boost other financial services sub-sectors: they all need to be audited and regulated, given legal advice and they create employment. What's good for one sector invariably brings some of the other sectors with it.

Martin Moloney: It's not just good for Jersey, it's good for the places where the funds are invested. The real estate sector in the UK is under pressure given regulatory changes and the Brexit impact but Jersey is central to some of the largest real estate developments we've seen there – the Cheesegrater, the Shard and Goldman Sachs's new headquarters, were all funded through Jersey vehicles which enable international investors to invest through a tax-neutral, efficient platform.

John Willman: Let's turn to banking, which is in the middle of a restructuring process.

Joe Moynihan: The banking industry in Jersey was hit by the financial crisis and the number of banking licences fell, as did the number of people employed by the banking sector. But we still have 28 banking licences with banks from pretty much all over the world, including some of the most well-known brands and they are still adding value. There have been some significant changes in the structure of Jersey's banking sector, with fewer subsidiaries because many have become branches to better manage Group capital. But we still have significant deposits of well over £100 billion, which are mostly upstreamed to their parent banks in London and New York to fund lending. One of the key points of the banking project was to attract new banks, which is something that we're still working on. We are currently having positive discussions with a couple of international banks from jurisdictions where we don't have representation. There were also some recommendations on activities that local banks could be doing, particularly on the credit side of their balance sheets but that may need changes to create the right infrastructure for the banks. Most of the bank chief executives I speak to are very interested in how they can serve customers better, how they can become more efficient and grow their business.

Ann Marie Vibert: I would agree with that, Joe. Banks are still operating in a relatively low interest rate environment, which puts pressure on them and on their clients who want a return on their deposits. To remain competitive we must have very slick onboarding processes for signing up clients, although the need to apply high standards to protect our reputation can sometimes work against us if we try to onboard clients too fast. We also know that we need to make documentation more client-friendly. With digital banking alternatives, people may be onboarded by being asked to take photos of themselves as proof of ID and clients ask why traditional banks require certified passports. We explain that we need them to protect clients and the bank but it does make it difficult to compete with digital banks.

John Willman: One last innovation we should mention is the launch of Jersey's International Savings Plans (ISPs).

Joe Moynihan: We always watch what's happening in our markets, to identify what our clients require and spot opportunities. On 1st January 2019, we launched ISPs, which enable large multinational employers to set up savings plans in Jersey for non-residents and are more flexible than traditional pensions, as they can be paid out before the normal minimum pension age: this can be on termination of employment, or on major life-changing events such as redundancy, ill health or divorce. We expect a lot of interest from the Gulf where end-of-service schemes for expats are common but the money that firms set aside to pay expat employees when they leave is often held on their balance sheets – and if those firms get into trouble, it is possible that the last people to be paid are the expats. ISPs, set up in Jersey, can provide some certainty around those payments as well as flexibility for life-changing events.

John Willman: I'd like to finish the Roundtable now by thanking all the participants – many of whom have not previously participated in this event and have brought fresh insights to our discussions.


Funds
ealth
ets


WiFi

Competing on quality

By Martin Moloney

Jersey's financial industry and indeed its regulatory framework is underpinned by a determination to compete on quality. As regulators we are of course mindful of costs to industry but in such a reputation based sector, ensuring our standards are of the highest level is vital.

The JFSC strives to match international regulatory standards; we have a close relationship with IOSCO, engaging in initiatives and co-designing policy such as the Hedge Fund rules. We sit on various pivotal committees and are involved in new initiatives such as sustainable finance and reviewing index providers.

In addition to engaging with international standard setters, we are also assessed by them. The results reflect our ambition. In 2009 Jersey was assessed for compliance with the FATF Recommendations by the International Monetary Fund (IMF) and outscored a number of major jurisdictions. Shortly thereafter, Jersey joined MONEYVAL (a FATF-style regional body established under the auspices of the Council of Europe to assess compliance with financial crime regulatory standards) and quickly established itself as a proactive member, attending plenary meetings twice a year and providing a number of trained assessors to participate in peer reviews. This led to our first evaluation by MONEYVAL in 2015-2016, scoring amongst the highest rankings internationally, placing Jersey in the highest echelon of FATF-compliant jurisdictions. >>

Photo Chris George

Reputations are hard won and easily lost, however; the new assessment methodology developed by FATF since then, has increased the emphasis on effectiveness and we are due for re-evaluation in the next few years. Work has already begun in earnest Island-wide to ensure we maintain our standards.

ENGAGEMENT WITH INDUSTRY AND DEALING WITH PROBLEMS

Our Chairman often describes the importance of the JFSC being a listening regulator. Jersey is a niche financial hub and it is highly specialised and skilled in the services it provides and supports. As such, a uniform rollout of large jurisdiction policies will not always transfer well to the Island. Our engagement with all sectors of industry and their relevant bodies is vital in delivering thoughtful and proportionate regulation.

The Jersey Funds Association (JFA), the Jersey Bankers Association (JBA), the Jersey Association of Trust Companies (JATCo), the Personal Finance Society (PFS), Digital Jersey and STEP are just a handful of such bodies that the JFSC closely works alongside. We also engage with Jersey Finance, who have a consolidated sector approach and as an example our consultation papers are normally published with responses optional to the JFSC or anonymously through Jersey Finance.

Our supervision strategy is evolving towards risk based regulation, another important facet enabling our maxim of agile, smart and proportionate regulation. With the establishment of a dedicated Supervision Examinations Unit (SEU) to support the JFSC's risk based approach to supervision, onsite activity through either entity risk focused or thematic examinations has increased commensurately, whereby in 2018, of the 73 formal examinations carried out by supervision, 46 were done by SEU (17 entity risk focused/29 thematic). For 2019 the SEU plan to increase that number to 62 (8 entity risk focused/54 thematic).

Mindful of the importance of demonstrating effective supervision of the regulated community in respect of their adherence to AML/CFT legislative and regulatory obligations, a dedicated Financial Crime Examination Unit (FCEU) has now been established and will commence a focused AML/CFT examination programme in late 2019.

The JFSC's risk based supervision is backed by the credible threat of enforcement. Our enforcement division plays a very important role in ensuring fair and just outcomes when regulated entities break the rules. In 2015 the JFSC was granted the statutory power to impose civil financial penalties on regulated businesses for contraventions of JFSC Codes of Practice, which mandate the standards that a regulated business must meet when carrying on its regulated activities. This was further strengthened recently to include imposing penalties on relevant individuals for contraventions of the Codes of Practice. It is important where possible for bad firms to pay for regulation, not the good ones.

INNOVATION

Jersey has been at the forefront of innovation for some time now; the JFSC approved the regulation of a Bitcoin fund back in 2014 – a world first – and Jersey introduced legislation regarding virtual currency exchange regulation in 2015, both well ahead of the crypto craze of 2017/18. >>

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Also, Worldpay – one of the largest payment networks in the world – was founded in Jersey in 1994 and international market leaders such as Binance and Softbank have selected Jersey to establish themselves. We are definitely 'open for business' but actually for the right type of business. Businesses enquiring about establishing themselves in Jersey will experience a great deal of scrutiny even prior to applying for a licence. Our experience is that good quality firms like this approach; they want the engagement, the scrutiny and the reputational comfort that comes from knowing only the best market participants are able to operate here.

When a business is looking at launching a financial product or service in Jersey that utilises new technology, they can seek assistance from our Innovation Hub. This entails meeting with businesses prior to application and guiding them through the regulatory landscape and helping to identify areas of their model that may need modifying, focusing on compliance by design.

The JFSC is also a member of the Global Financial Innovation Network (GFIN), an international group of 38 financial regulators and related organisations that are open to interacting with innovative businesses. Regulators are able to collaborate and share their experiences and approach, whilst businesses are able to test in multiple jurisdictions simultaneously within the network.

Internally the JFSC is also embracing technology; systems have been developed for online applications for Jersey Private Funds, registry APIs are in place and further online applications will come on-stream in 2019-20. We have ambitions to develop our capacity further.

PLANNING FOR THE FUTURE

A key area for our business planning is the development of our registers. The Government of Jersey has stated its intention to introduce a public register in line with EU directed timeframes, after a key EU review of European progress in 2022. This will require a great deal of work. It is an area in which Jersey already excels – having had a beneficial ownership register for many years and far longer than other major jurisdictions – that is accessible by relevant regulatory and supervisory bodies such as law enforcement, tax and regulators.

That leads into one of the major areas of focus not just for the JFSC but for the Island as a whole; the next MONEYVAL assessment and building the capacity of Jersey even further to fight financial crime.

The JFSC, government, industry, police, income tax, customs, Law Officers Department, the Joint Financial Crimes Unit and the Jersey Gambling Commission, are among the list of representatives all working together to ensure that Jersey can demonstrate just how effectively it handles matters of AML and CFT. The JFSC is committed to maintaining our reputation and position amongst the highest echelons of regulatory excellence in this regard.

Martin Moloney

Martin Moloney, Director General, Jersey Financial Services Commission (JFSC).

Prior to joining the JFSC as Director General in February 2019, Martin was Special Adviser on Risk and Regulation to the Central Bank of Ireland (CBI) previously heading the Markets Policy, Markets Supervision and Legal and Finance Divisions. A member of the Board of the International Organisation of Securities Commissions (IOSCO) and an alternate member of the European Securities and Markets Authority (ESMA), as well as Chair of the latter's Investment Management Standing Committee, he has been Chair of the European Systemic Risk Board's Expert Group on Investment Funds and represented Ireland on the EU Committee of Securities Regulators.

Martin had a leading role at the CBI formulating policy for AIFMD, EMI and MIFID II and led development of supervisory processes in relation to the Prospectus Directive and the Market Abuse Directive. Prior to moving into securities regulation, Martin led initial implementation of the Irish administrative sanctions enforcement regime and the regulatory levy system, with responsibilities for anti-money laundering.

His experience is primarily across funds, investment/asset management and as part of the management team of the Irish integrated regulator within the CBI, where he developed regulatory experience in relation to banking and insurance regulation. Recent experience includes matters relating to post-Brexit authorisations.

In his Special Adviser role, he was involved in the CBI's approach to fintech and innovation, leading to establishment of its innovation hub. Prior to joining the CBI, he worked in the Department of Justice and the Irish Competition Authority and spent 10 years in the Irish Department of Finance, responsible for national and semi-State debt management and the sale of State banks. Martin's early career was at Barclays Bank and the Bank of Ireland in London. He has an LLM in Business Law and a Masters qualification in Economic Policy, both from Trinity College Dublin, plus Postgraduate Diplomas in Arbitration, Regulatory Management and professional examinations from the Chartered Institutes of Bankers and the Chartered Institute of Arbitrators.

Covering compliance challenges

By Luciano Brambilla

As international governments and regulators push for transparency, new international legislation and regulations have contributed to Jersey's current regulatory environment. Consequently, in Jersey the position of registered Compliance Officer, Money Laundering Reporting Officer and Money Laundering Compliance Officer, has become increasingly complex over the years.

Jersey's Compliance Officers are critical in supporting a strong compliance culture and in ensuring Boards are aware of new regulatory requirements, best practice and corporate governance. They ensure that all business and money laundering risks are assessed, taken into consideration and mitigated. They also ensure the smooth onboarding of acceptable new business.

REGULATORY SUPERVISION

The Island's regulator, the Jersey Financial Services Commission (JFSC), is proactive. It has established a civil penalties regime for registered firms and their directors, strengthened its teams and adopted a one supervisory contact per business which covers all regulatory licences held by a firm.

It has also introduced desk based supervision, which allows it to conduct themed reviews on various businesses to ascertain the adequacy of information supplied, identify industry trends and entities and areas for regulatory visits.

The JFSC is also establishing a new anti-money laundering and countering the financing of terrorism (AML/CFT) unit, whilst collating risk based supervision data and continuing to implement Financial Action Task Force (FATF) recommendations ahead of the Island's MONEYVAL assessment in 2021.

The JFSC has also increased efficiencies by developing its electronic portal for submissions and is enhancing its company registry systems. It maintains a good open dialogue with compliance officers which contributes to more effective regulation.

INTERNATIONAL COMPLIANCE ISSUES AND CHALLENGES

Challenges faced by Jersey financial services businesses and compliance officers over the next year include:

Economic substance requirement

Jersey brought into force the Taxation (Companies – Economic Substance) (Jersey) Law 2019 (the Substance Law), effective from 1st January 2019, in order to address concerns of the EU Code of Conduct Group that believes Jersey companies could be used to artificially attract profits that are not commensurate with economic activities and substantial economic presence in Jersey.

The Substance Law imposes economic substance requirements on companies that are tax resident in Jersey and that undertake 'relevant activities'.

Such companies will have to demonstrate that they have substance in Jersey by being directed and managed, having adequate people, premises and expenditure and are conducting core income generating activities all in Jersey.

This is likely to present a challenge for many regulated international finance companies which outsource activities to other group locations.

This will also place additional focus on the monitoring of the outsourced business. Such monitoring has long been a regulatory requirement in Jersey and in June 2017 the 'outsourcing policy and guidance notes' issued in May 2011 were expanded and reissued. The JFSC conducted themed visits on outsourcing arrangements in 2018/19.

Brexit

Regulated firms in Jersey have had to prepare for 'Brexit' or a potential 'No Deal Brexit' and have to put in place contingency plans, regarding the impact on third parties, particularly with a UK or EU element, as well as the impact on business continuity, travel plans and customer assets or investments. >>

The National Risk assessment and Risk Based Supervision

As part of Jersey's commitment to meeting the global standards set by FATF, the Jersey Financial Crime Strategy Group (JFCSG) was established to conduct a National Risk Assessment of Money Laundering and Terrorist Financing (NRA). The preparation of the NRA has required financial services firms to provide comprehensive customer data to assist with analysis of Jersey's key risk exposures.

Whilst this has been a challenge for firms – as some of the more complex Jersey structures do not fit standard reporting – it has also had the effect of improving firms' record keeping and reporting practices. This data will be collated annually and will also assist the JFSC in their approach to risk based supervision.

Anti-Money Laundering and Countering the Financing of Terrorism (AML/CFT)

Jersey, together with Guernsey and the Isle of Man, is now committed to moving towards a public register of beneficial ownership for companies by 2023. Requirements arose from the 5th EU Money Laundering Directive.

It is worth noting that Jersey has long maintained an up-to-date register of beneficial ownership of companies which whilst not public, is available through the requisite 'gateways' to the law enforcement agencies of other jurisdictions when requested.

The JFSC continues its focus on AML/CFT with themed visits on the role of the Money Laundering Reporting Officer and placing reliance on third parties' customer due diligence, as well as the overall effectiveness of compliance monitoring arrangements and the directors' oversight of this function.

Compliance officers are also increasingly looking to fintech and regtech solutions in the fight against financial crime.

OTHER COMPLIANCE ISSUES

Challenges have also arisen for the compliance function in relation to 'intermeddling'. This takes place if any form of dealing is carried out in relation to the Jersey situated movable assets of an individual who has died, prior to a grant of probate or administration being obtained in Jersey.

Further guidance around the process is required and there are potential cases being brought by Jersey's Economic Crime and Confiscation Unit (ECCU), who focus on significant economic crime as well as complex international financial crime and money laundering cases.

Challenges have also arisen around the regulation of cryptocurrencies and investing in medicinal cannabis (following its supply by medical practitioners being legalised on 1st January 2019). There is a concern whether the profits of any investments in this area would be deemed the proceeds of crime under the Proceeds of Crime (Jersey) Law 1999.

THE JERSEY COMPLIANCE OFFICERS ASSOCIATION (JCOA)

As a highly regulated jurisdiction, Jersey probably has the highest proportion per capita of expert compliance professionals in the world, with most taking relevant professional qualifications, including those of the UK-based International Compliance Association (ICA).

The JCOA was formed in 1997 and is made up of over 500 members, including compliance officers, company directors, lawyers and accountants from over 150 financial institutions.

It aims to support compliance professionals by providing a forum for new legislation, hot topics and relevant issues and provides monthly lunchtime seminars with speakers from the finance industry, the Government of Jersey and the JFSC. It also provides networking and a forum for discussing compliance issues and promoting industry best practice, as well as providing discounts on selected events and professional courses. As such it is an ideal place to keep abreast of developing regulatory issues and assists in meeting the minimum 25 hours continuing professional development required under the various Codes of Practice issued by the JFSC.

The JCOA has a strong relationship with the JFSC. The Director General of the JFSC provides an annual update and other representatives present seminars covering new initiatives. The JCOA is also seeking representation on various committees and governing bodies responsible for new legislation and regulation.

Whilst there are many challenges on the horizon for Jersey's finance industry its compliance professionals are well prepared and will continue to adapt and develop their specialisms to meet the evolving regulatory environment in Jersey.

Luciano Brambilla

Luciano Brambilla FCIS, MCSI, GdL, Chair, Jersey Compliance Officers Association (JCOA).

He has worked at the Jersey Financial Services Commission (JFSC), held senior management and registered compliance roles at international funds, investment and trust company businesses and at private trust company and funds businesses and was a director of a compliance consultancy firm.

Luciano is currently CO, MLCO and MLRO of the Jersey office of a global fund services business which operates in more than 50 jurisdictions.

Jersey – First for Data Protection

By Dr Jay Fedorak

Rapidly advancing technology has created diverse opportunities for economic development, particularly through the processing of large data sets. In this processing, however, it has also increased the risks to data subjects. Individuals expect governments and businesses to keep their data secure. Therefore, to maintain the trust and confidence of their customers, businesses must protect personal data according to the highest standards.

With a small population, Jersey businesses need to attract international clients. In the same way as the reputation of a business is important to residents, the reputation of the Island is important to international customers. Jersey must be a safe place in which to invest and store data but a difficult place in which to launder money. This requires a combined commitment from government and business to meet the highest standards of regulation.

There are other good reasons to implement an effective data protection regime. One is that the General Data Protection Regulation of the European Union (GDPR) prevents businesses in EU member states from transferring personal data to third countries that do not provide an adequate level of data protection. In the absence of adequacy, parties to transactions must establish binding corporate rules or contractual provisions to protect the data. These alternatives are burdensome and costly.

Meeting the EU standard for data protection involves three components. The first is that laws must provide individuals with effective data protection rights. The second is that the supervisory authority must have the influence, regulatory powers and resources to be effective. The third is a general level of compliance within the community.

Fortunately, Jersey has met the world standard of data protection regulation. Its laws essentially replicate the GDPR. Many passages are verbatim from text of the GDPR. There are a few minor differences but they do not undermine the strength of the laws.

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The Government of Jersey has also ensured that the supervisory authority meets the GDPR standard for independence and effectiveness. Whereas previously the Office of the Information Commissioner was an arm of government, it now reports to an independent board. The government has supported a plan and budget for staff expansion. We have grown from four employees to 10, with a target of 16. The new laws also give us GDPR standards of enforcement powers, including investigatory tools, the ability to compel changes of practice and the authority to issue GDPR levels of financial penalties. >>

The Government of Jersey has also ensured that the supervisory authority meets the GDPR standard for independence and effectiveness

The community in Jersey is also meeting adequate levels of compliance. There is a high level of awareness about data protection. To date, our investigations of allegations of non-compliance have found some complaints to be justified but no serious cause for concern. We have seen companies with advanced data protection and cybersecurity programmes that exceed statutory requirements. There is also a spirit of collaboration and a genuine desire to comply.

Nevertheless, our initial success should not make us complacent. We all must remain aware of the risks that new technologies pose. Organisations must verify that policies, procedures and systems remain up to date and that employees continue to receive training and comply with the laws. This requires an appropriate audit and review programme.

The primary goal of the Jersey Office of the Information Commissioner is general compliance with the laws. We perform three main functions. The first is to provide public education to ensure that organisations are aware of their obligations and individuals are aware of their rights. We have implemented a public education programme, including guidance on our website and a variety of public speaking engagements tailored to different audiences. Our guidance materials include the laws, assistance in interpreting them and practical advice as to how to apply them in specific circumstances. We are currently developing guidance on GDPR for financial services in Jersey. Members of staff speak at data protection and cybersecurity events. This academic year we have also presented data protection and information rights awareness sessions for young people in schools.

The second function is to collaborate with businesses and public agencies to meet their service objectives, while remaining in compliance. We review data protection impact assessments and draft laws with data protection implications. We provide informal advice on the implementation of new information systems. We are working with Digital Jersey to establish a digital innovation sandbox that would enable companies to test proposed new technologies using personal data.

The third function is conducting investigations. These can arise from the report of a data breach or complaints from individuals who believe that a data controller has unfairly processed their information. We will also conduct audits of data controllers and processors. We generally take a remedial approach to non-compliance, with the goal of rectifying errors and changing practice to reduce the risk of recurrence. While we may issue fines of up to £10 million, we intend to reserve this power as a last resort where it has not otherwise been possible to promote compliance or in cases of grievous negligence resulting in serious risk of harm to data subjects.

Given the dependence of the Jersey finance industry on the support of international clients and service providers, my office has an important role to play in the international community of data protection authorities. There are many companies in Jersey with offices in Guernsey, the UK or Europe. It is important for them that data protection authorities apply their laws consistently. We regularly consult our partner regulators and share best practices to ensure that multinational companies can implement data protection practices consistently across jurisdictions. We also collaborate on joint investigations of breaches involving data subjects from multiple jurisdictions. This ensures a consistency of approach and prevents situations where data protection officers have to answer the same questions repeatedly.

Promoting the best interests of the people of Jersey requires a team effort. Government, industry and regulators have their own roles but we can perform them more successfully, if we work together. Fortunately, Jersey has the skills and inclination to collaborate effectively. If we remain determined to continue with this approach, we will be able to preserve the good reputation of the Island to the benefit of its inhabitants.

Dr Jay Fedorak

Dr Jay Fedorak, Information Commissioner, Jersey Data Protection Authority.

Dr Jay Fedorak was appointed Information Commissioner for the Jersey Data Protection Authority in July 2018. He previously served for six years as Deputy Commissioner to the Information and Privacy Commissioner for British Columbia, five years of which he was also the Deputy Registrar of Lobbyists.

He has 25 years of experience in the field of privacy and Freedom of Information, as a regulator and in the public service of the Province of British Columbia as a practitioner. Jay holds an MA and PhD in International History from the London School of Economics.

He is an expert in the field of Great Britain and Europe during the 18th and 19th centuries and the author of 'Henry Addington, Prime Minister, 1801-1804: Peace, War, and Parliamentary Politics'. Jay has taught history at the London School of Economics, Royal Roads Military College, the University of Victoria and Simon Fraser University.

A bright future through digital innovation

By Amy Bryant

As a forward-thinking jurisdiction, Jersey has always shown an ability to be ahead of the curve – the commissioning of a Strategic Review off the back of the financial crisis that set out a blueprint for the future, at a time when other jurisdictions were left reflecting on the past, is a case in point.

Competition amongst IFCs is tougher than ever and market, societal and cultural shifts continue to shape investor behaviours around the world in ways and at a pace we have not seen before and there is no room for complacency.

Digital innovation has never been more important as a differentiator and an enabler – which is why that same Strategic Review included a dedicated digital workstream and set out a robust set of initiatives to enhance Jersey's strengths.

Guided by those initiatives, Jersey's finance industry remains engaged with key stakeholders, working with the government, the Jersey Financial Services Commission (JFSC) and other partners, including Digital Jersey and Locate Jersey, as we look to develop our capabilities as an innovative and digitally-led jurisdiction and stay ahead of the curve.

DIGITAL FRAMEWORK

Enabled by big data and technologies such as cloud services and artificial intelligence, there is no doubt that client needs are changing. Individuals and businesses are no longer willing to accept a one-size-fits-all service; they are increasingly demanding more information on a real-time basis.

Financial services firms are responding by looking to technology-based solutions to provide better products and services. The dilemma often faced by firms is where to undertake innovation and testing to achieve these aims; this is where Jersey could provide the right solution.

It is why Jersey, as a forward-looking jurisdiction, has been focused for some time now on creating an attractive digital framework that can provide the perfect environment for digital testing and an appealing platform for future fintech development – to the extent that today it is Jersey's ambition to be the easiest IFC to do business with remotely in a digital world.

To that end, there is now a real emphasis placed on legislative innovation and responsiveness in order to attract fintech professionals to set up operations in Jersey or use the jurisdiction as a testbed for new products.

Government policies are providing the skills, infrastructure and security to enable technology innovation, testing and growth of the digital economy. The roll-out of gigabit fibre connectivity to all households and businesses in Jersey has been a vital part of the proposition. Jersey currently ranks third in the 'Worldwide Broadband Speed League', ahead of Japan, Hong Kong, the US and the UK. >>

Image by Alagz / Shutterstock

On wealthtech, we are seeing a growing number of experts from the private wealth and digital communities in Jersey come together to develop solutions that can meet the digital expectations of the next generation of private client

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This advanced framework is positioning Jersey really strongly as a fintech centre on the international stage and as an industry we are working to capitalise on that. For example, a number of industry working groups are helping to progress opportunities in the regtech, cyber security, wealthtech and virtual currency space, whilst a recently established Fintech Community of Interest Group is engaging more and more firms on fintech innovation.

FINTECH

Jersey has a good track record when it comes to fintech. For instance, where virtual currencies are concerned, Jersey was home to the world's first-ever regulated bitcoin fund and – in a significant move – last year global crypto exchange Binance established an operation in Jersey.

Today, Jersey continues to adopt a pragmatic approach to regulation in the virtual currency and ICO space and explore the opportunities presented more widely by distributed ledger technology in, for example, funds distribution.

On wealthtech, we are seeing a growing number of experts from the private wealth and digital communities in Jersey come together to develop solutions that can meet the digital expectations of the next generation of private client – from platforms to make multiple currency transactions easier, to on-demand wealth management tools that integrate with business and lifestyle channels.

Regtech remains a critical element of our fintech environment too. With Jersey having a reputation as a world-leading jurisdiction for AML, there are real opportunities for firms to look to regtech, such as eVerification, to enhance their risk management capabilities and their regulatory experience even further.

In addition, we are focused on positioning Jersey as a centre of excellence for cyber and data security and we continue to engage, through groups such as our Cyber and Data Security Awareness Forum, with firms, government and regulators to promote best practice. This collaborative approach is vital to ensuring the Island remains a robust place to live and serve our clients.

With the inaugural Fintech Day during TechWeek last year, organised by Digital Jersey, attracting hundreds of finance and digital experts – and a Jersey Finance Fintech Demo Day earlier in 2019 showcasing a broad range of developers, IT firms and service providers in the fintech space both in Jersey and in other markets – the clear message is that Jersey is committed to this sector.

SUPPORTING GLOBAL INNOVATION

Meanwhile, beyond the jurisdiction, Jersey also recognises the opportunity it has to support investment in wider digital innovation. Globally, technology and the life sciences sectors are continuing to lead business growth. Over the last two years in the UK alone, technology companies have grown at more than double the rate of the economy. As a result, it is no surprise that funds continue to focus on the sector, with private equity firms investing more capital into this area than any other.

Jersey has earned a reputation as a specialist centre for global funds business, servicing £320 billion of fund assets, whilst data from Monterey Insight highlights that at least 27% of venture capital and private equity funds under administration in Jersey directly relate to investments in the technology and life sciences sectors. With US$93 billion of committed capital, the Jersey-administered Softbank Vision Fund, the world's largest technology fund, is a prime example.

With its global connections, European and global market access, specialist expertise, long-term stability and forward-thinking approach, Jersey is extremely well placed to support venture capital and private equity funds focused on technology.

FUTURE

By focusing on the opportunities presented by fintech, Jersey has created an environment that promotes digital innovation and is enabling global financial services firms to deliver the digital solutions they need to meet the expectations of their clients of the future.

Amy Bryant

Amy Bryant, Deputy Chief Executive Officer, Jersey Finance.

Amy joined Jersey Finance in 2011, becoming Chief Operating Officer in January 2014 and assuming her current role in September 2017. Amy also retains an active position leading the Strategic Projects team, which undertakes projects and initiatives to develop the financial services industry in the Island.

Prior to Jersey Finance, Amy worked for PwC in the Channel Islands, where she specialised in the taxation of offshore funds and Jersey corporate vehicles and provided international structuring advice to a global client base. Whilst working within the tax team, she was admitted to the Chartered Institute of Taxation as a Chartered Tax Advisor. Amy initially qualified as a chartered accountant within PwC's Assurance team working on the audits of a number of banks, financial institutions and public sector bodies.

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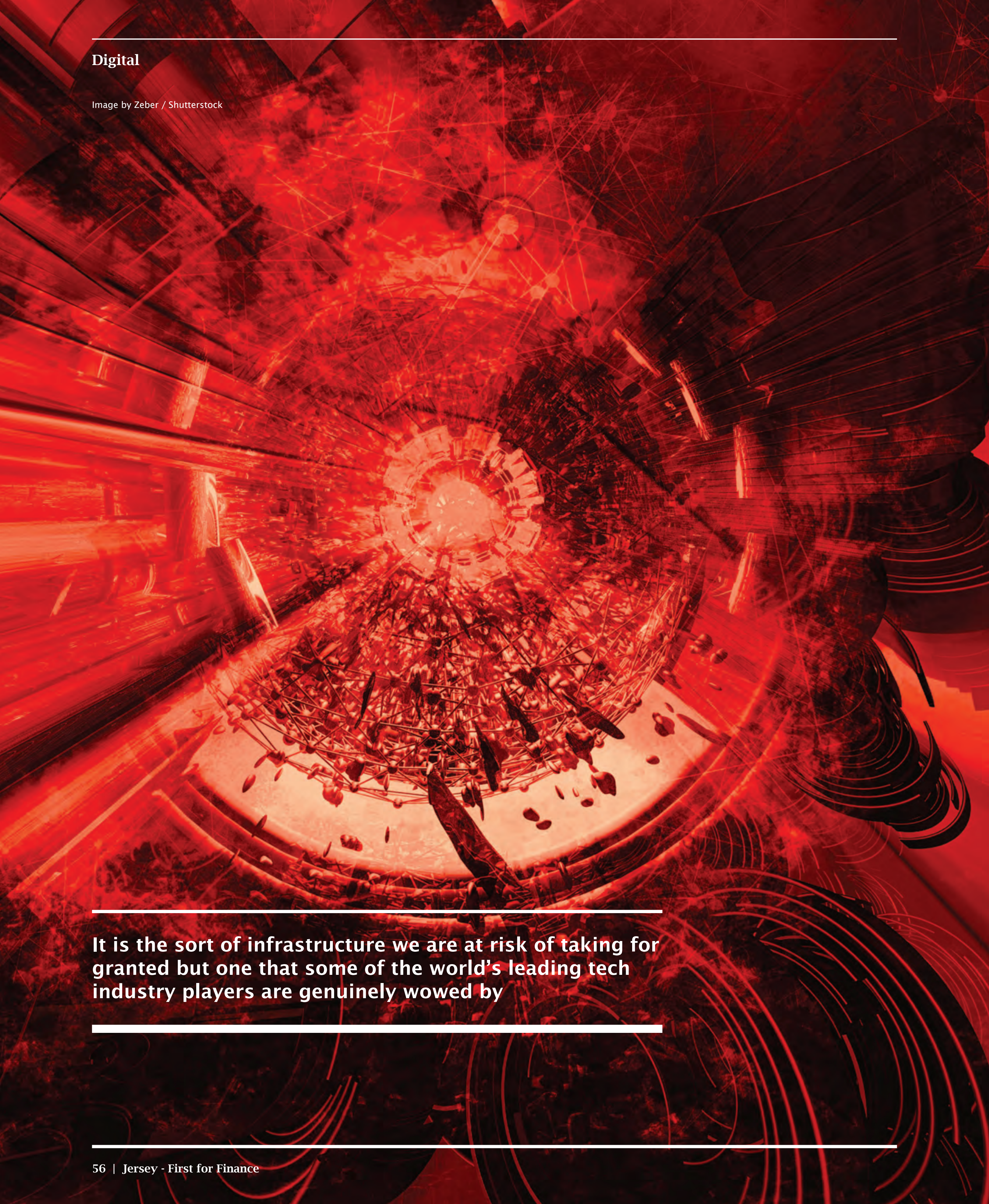

It is the sort of infrastructure we are at risk of taking for granted but one that some of the world's leading tech industry players are genuinely wowed by

Jersey –
the fintech Goldilocks zone?

By Tony Moretta

The conversation about Jersey is changing. Whether it is speaking to other tech professionals in the UK, or – more recently – with a US government department in Washington DC, the strides we are making in the digital world are being noticed and I mean really noticed.

That payment processing giant Worldpay, which recently merged with FIS to create a $43 billion business, started life in the Island as one massive example of the scale of ambition, enterprise and opportunity that can exist in 45 square miles of land in the English Channel. When they hear Binance – the cryptocurrency exchange – has set up in Jersey ahead of opening in other jurisdictions including Malta and Bermuda, the positive impression is cemented.

Wherever I go, people are astonished to hear about our gigabit fibre network which is connected to all homes in the Island. It is the sort of infrastructure we are at risk of taking for granted but one that some of the world's leading tech industry players are genuinely wowed by.

The opportunity for Jersey's finance industry and tech community has never, ever been greater. On the Venn diagram of things people elsewhere are looking for when choosing to do business and test services and products, the combination of existing technical skills, our infrastructure, an internationally-renowned finance industry, a cooperative regulator and a supportive government, position Jersey in a sweet spot we should all recognise.

We are working really hard right now to make sure we are speaking the same language as other jurisdictions looking to position themselves as fintech centres of excellence – which is why our Sandbox Jersey proposition is so important. The difference is that we are in the Goldilocks zone of what so many are looking for: large enough to have in place that world-class infrastructure, while being small enough to be nimble and agile.

It is why Digital Jersey, Jersey Finance, the Jersey Financial Services Commission and the Government of Jersey, are working closer than ever to ensure we are sending out a consistent message about all we do and all we have to offer, as well as constantly testing to be certain the rhetoric matches the reality. When we say we operate a relatively flat structure where it is easy to get access to the right people at the right time, is that really true? Thanks to the dedication and determination of people right across our agencies and industries, we believe it is. >>

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Jersey Finance partnered with us at the Centre for the Study of Financial Innovation (CSFI) to showcase our powerful Sandbox Jersey proposition. The Jersey Financial Services Commission is now a member of the Global Financial Innovation Network (GFIN), an international group comprising dozens of jurisdictions committed to innovation.

We can all expect to hear a lot more talk of fintech, which I see as a broad spectrum. At one end you will find those innovators and disruptors like Worldpay. They may not come along every five minutes but when they do you know about it. That such innovation and disruption can happen in Jersey is to the benefit of us all. At the other end of the spectrum is what you might think of as day-to-day fintech. It is about making sure our entire industry is prepared for the effect of AI and automation.

There will be both an impact and an opportunity. The impact could be the loss of some existing job roles. Yet the risk of ignoring it could be greater. The opportunity is finding ways to use AI and automation to improve our competitiveness and our productivity. Put simply, it is an opportunity for the entire finance industry to use technology to do more business, with the same resources.

In among all this I spy a prime opportunity right now in the field of regtech. Technology could dramatically reduce the cost of compliance which remains a very paper-based process. There is a world in front of us where an institution's AI could be overseen by the regulator's AI to get on with this hugely important part of our financial services process. A complete sea change in approach. Also, taking that opportunity on, the problems we are solving here in Jersey are exactly the same problems being faced by jurisdictions globally. Once we have used our Sandbox Jersey environment to test, refine and roll out these products and services, we can then market them to the world.

The time is right. The time is now. Remind yourself of the Worldpay story. See for yourself what is happening with Binance. Realise that sweet spot, that Goldilocks zone we call Jersey, has the chance to embrace digital disruption and turn this moment in time into a massive opportunity.

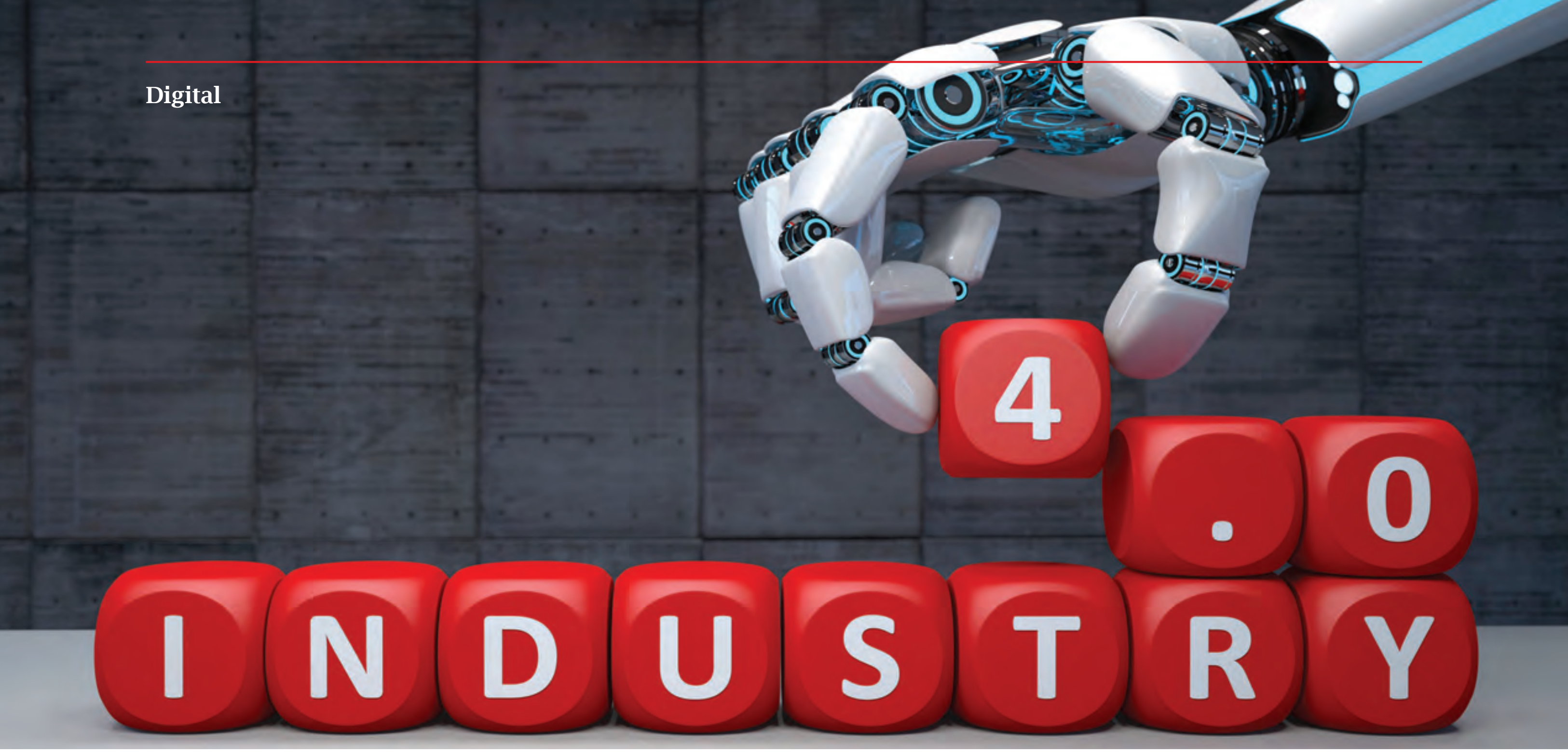
Tony Moretta

Tony Moretta, Chief Executive Officer, Digital Jersey.

He is responsible for delivering Digital Jersey's long-term economic, social and reputational objectives, working to ensure the continued growth and success of the Island's increasingly important digital sector.

He has more than 20 years of senior management experience across a range of digital industries, including mobile, online, broadcast, payments, advertising and data analytics, using the latest technological innovations to develop new revenue streams. Tony began his career at NatWest on the graduate training programme, rising to Senior Manager of Commercial Development in their cards business. He went on to work for Visa Europe as Vice President of New Products, developing electronic payment products. He took this interest in innovation to ITV Digital where he was Director of Interactivity, followed by senior positions at the National Grid Wireless and Digital Radio UK.

Before joining Digital Jersey, he was delivering a number of digital projects for both the UK Government and major private sector companies and was a founder of Weve, a joint venture between EE, O2 & Vodafone in mobile marketing, payments and data analytics.



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Jersey's digital strategy

By Stephanie Peat

Jersey is well-established as a vibrant and thriving international finance centre, with a focus on high standards and good practice. Part of our success comes from our ability to quickly adapt: Jersey has a long track record as an innovator and our finance sector is no exception, having always been able to reposition itself quickly to meet new challenges and to take advantage of new opportunities as they arise.

In today's digitally connected world, new technologies contribute significantly to these challenges and opportunities. Maintaining an awareness of the risks and challenges presented by digital innovation is, of course, important but as a jurisdiction, the fourth industrial revolution also offers us a real opportunity. Staying at the forefront of cyber security and data protection, whilst building a strong and resilient Island, can differentiate our financial services industry from competitors and gives companies freedom to innovate in how they use data.

DIGITAL POLICY FRAMEWORK

Government has an important role to play in helping to create the necessary legislative, regulatory and physical infrastructure that will allow the digital economy to thrive. We established a Digital Policy Framework in 2017, with six core long-term objectives for the future of digital policy-making in the Island.

These objectives set out what we are aiming to achieve so that we can support and grow the digital economy in Jersey. We want to create a thriving digital sector, to encourage the spread of new technologies across industries and to accelerate economic growth and boost productivity. We want to enhance digital skills, so that all Islanders can access and enjoy the benefits of new technology. >>

The UK National Cyber Security Centre (NCSC), Nova South, London. Courtesy NCSC

We also want to transform our government, moving services online and changing how we operate to make things simpler and more efficient for Islanders. To achieve these ambitions, we need to maintain and develop Jersey's excellent digital infrastructure; the foundation that underpins the Island's ability to adopt new technologies. We must also develop our approaches to robust cyber security and secure data protection, because building a resilient Island goes hand-in-hand with developing our digital capabilities.

TELECOMS STRATEGY

Since the publication of the Digital Policy Framework, we have taken important steps towards delivering objectives. Telecoms, for example, has been a key government focus: as a crucial enabler for both the digital sector and for the financial services industry, appropriate telecoms infrastructure is vital to the Island's economy.

The Government of Jersey published a new telecoms strategy last year, setting out an Island-wide approach to telecoms. In developing our strategy, we were in an enviably strong position. Jersey is a full fibre island – every home and businesses is already directly connected to a gigabit fibre network, with some of the fastest broadband speeds anywhere in the world. Although as an Island we are geographically separate, our digital connectivity is excellent.

Mobile connectivity is also essential for Jersey, providing opportunities for employees to work remotely and while on the go. Jersey is fortunate to have three excellent 4G mobile networks but in an increasingly competitive world where technology develops at pace, we need to stay ahead of the curve for the benefit of new and existing reputations and to maintain our reputation as a fast adopter of new mobile technology.

Our existing fixed and mobile infrastructure means we are already ahead of most other jurisdictions and this, combined with our ambitions to introduce next generation mobile technologies, will allow us to meet the current and future needs of businesses and Islanders.

The Government of Jersey has been working closely with industry and other stakeholders to secure the roadmap to the next generation of mobile technology: 5G. Two 5G summits have taken place with the Channel Islands Competition and Regulatory Authority (CICRA) and industry leaders to discuss the implementation of – and the need for – 5G technology. Telecoms providers in the Channel Islands have now committed to trialling 5G this year.

CYBER SECURITY

As our digital capabilities develop, so too must our approaches to cyber security and data protection. Cyber security is a vital prerequisite for a strong society and a thriving economy, not only in the digital sector but also for the financial services industry and elsewhere.

In 2017, the government launched the Island's first cyber security strategy to make Jersey an ever safer place to live and do business online. The strategy was developed with a vision to make the Island more attractive for new and existing businesses, to underpin new growth areas and to enhance Jersey's potential and reputation as a jurisdiction. We want to help ensure Jersey is a cyber resilient Island, where both Islanders and businesses are aware of their individual cyber risks and responsibilities. The strategy encourages collaboration and brings together stakeholders to support cyber security initiatives both in Jersey and across the Channel Islands.

Jersey's government is continuing to deliver on this strategy, working closely with government departments, external partners and stakeholders to raise cyber security standards across the board. As part of this work, the Digital Policy Unit is working to promote cyber security certification, particularly Cyber Essentials and Cyber Essentials Plus certificates, which help organisations to protect themselves against the most common cyber threats and to demonstrate a commitment to cyber security.
We want to make sure that the public sector, our critical national infrastructure, the financial services industry and all businesses are resilient to cyber-attacks, to protect Jersey's economy and reputation. >>

Cyber security is a vital prerequisite for a strong society and a thriving economy, not only in the digital sector but also for the financial services industry and elsewhere

Image by Titima Ongkantong / Shutterstock

Elsewhere, the Government of Jersey has also established a node of the UK Cyber Security Information Sharing Partnership for the Channel Islands and we have continued to build a strong relationship with the UK's National Cyber Security Centre to share information and resources for cyber resilience. We are also continuing to work closely with Guernsey, to develop a joint computer emergency response team.

DATA PROTECTION

The free flow of data is crucial for both the financial services sector and the Island as a whole. In our digitally connected society, the internet is a huge feature of everyday life, with both businesses and consumers relying on the ability to share and access personal data online.

As the digital economy develops, Jersey must continue to provide a safe environment for processing this data, with clear and robust data protection legislation that is enforced effectively.

Since 2008, Jersey has been recognised by Europe as an adequate jurisdiction for data protection, with a well-established data protection regime. When Europe approved the General Data Protection Regulation (GDPR) in 2016, we recognised the need to maintain our equivalence with the European regime so that data could continue to flow uninterrupted between Jersey and the EU. This free flow of data is essential for all industries but in particular for financial services, where processing personal data is crucial.

To maintain Jersey's status as a robust jurisdiction for data protection, we made a commitment to update our data protection legislation. Jersey's new data protection laws came into force on the same day as GDPR, making us the first adequate jurisdiction outside of the EU to introduce GDPR-equivalent legislation.

Moving forward, the Government of Jersey continues to support the awareness of – and compliance with – data protection legislation. The Digital Policy Unit has supported the development of the Jersey Office of the Information Commissioner and we are working with the Office to raise awareness and understanding of data protection issues and requirements. The Unit is also working to recognise best practice and incentivise innovation in this area.

Technology is moving at an ever faster pace; changing the way that we do business, giving Jersey's financial services sector new opportunities and presenting new risks and challenges. We are already an attractive and safe jurisdiction to live, work and do business in but that does not mean we can become complacent. We all have a part to play in maintaining and enhancing Jersey's economy and reputation – and strengthening our digital infrastructure, our cyber resilience and our approach to data protection are central to that.

Stephanie Peat

Stephanie Peat, Director of Digital & Telecoms Policy, Government of Jersey.

Stephanie has responsibility for a range of projects across the digital, telecommunications and broadcasting sectors, including heading up the jurisdiction's Cyber Security Strategy and leading on developing the Island's Data Protection and Telecoms policies.

Prior to moving to Jersey, Stephanie was Head of Strategy at Freesat and spent over seven years developing broadcasting, telecoms and digital strategy at the UK's Office of Communications.

Stephanie holds a degree in Modern History from the University of Oxford.

Jersey's future workforce

By Senator Tracey Vallois

In a world that is rapidly changing, Jersey needs to adapt to meet future challenges and education plays a vital role in shaping the minds and skills of the next generations of Islanders.

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Jersey's economic success today rests on our knowledge economy, sustained by industries that require highly developed skills, such as financial services, law and the emerging digital sector

While it is important for us to focus on providing the right opportunities for early years and school-age children, we also have a responsibility to support those who have left compulsory education, whether that be a school leaver looking to study a vocational course or someone who wants to develop skills for a new career.

This Strategic Vision for Post-16 Education reflects the government's commitment to ensuring that everyone in Jersey, whether young or old, has the opportunity to progress their education as far as they are capable and wish to. The Post-16 Scrutiny report has conducted a thorough analysis of the current structure and the Panel's recommendations will be taken into account as we develop our plans for the future of post-16 education in Jersey.

Even before my appointment as Education Minister, I have been acutely aware of the disparity between the performance of high-achieving pupils and the underperformance of others. I am proud of so much in Jersey's education system but we need to widen the parameters so that education is accessible to all types of learners. Not only will this ensure equity in classrooms but it will benefit the Island as a whole: the better educated we are the more opportunities there will be for local people. >>

St Helier, Jersey. © Gary Grimshaw – Photoreportage

With that in mind, this Strategic Vision is directly informed by an analysis of the Island's economy and society, so that we can provide our learners with the right skills for the future. An ageing population, changes to technology and a growing competition for business, investment and talent, are just some of the challenges that will impact on the types of skills we will need. Fostering a home-grown workforce that equips Islanders with those skills will protect our economy and maintain a vibrant society.

This Strategic Vision for Post-16 Education is an essential component in fulfilling the government's recent Children's Pledge. At the end of last year, members of the States Assembly, the Council of Ministers and executive leaders in the public service signed the pledge to put children first, promising to expand the support available for children. Similarly, the plans outlined in this document reflect this government's Common Strategic Policy – our ambitious commitments for Jersey, which include reducing income inequality and creating a skilled local workforce for the future. As well as putting children first, we are committed to building a sustainable, vibrant economy. The clear vision and route map towards diverse, sustainable post-16 education is an important contribution to all these priorities.

Ultimately, as we transform further into a knowledge economy, in which an educated population reaps benefits for everyone, it is essential to develop our skills and nurture our talent.

Better education benefits us as individuals, as society and as an economy. Education is the key route by which we as individuals can improve our life chances: there is clear evidence that higher educational achievement leads to higher skills and higher skills enable higher lifetime earnings. Providing access to good-quality education is both morally right as a driver of equity and a strong predictor of national prosperity. The 2017 Skills Strategy enumerated further specific, evidence-based benefits, including:

- A significant positive impact of in-work training, apprenticeships and university education on productivity
- Much stronger likelihood of being and staying in employment and staying out of the criminal justice system
- Better mental health

Jersey's economic success today rests on our knowledge economy, sustained by industries that require highly developed skills, such as financial services, law and the emerging digital sector, whilst also maintaining traditional sectors like agriculture through modernisation. In 2005, the shift towards higher-skilled jobs was already apparent and it was identified that there were far fewer low-skilled jobs in Jersey than previously. The need for post-16 – and ideally tertiary – education, in order to secure good employment, was clear then and remains so today.

The Common Strategic Policy 2018-2022 identifies a recent decline in productivity as a particular issue today, concluding that: 'Skills and education remain core to both driving productivity and developing a workforce fit for the Island's future needs. With the onset of the fourth industrial revolution, the pace of change will quicken and timely access to skills training will improve the quality of Islanders' lives and their local employment opportunities… As the population ages, economic enablers such as skills training and lifelong learning will also be ever more important'.

A vibrant post-16 education sector is thus vital for Jersey's future. As well as preparing our young people to play their role in the increasingly sophisticated knowledge economy that we are creating, it should also enable people of all ages to acquire new and updated skills, catalyse the creation of new businesses and support existing businesses to grow and become increasingly productive.

Senator Tracey Vallois

Senator Tracey Vallois, Minister of Education, Government of Jersey.

Senator Vallois has been a member of the States Assembly for 11 years. First elected as a Deputy for St Saviour in 2008, re-elected in 2011 and then elected as Deputy of St John in 2014. In the 2018 Senatorial election she topped the poll and was appointed Minister for Education. She previously served as Assistant Minister for Education and Treasury, Chairman of the Public Accounts Committee and President of the Chairmen's Committee of Scrutiny. She has committed to review Higher Education Funding following the adoption of the new model in 2018, which she was instrumental in the development of through her previous roles.

Jersey's funds industry profits from global capabilities

By Tim Morgan

Thanks to its forward-looking approach, Jersey's funds proposition remains one of the most robust elements within Jersey's range of financial services and continues to prosper.

This is reflected in excellent growth figures, as Jersey's funds industry continued to perform well in 2018 with the value of private equity funds rising by 38% over the year. Figures from the Jersey Financial Services Commission (JFSC) show that the net asset value of regulated funds being administered in Jersey grew by 10% over 2018 – and by 66% over the past five years – to finish the year standing at £320 billion, the highest level ever recorded.

The statistics show particularly strong performances in the alternative asset classes, real estate, private equity and hedge funds, which recorded a year-on-year increase of 23% to now represent 86% of Jersey's total funds business. Given the ongoing appetite amongst institutional investors to allocate to alternatives – and with managers looking for centres that can clearly demonstrate stability, robust regulatory environments and efficient global market access – Jersey is very well placed in the long-term.

INNOVATION

There is good reason for this success, due in no small part to the commitment Jersey has shown to innovation, largely to reflect its specialisation in alternative funds. The result is a full spectrum of fund solutions, from highly regulated funds to lighter touch options for smaller groups of sophisticated investors.

The launch of the Jersey Private Fund (JPF) in 2017 is a case in point. Introduced following collaboration between the regulator, industry and government, the JPF is geared specifically towards the needs of small numbers of professional investors needing a streamlined, quick-to-market option.

Take-up of the JPF has been significant, with JFSC data showing that there were 215 new JPFs registered in Jersey at the end of March 2019, managing around £20 billion of assets. Evidence suggests that the structure is finding favour right across the client base, from family offices coming together to co-invest as part of their global investment strategies to the institutional global investor base.

In a further move and reinforcing Jersey's credentials as an innovative digital jurisdiction, applications for the JPF were made 'online only' last year. It was a step that will help managers get their funds to market even quicker and a real statement of intent in the digital space.

Further enhancements and innovations are anticipated over the coming year as Jersey remains focused on delivering innovative solutions to support managers across the alternatives landscape, including rolling out a Limited Liability Company (LLC) product that should prove a particularly attractive vehicle for US managers.

GLOBAL ACCESS

Meanwhile, Jersey's ability to offer seamless, efficient access to investor markets around the world is a major part of its increasingly global appeal. It is noteworthy that the top five sources of capital committed to Jersey funds, for instance, are the UK, the US, Ireland, Luxembourg and Canada.

Europe remains an important market, of course and Jersey is extremely well placed to play a pivotal role in supporting non-EU (including, post-Brexit, UK) managers wanting to access EU investor capital.

Jersey is already a third-country in relation to the EU and has all the infrastructure in place to enable funds to continue to market seamlessly into the EU through its tried-and-tested private placement route. >>

The net asset value of regulated funds being administered in Jersey grew by 10% over 2018 – and by 66% over the past five years – to finish the year standing at £320 billion, the highest level ever recorded

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A lot has been made of the AIFMD passport but it is not necessarily the only or best option. In fact, in the vast majority of cases – 97% in fact, according to the EU's own figures – managers want access to only three EU markets or less. In those circumstances, private placement is a much more efficient, more flexible and a quicker option.

That is reflected in recent figures – the number of alternative managers marketing into Europe through private placement in Jersey rose 13% last year. The expectation is that, against the backdrop of Brexit, private placement is likely to become increasingly attractive to UK and other non-EU managers. >>


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At the same time, Jersey is also playing an important role in enabling EU managers to mitigate the impact of Brexit. A huge proportion of investors in alternatives are based in the UK making access to the City a massively important issue for EU managers.

With that in mind, it is significant that in March this year, Jersey's regulator signed an MoU with the UK's FCA that allows funds domiciled in Jersey to continue to be marketed to UK investors through private placement unimpeded, should EU law cease to apply in the UK in the event of a 'no deal' or at the end of any transitional period. It is a measure that gives managers some much needed added confidence.

Meanwhile beyond Europe Jersey is well placed to play an increasingly global role too. A growing number of managers in the US and Asia are looking for a European time-zone hub, outside of the EU and AIFMD rules, that can offer easy UK and EU investor access and superior standards of governance.

Jersey is ticking the boxes. For example, the 2018 Monterey Insight figures, show that the number of Jersey funds with US promoters has grown 165% over the past five years.

Looking ahead, Jersey will continue to enhance its visibility amongst global managers, in particular bolstering its presence in the US market, supported by Jersey Finance's new office in New York. The feeling is that the expertise and range of structures Jersey can offer will appeal to US managers who are looking to access the European market but want a straightforward, English language, familiar solution.

MANAGEMENT SUBSTANCE

Perhaps one of the biggest trends we have seen emerge over the last few years in terms of Jersey's funds landscape, is its rising popularity as a host to fund managers, complementing its existing expertise in servicing.

Over the last five years, the community of fund managers operating in Jersey has more than doubled to now include some of the most significant hedge, real estate and private equity fund managers.

Importantly, all these managers are undertaking a full spectrum of fund management, risk and portfolio management functions and are supported by a large pool of skilled staff that are specialists in alternatives, combining to form a platform of real substance – a concept that has grown in relevance in recent years.

As an industry, we are continuing to work hard to make Jersey's commitment to high standards of governance and substance absolutely clear. In 2017, Jersey became only the third jurisdiction in the world to ratify the OECD's BEPS principles into domestic law, putting Jersey in a better place to respond to it than many other jurisdictions.

Then, in January this year, new economic substance legislation was introduced, in line with EU requirements, further underlining Jersey's position as a responsible, high quality jurisdiction and reflecting the true substance that exists in our industry.

Jersey has long held an assumption towards substance and, given this track record, the expectation is that managers in Jersey are unlikely to have any major challenges in meeting the criteria. In fact, the new parameters are a natural next step that can further bolster Jersey's appeal as a centre that can provide the perfect ecosystem for fund management activity.

FUTURE

With market and regulatory uncertainty around the world set to prevail, Jersey's funds industry is focused on working hard to enable seamless cross-border investment to continue, to give investors and managers the confidence and certainty they need for the future and to ultimately deliver positive returns.

We will do that by differentiating Jersey in the market and asserting our simple and transparent tax environment, our sensible regulatory framework, our ability to demonstrate service quality and our commitment to innovation.

Tim Morgan

Tim Morgan, Chairman, Jersey Funds Association (JFA).

Tim is a Partner at offshore law firm Mourant and has practised in Jersey since 2003 advising promoters, investors, boards, regulators and service providers across asset classes, including private equity, credit, real estate, hedge and liquid securities. Prior to moving to Jersey, Tim originally trained with Taylor Wessing in London and Brussels, before going on to practise as a corporate lawyer at PwC Legal and then at Dresdner Kleinwort Wasserstein in London and New York, advising on private equity sponsored transactions.

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Business continuity post-AIFMD

By Oliver Morris and Simon Vardon

From a global viewpoint, a current of political and economic turmoil is creating considerable uncertainty, yet it seems Jersey is still able to provide a welcome and safe harbour. We have seen the ascendency of the Trump administration and its impact on the international arena, including unsettling US relations with North Korea, China, Russia, Israel, Mexico and Venezuela. Meanwhile on the domestic front, Trump's administration highlighted divisions across the US.

In Europe, German Chancellor Angela Merkel has publicly confirmed she will step down from her role as Chancellor in 2021 as a result of the 2018 election setbacks. She has been the German Chancellor since 2005. There has been the ascendancy of the 'gilet jaunes' movement in France seeking to highlight perceived economic injustice and the Claim for Catalan independence in Spain. Europe has also seen a general rise in electoral gains by nationalist parties in recent years, including in Italy where, during 2018 a coalition government combined an anti-establishment party and a right-wing party. All of these events have unsettled the perceived European political stability.

In the UK there has been the prolonged fallout from the Brexit referendum. The exit process has consumed British politics for the last two years and recent events have highlighted how complex and divisive this process is. The resulting splits within and between the traditional political parties, has resulted in the formation of a new political affiliation and raises significant concerns about the political and economic stability of the UK and its future role in Europe, as well as on the international stage.

With all the aforementioned uncertainty, it would be no surprise to see the fund management industry retrench and await calmer conditions, yet recent statistics released by the Jersey Financial Services Commission (JFSC) suggest the opposite for the Jersey funds industry. The value of regulated funds serviced in Jersey saw double digit growth to reach a new all-time high, while bank deposits also increased over the course of 2018. >>

Jersey can offer effective National Private Placement access, whilst remaining out of scope for AIFMD, which continues to prove popular

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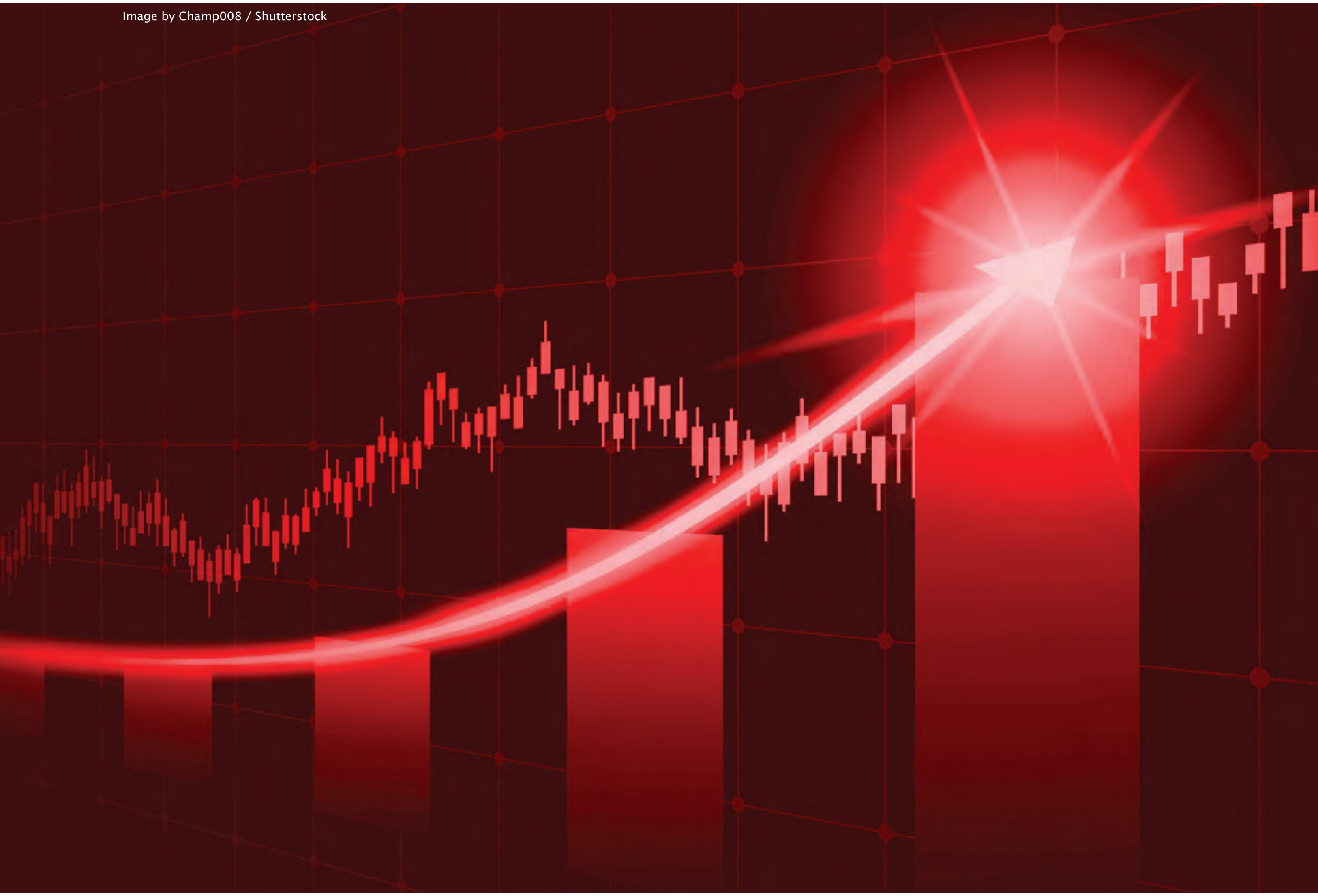

FUNDS UNDER ADMINISTRATION IN JERSEY

Figures for the final quarter of 2018 (ending 31st December 2018) show that the net asset value of regulated funds under administration in Jersey grew 10% annually to stand at £319.9 billion, the highest recorded figure to date. Within the funds industry, the statistics show particularly strong performances in the alternative asset classes, recording a year-on-year increase of 23%.

Specifically, private equity fund values rose by 38% over the year to cross the £100 billion mark for the first time ever and finish the year standing at £114.5 billion. In addition, the combined total value of infrastructure, credit and debt funds also showed impressive growth, increasing by 28% to stand at £64.8 billion, while the value of real estate funds grew by 10% to £41.4 billion and hedge funds increased by 3% to £52 billion.

There is an element of irony in the fact that despite one of the most unstable periods in global politics in the last 30 years – and the recent turmoil from regulatory initiatives such as the AIFMD (Alternative Investment Fund Managers Directive) and Tax assessments – that Jersey is experiencing strong performance within its alternatives funds industry. >>

AIFMD

The AIFMD was one of the most convoluted and widely debated pieces of fund regulation to impact both EU and non-EU jurisdictions. There was a significant concern from all non-EU jurisdictions, Jersey included, that after the introduction of the AIFMD regulations, the industry would be faced with 'Fortress Europe'. There was a valid concern that for all those jurisdictions outside the membership of the European Securities and Markets Authority (ESMA) Co-operation Agreement, that not having access to the European marketing passport would severely restrict fund raising and marketing opportunities across the EU. The reality has, thankfully, been somewhat different, as supported by the recent statistics issued by the JFSC. Whilst the status quo has changed, the market has continued to operate in a broadly efficient manner.

JERSEY'S FUND PRODUCT EVOLVES

When selecting a jurisdiction and fund product, one consideration for fund managers is a flexible jurisdiction that can be utilised for multiple strategies targeting both EU and non-EU capital. The adaptation of the Jersey regulatory infrastructure provides fund managers with a compelling solution. Jersey can offer effective National Private Placement access, whilst remaining out of scope for AIFMD, which continues to prove popular.

The regulatory landscape has been enhanced with the introduction of the Jersey Private Fund (JPF) which adopts a similar approach to some European jurisdictions, notably Luxembourg, focusing on the regulatory status of the fund service providers, rather than the fund itself. In under two years since establishment, there have been over 200 JPF entities formed for a variety of asset management strategies.

ECONOMIC SUBSTANCE

Earlier this year, recognition from EU Finance Ministers (ECOFIN) formally confirmed Jersey's position as a cooperative jurisdiction. It is again evidence of Jersey's proactivity to retain a stable and sound basis to engage with the EU and further afield. The overlap between the enhanced regulatory landscape created for funds and the updated tax substance law are a natural progression and have provided further clarity and stability to deal with increasing global concerns for tax and regulatory substance.

Jersey's administrative model is built upon demonstrating management and control and good governance procedures. Because of this, Jersey-based fund managers and related companies conducting relevant activities under the new substance law are not expected to need to change how they operate when focusing upon the new substance rules. Not all jurisdictions will be able to draw similar conclusions.

JERSEY PROVIDES A STABLE PLATFORM

Whilst we have seen recent seismic movements across the political, economic, taxation and regulatory landscape, Jersey has delivered significant growth across its alternative assets funds industry. This has largely been due to the proactive engagement between government, regulators and industry, to provide a stable platform that continues to deliver for a wide range of fund managers and capital bases on a global scale.

Oliver Morris

Oliver Morris, Director, Product Development – Private Equity, SANNE.

Oliver is a Qualified Chartered Accountant and prior to joining SANNE was a Director at KPMG. On a two-year secondment as Technical Director at the British Private Equity and Venture Capital Association (BVCA), he was responsible for the provision of technical support to the BVCA and its members. During this secondment, Oliver remained part of the leadership team at KPMG Advisory, delivering both onshore and offshore private equity structures.

Oliver is currently responsible for the strategy and delivery of SANNE's global private equity business with a specific focus on new business and product development.

Simon Vardon

Simon Vardon, Director, Product Development – Real Estate, SANNE.

Simon is a Fellow of the Association of Chartered Accountants of England & Wales and a Fellow of the Association of Accounting Technicians. He started his career in the Audit & Advisory business of Ernst & Young.

Simon joined SANNE in 2013 having previously worked at global financial services organisation, heading their financial reporting division servicing funds investing into real estate, private equity and capital market assets. He is now responsible for developing the real estate product for SANNE's global business.

Jersey's role in accessing global capital markets

By Fiona Le Poidevin

Jersey provides an ideal jurisdiction for issuers to be incorporated and their securities listed on stock exchanges around the world, including The International Stock Exchange (TISE), which is the Island's locally based global capital market.

Figures from Jersey Finance to the end of June 2019 show that 80 Jersey companies have securities quoted on stock exchanges globally, with a total market capitalisation of £184 billion. This includes companies listed in New York, Toronto, Hong Kong, Amsterdam and London. Indeed, Jersey has the greatest number of FTSE 100 companies registered outside of the UK and the greatest number of AIM quoted companies, also ex-UK.

Many of these Jersey entities are holding companies of businesses from a range of different sectors operating around the world. There are also a number which are investment vehicles, such as funds, investing into asset classes like real estate.

Jersey is a popular jurisdiction because it is well recognised among issuers and investors (and their advisers) as being tried and tested, having modern and flexible company law and experienced and skilled service providers, such as lawyers, administrators, company secretarial and registrar services and a pool of experienced non-executive directors. Where the vehicle is also tax resident in Jersey, the Island's tax neutrality ensures that there is no extra burden of taxation than otherwise necessary. >>

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TISE

Jersey's financial services infrastructure and the offering of the Island also includes TISE. After the UK, Jersey is the second largest jurisdiction of incorporation for issuers with securities listed on TISE. In addition, more than half of all newly listed securities on TISE are introduced by member firms, such as law firms, banks, fund administrators or trust and corporate service providers, based in Jersey.

Last year marked a record for new listings on TISE and there were 242 newly listed securities on TISE during the first half of 2019, which means that by the end of June there were 2,909 securities listed on the Exchange with a total market value of more than £300 billion. Listings include equities of trading companies from the Channel Islands and the UK, investment vehicles such as open and closed ended funds and Real Estate Investment Trusts (REITs), plus debt securities from major global brands.

DIVERSIFICATION

The growth in new business reflects the Exchange's ability to provide a proportionate regulatory environment for the streamlined and cost-effective listing of a wide range of securities. The increased demand from issuers for listings on TISE is helping to attract new members, including those from Jersey, who offer the potential to further diversify the business in terms of both product type and geographical origin.

Two examples illustrate the innovative and international nature of the Exchange: First, TISE played a role in an innovative Insurance Linked Securities (ILS) transaction when it became home to what is believed to be the first ever regulated exchange listing of notes digitised on a blockchain; and second, US$4.1 billion of bonds were listed on TISE as part of the world's most expensive real estate transaction for a single building, The Center, which is Hong Kong's fifth largest skyscraper.

TISE has also become home to growing numbers of high yield bonds. Third party research shows that 44% of all new European high yield bond listings in the year to the end of the third quarter of 2018 were on TISE. These comprise high yield bonds from a mix predominantly of US and European headquartered companies, both public and private, including leading global brands and specialists in their respective fields. There are now more than 180 high yield bonds listed on TISE.

REAL ESTATE

Jersey has a reputation for the management and administration of real estate structures going back decades. TISE has also continued to grow its market share of HMRC approved UK tax resident REITs so that now nearly a third are listed on the Exchange. Leading industry commentators now recognise TISE as the alternative to the Main Market of the London Stock Exchange (LSE) and last year there were more new REITs listed on TISE than the LSE. Jersey incorporated vehicles make up the largest proportion of new REITs coming to TISE, which reflects the advantages of more flexible company law, the absence of stamp duty and experienced and skilled service providers in the Island.

DISTRIBUTION

TISE is an eligible listing venue for UK REITs by virtue of being deemed a recognised stock exchange by the UK tax authority, Her Majesty's Revenue & Customs (HMRC). In addition, it means that TISE-listed entities qualify for the Quoted Eurobond Exemption (QEE) and it enables investment into TISE listings by UK financial products, including Self-Invested Personal Pensions (SIPPs) and Individual Savings Accounts (ISAs). TISE also has a number of other international recognitions, including from the US Securities and Exchange Commission (SEC), the Australian Stock Exchange (ASX) and the German regulator, BaFin. Each of these recognitions not only provides an endorsement of the market but adds to the international distribution of securities listed on TISE. For example, the latter means that TISE-listed products are automatically eligible assets as part of the listed investment allocation of German insurers and German mutual funds.

TISE GREEN

A market segment, TISE GREEN, has been introduced for investments which make a positive environmental impact. It is open to bonds, funds or trading companies from any jurisdiction which are admitted to TISE's Official List and have a third party verification of the investment's green credentials against a globally recognised standard. TISE GREEN is intended to raise the visibility of and increase capital flows into, green and sustainable projects. This further enhances the role that TISE plays in enabling Jersey to facilitate flows of capital around the world, including to projects which make a specific positive impact on the environment or society.

CONCLUSION

The presence of TISE – along with its member firms – in Jersey, means that the Island offers the ability to directly list on a leading international exchange, while also providing an ideal location from which to access the wider global capital markets.

Fiona Le Poidevin

Fiona Le Poidevin, Chief Executive Officer, The International Stock Exchange Group.

Fiona's role includes strategy formulation, overseeing the day to day operation of the organisation, providing leadership and strategic direction to the team and focusing on opportunities to grow the business, both from existing streams and through the introduction of new products and service offerings.

Safeguarding future wealth

in an evolving environment

By Ian Rumens

American President John F. Kennedy once said: "Change is the law of life and those who look only at the past or present are certain to miss the future." His quote on change is as accurate now as it was in 1963.

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Jersey's wealth management industry has proactively reacted well to the rapidly evolving financial landscape over the last 12 months and seized upon the opportunities that the turbulent environment has created.

Wealthy individuals and families conscious of global challenges, including growing inequity, government deficits and environmental concerns, are increasingly looking at connecting their structuring and financial needs with those of the wider society in a way in which they can enhance and preserve their wealth in an ethical and sustainable manner.

When combining this transformational attitude of many clients with the continued rapidity of regulatory change, unprecedented levels of scrutiny of the offshore environment and global geopolitical turbulence, clients are casting off the more traditional silo approach to structuring and embracing multi-discipline structures to meet their needs. Jersey continues to be at the vanguard of meeting ever changing client needs whilst leading the world with cutting edge legislation and ensuring its place as a pre-eminent international financial centre.

What has been the catalyst for change? How has this dictated wealth structuring trends? How has Jersey seized the opportunity these changes have presented and what will the future bring? >>

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Jersey continues to be at the vanguard of meeting ever changing client needs whilst leading the world with cutting edge legislation and ensuring its place as a pre-eminent international financial centre

GROWTH OF EMERGING MARKETS

It is fair to say that the key originator jurisdictions for much of the new business in private wealth has been from the Middle East and Far East. Succession planning, governance and asset protection being the primary reasons for the rationale behind the new structuring.

The principal driver behind structuring in the Middle East – and Asia to a lesser extent – has been the risk of seizure of assets by political means. The events of the Arab Spring and the Ritz-Carlton episode in Saudi Arabia bear witness to this and in fact galvanised many families into focusing on their affairs and taking the necessary steps to structure – often in a most uncharacteristically speedily manner. In doing so many families have utilised trust structures to help achieve their aims whether in part or full and – unusually in the Gulf Cooperation Council (GCC) countries where Settlor Reserved Powers Trust have dominated for so long – the fully discretionary trust now reigns supreme.

Understandably, many UHNW clients wish to retain significant control and involvement over key aspects of the trust funds, notably investments or private family business. Consequently, the demand for private trust companies shows no signs of abating as entrepreneurial, wealthy families and individuals craving some control and oversight, seek a bespoke structure tailored to their specific needs.

Indeed, many families have taken this one step further and have established standalone family or private offices based in Jersey. This trend is gaining pace as Jersey becomes a very attractive destination for those looking to escape political uncertainty. Sophisticated infrastructure, a highly skilled employment market, mature trust laws, an established legal system and strong regulatory regime, combined with good transport links, make it ideally located for those looking to establish such offices.

DIGITAL FUTURE OF PRIVATE WEALTH

In 2018, reputational management and cyber security experts became regular additions to the Island's professional wealth teams as local professionals fully embrace the importance of family reputation and cyber security. Reputation is one of the most precious and difficult assets to acquire, easiest to lose and yet it remains the most overlooked of all the family assets.

In the past it was built largely on professional relationships, a business track record, working practices and by word of mouth. In today's social media frenzied world, instaposts, tweets, blogs and online coverage, have replaced more traditional routes. The outcome being that for many families and family offices the digital age – which has brought them many advantages and opportunities to enhance family wealth or advance their philanthropic aims – has also turned out to be a double-edged sword. The enormous amount of data being shared and stored online provides opportunities for criminal fraudsters, investigative journalists and others to exploit or even threaten personal safety.

EVOLUTION OF PRIVATE WEALTH STRUCTURING

Amongst wealthy families, UHNW and groups of like-minded investors, the last 18 months has seen a significant rise in the use of Private Family Funds as classes of individuals are turning to structure via vehicles which were previously the sole preserve of institutions. How to structure investments in a collective yet harmonious and flexible manner has previously caused some debate amongst advisors.

Groups of individuals looking to pool their investments together on a collective basis, whilst keeping track of their assets, adhering to local tax and regulatory regimes, have found this to be extremely challenging.

Traditionally, the well-trodden route was to split an individual's wealth into individual special purpose vehicles, all of which can be costly and tricky to manage. The rise in popularity of the private family fund, a closed end structure, allows for ease of investment management, ownership tracking and investment reporting. These funds are a unique way of consolidating the family wealth yet allowing investment in a range of asset classes on a collective basis.

JERSEY'S INTERNATIONAL SAVINGS PLAN

As a direct response to the increasing demand from international companies seeking employee incentive solutions (with either a pension or incentive element) for mobile employees where local jurisdictional arrangements perhaps are lacking, Jersey introduced the International Savings Plan (ISP). The flexibility of the ISP and the ability to build a bespoke solution is unique in its offering and once again highlights the industry's ability to identify opportunities and swiftly implement new legislations which will service clients globally.

JERSEY: A CENTRE TO SAFEGUARD FUTURE WEALTH

Jersey continues to be a dominant destination for private wealth clients and at the forefront of the changes or trends in the industry. One such client trend, which is fast becoming the everyday norm, is the size of the client's wealth and the complexity of the structures.

In 2018, this global transfer of wealth from corporate to individual ownership, continued to gather pace and was no more perfectly demonstrated than by the frenzy of Asian pre-IPO planning which saw the Jersey Discretionary Trust being used as the vehicle of choice. The amount of wealth involved was staggering, Bloomberg reported four Chinese tycoons alone transferred more than US$17 billion of their wealth into family trusts. Three of these tycoons citing succession planning as the purpose of transfers.

As the world's elite grow wealthier, their structures have started to take on a more corporate look and feel. Topics that were once the sole preserve of corporate lawyers, for example transfer pricing, base erosion and profit shifting (BEPS), multijurisdictional regulatory issues, are now commonplace. >>

Image by GaudiLab / Shutterstock

In 2018, reputational management and cyber security experts became regular additions to the Island's professional wealth teams as local professionals fully embrace the importance of family reputation and cyber security

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Jersey's reputation as one of the leading finance centres, is undoubtedly due to the way in which the jurisdiction is regulated and applies global standards upon which clients, investors, advisors and governments can rely and take comfort from. This was reaffirmed with the introduction of economic substance legislation on 1st January 2019 and by and large ensures that Jersey is ready for the implementation of BEPS. The swift implementation of the legislation addressed EU concerns around structures aiming to attract profits which do not reflect real economic substance.

THE FUTURE OF A MODERN OFFSHORE FINANCIAL CENTRE

What will the next 12 months bring? It is fair to say that despite the changes in the last year nothing will compare to the rapid pace of technological and digital change that the industry will witness. Will blockchain, AI or robotics be the answer to the ever-increasing regulatory burden or the sought after financial returns desired by many shareholders? The old adage of people buying people is true to a certain extent but for how long will this continue. As old money gives way to new money which in turn gives way to millennial money, how long will it be that meetings and communications in the traditional form no longer remain. Already we are seeing Asian and Middle Eastern clients utilising alternative means as their preferred way of communication. Whilst individuals and families are not usually professional investors, the increasing rise of professionally staffed family offices combined with the logical conclusion that the needs of individuals and family office will naturally follow their counterparts in the institutional world.

CONCLUSION

Jersey continues to enhance its reputation as a secure, stable and robust jurisdiction in which to establish a private wealth structure. The changing client profile in private wealth, the evolving technological and digital demands and the interest from foreign markets, present both opportunities and challenges. Despite these considerable challenges, Jersey will remain a pre-eminent offshore financial centre and continue to be a jurisdiction of choice for private wealth structuring.

Ian Rumens

Ian Rumens, Global Head of Private Wealth, Intertrust.

A member of the Society of Trust & Estate Practitioners (STEP), Ian joined the firm in 2009 from an international fiduciary company.

Prior to moving to Jersey, Ian spent six years practising in London with leading private client practices as an English Solicitor. He has significant experience in working with families and individuals worldwide, specialising in the establishment and ongoing administration of offshore private client structures.

A Director to numerous PTCs holding multijurisdictional assets, Ian provides trusteeships and directorships to large global entrepreneurial families predominantly investing in commercial and real estate property with cross border multijurisdictional issues.

Acting for trusts and company structures investing various assets, including real estate, works of art, classic cars, aircraft, yachts, investment portfolios and private equity investments, Ian is highly experienced in family governance, succession planning and philanthropy.

The pre-eminent fiduciary jurisdiction

By Ian Crosby

Jersey's position as a pre-eminent fiduciary jurisdiction has been reinforced in recent times by a number of developments that have served to set Jersey well apart from its competitors.

Jersey has focused on continuing to be a 'good neighbour' internationally and has carefully considered and responded to the myriad of complex and far-reaching changes and developments sought by a variety of international bodies, including the EU and OECD, often taking a leading position amongst the various international financial services jurisdictions on these developments. That positioning continues to play a very important part in Jersey ensuring that it continues to be so highly regarded by clients, intermediaries, financial institutions and international authorities and that its reputation as an expert, safe and stable financial services jurisdiction is maintained. >>

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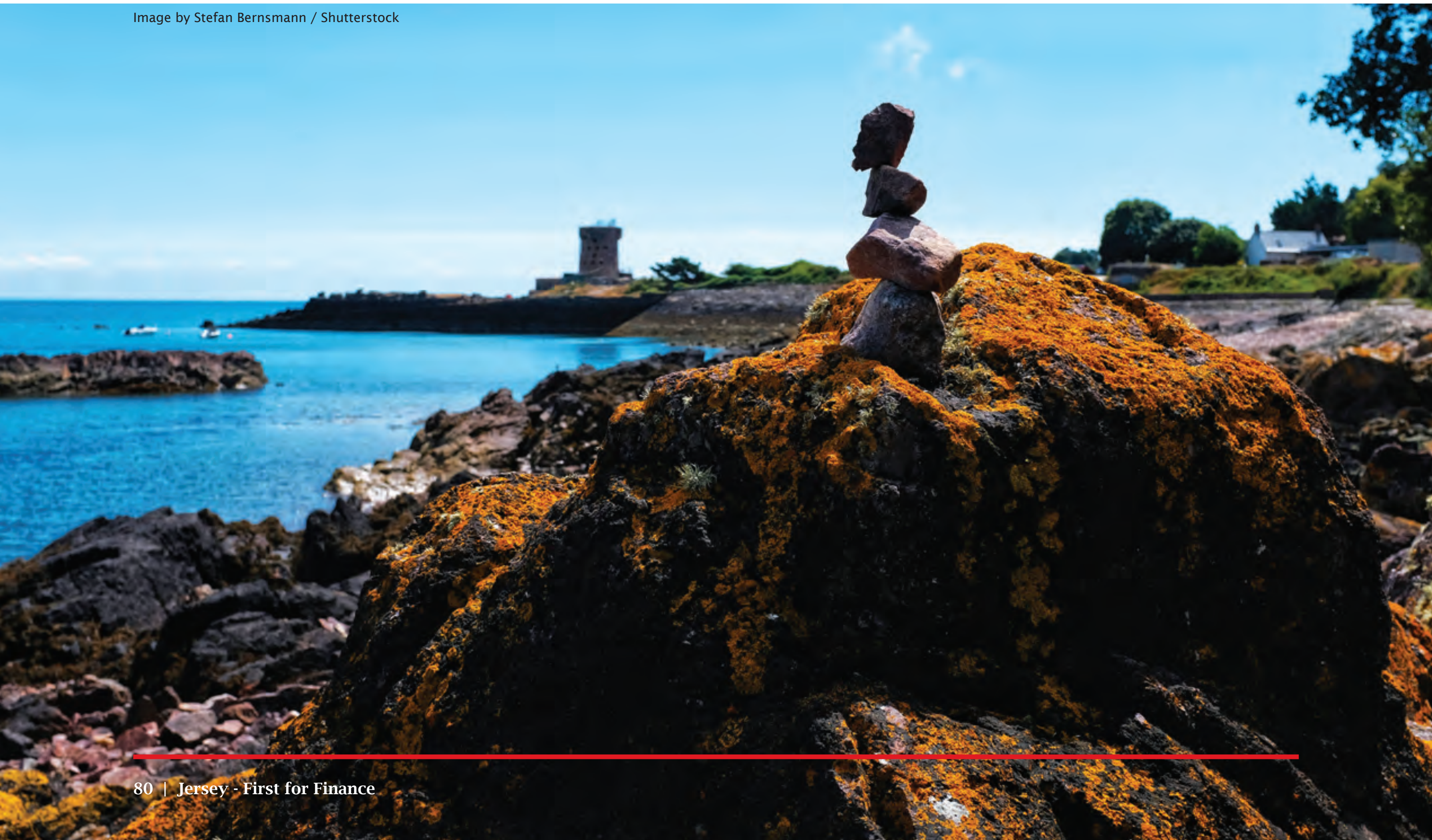

Recent developments, such as the pressure from international authorities and some political bodies for public registers of beneficial ownership of companies – and the wide-reaching economic substance rules – are examples where Jersey has led a well-considered, thoughtful and cooperative approach to such developments.

Alongside that, Jersey's modern, stable and sophisticated body of trust law, complemented by pragmatic and clear precedent from its Courts, builds upon its attraction as a financial jurisdiction. Over the course of the past 12 months, we have seen some useful and pragmatic court decisions on trust insolvency, on the liability of trustees and on the rectification of mistakes. This last year has also seen the Trust (Amendment No. 7) (Jersey) Law of 2018 coming into force which has introduced greater clarity in a number of helpful areas, including the extent of disclosure of trust information, the nature of powers that may be reserved to or granted by a settlor and a useful extension to the Courts ability to vary certain trust arrangements.

The fiduciary industry is hopeful that in the next round of amendments, innovations to manage some of the newly emerging digital business issues and to deal with a variation of the trust asset diversification considerations in order to better accommodate trusts, which primarily own single family businesses, will be forthcoming as part of Jersey's quest to ensure its trust law remains an enviable gold standard.

We live in a world where volatility and complex risk seems increasingly commonplace and there is an appreciation amongst clients and professional intermediaries alike, that in Jersey trust administration (and, specifically, the rules relating to holding trust assets) is subject to strict regulation and rigorous regulatory oversight, thereby ensuring that clients can be confident of the manner in which their trusts are administered and, especially, the safety of trust assets.

The coordinated efforts of the Government of Jersey, the Jersey Financial Services Commission (JFSC) and Jersey's finance industry, have ensured the continuation of a progressive but secure finance industry which, coupled with Jersey successfully embracing international scrutiny, has no doubt played an important part this last year in Jersey being enviably recognised by the EU Code of Conduct Group as being a cooperative jurisdiction.

These attributes have undoubtedly all assisted to encourage increased client activity and profitability; consistent transfers of activity from other finance centres to Jersey; and a renewed growth in the number of staff employed by fiduciary and private client businesses in Jersey.

Jersey is however acutely aware that there is no room for complacency in order to maintain its leading position as the pre-eminent fiduciary jurisdiction and that it must continue to improve upon its high standards of administration; that it must ensure it maintains a skilled and versatile work force that are responsive and innovative and embrace continuing education and development, that this age of rapid digital development and the quest for efficiency is fully accommodated and that the vitally important symbiotic relationship between government, regulator and business is maintained.

This last year has also seen the Trust (Amendment No. 7) (Jersey) Law of 2018 coming into force which has introduced greater clarity in a number of helpful areas

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Ian Crosby

Ian Crosby, former President, Jersey Association of Trust Companies (JATCo).

Ian is a long standing Partner with the Stonehage Fleming Group and Chairman of its Jersey operations. In addition to his Group executive responsibilities, he acts extensively on trust, family office and private client structuring and is the chairman of a number of family councils, funds and fund management companies.

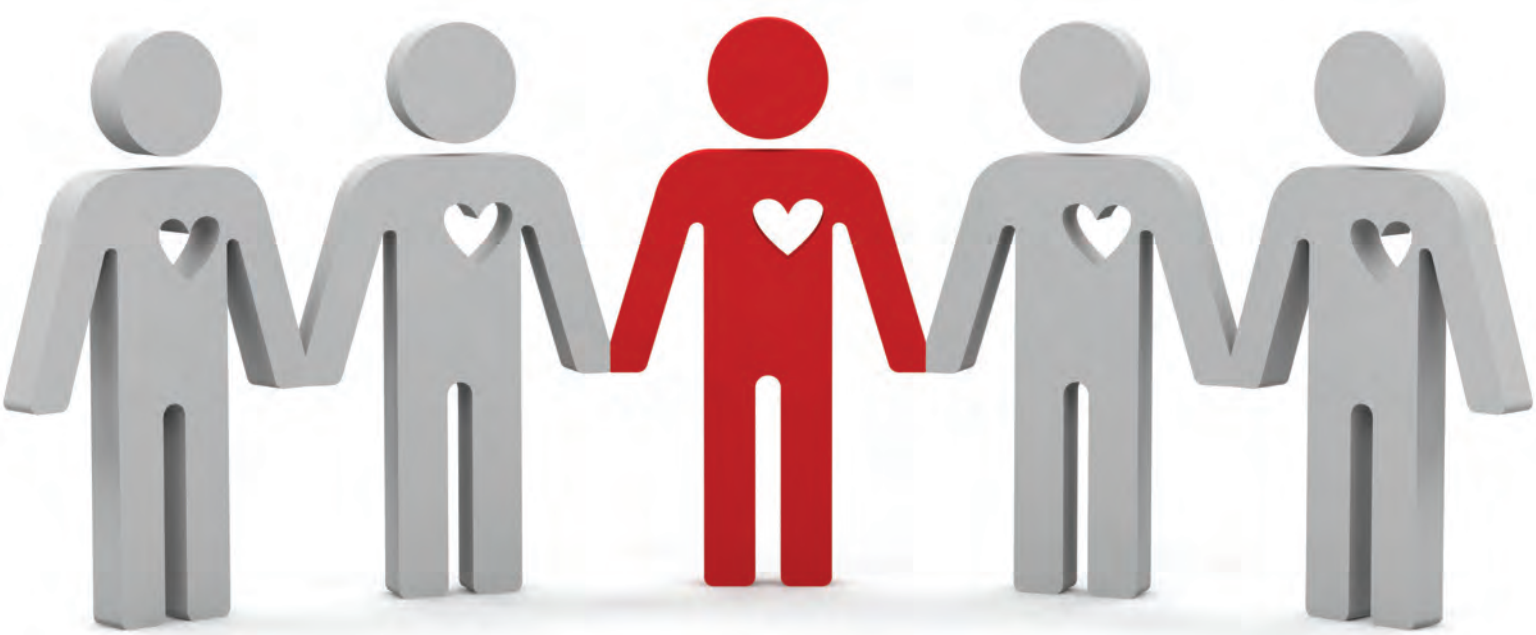
Enhancing Jersey's philanthropic wealth structures

By David Dorgan

There are distinguishing characteristics between charity (which tends to focus on the relief of a particular social problem) and philanthropy (which tends to address the root cause of the problem) and although there is a recognised degree of overlap in practice between the two, ultimately they both contain the act of 'giving' for the betterment of society and humanity. This act is important for many wealthy families who look to structure that 'giving' to causes with which they identify.

Jersey has multiple strengths in making it an attractive jurisdiction to establish and administer charitable and/or philanthropic wealth structures.

Fundamentally Jersey offers:
- independent domestic autonomy
- political, economic and geographic stability
- a highly regarded judicial system
- one of the strongest regulatory frameworks in the world
- a highly-skilled workforce
- substance of presence
- tax neutrality
- location and time-zone
- legislation which places a strong emphasis on the importance of flexibility, allowing for the creation of structures tailored to individual client requirements. >>



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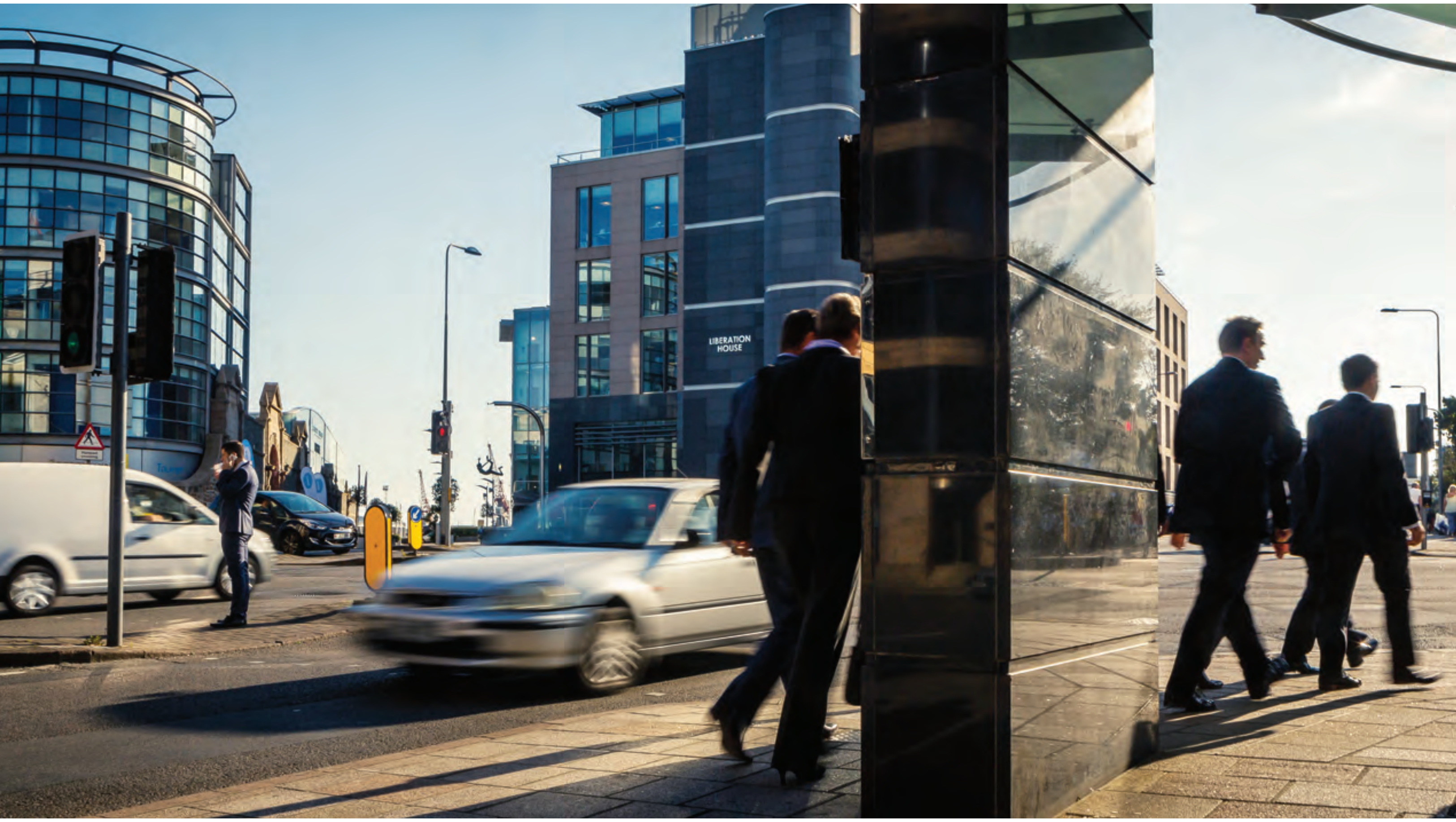
Trusts or foundations may choose to register on the Charities Register to provide families with an additional regulatory framework and creditability as to their altruistic causes

St Helier, Jersey. © Gary Grimshaw – Photoreportage



Two key structures used in Jersey for charity and philanthropy are trusts and foundations. Additionally, charities are regulated by the Charities (Jersey) Law 2014 (Charities Law) which introduced a Charities Register.

STRUCTURES

Trusts are governed by the Trusts (Jersey) Law 1984 and Foundations are governed by the Foundations (Jersey) Law 2009. Both permit a trust or a foundation to be established for charitable or non-charitable or charitable and non-charitable purposes. Therefore a structure may combine charitable purposes with philanthropic purposes, which might not be technically charitable, in order to pursue a client's chosen causes.

Additionally, both structures:

- are exempt from Jersey income tax
- can be established for an unlimited or limited duration
- have a choice of name (save that a foundation must end with the word 'Foundation')
- must have a third party trust enforcer or a foundation guardian whose role it is to enforce the purposes of the trust or to ensure the foundation's council carries out its functions
- are under the supervisory jurisdiction of the Royal Court of Jersey
- are administered by professionals subject to the supervision and regulatory framework of the Jersey Financial Services Commission.

In recent years, foundations in particular have proven popular as philanthropic structures. It is estimated that one third of all Jersey foundations are used for philanthropic purposes. >>

Their popularity is due to the foundation's particular characteristics:

- Legal Personality: A foundation is a legal entity (similar to a company but without shareholders) and can enter into transactions and make distributions in its own name. By contrast, a trust is not a legal entity and transactions and distributions are made in the names of the trustees acting in their capacity as trustees of the 'ABC Trust'.
- Involvement: A foundation permits greater opportunity for the family to be involved. Family members can be council members, be a guardian or have powers given to them. The same is also true of trusts but the risks of involvement are higher due to a trust's lack of legal personality.
- Open Profile: A foundation's existence is a matter of public record on the Register of Foundations. There is no equivalent register of trusts. The searchable nature of a foundation's existence can be an important factor for some families in giving the foundation legitimacy.
- No Ultra Vires: The doctrine of ultra vires (i.e. beyond the powers) does not apply and a foundation can exercise all the functions of a body corporate (similar to a company). There are two limited exceptions to this, both of which can be overcome by interposing an underlying company. Whilst the doctrine of ultra vires does not apply to trusts, trustees do need to be mindful of any limitations imposed on their powers pursuant to trustees' duties and the terms of the trust.

CHARITIES REGISTER

Trusts or foundations may choose to register on the Charities Register to provide families with an additional regulatory framework and creditability as to their altruistic causes. However, registration is required to use of the word 'charity'. The Charities Register is supervised by an experienced Charity Commissioner, is searchable online and registration is evidenced by a certificate of registration confirming the registered name, number and date of registration.
In order to register, a trust or foundation would need to satisfy the 'charity test' under the Charities Law, namely:

- all of its purposes are charitable purposes or purposes that are purely ancillary or incidental to any of its charitable purposes
- in giving effect to those purposes, it provides (or intends to provide) public benefit in Jersey or elsewhere to a reasonable degree.

The Charities Law contains a broad list of charitable purposes and permits purposes reasonably regarded as analogous to the listed purposes. Public benefit is determined by Jersey's Charity Commissioner who compares the benefit gained, or likely to be gained by the public, with any benefit gained or likely to be gained by members of the entity itself or any other people (other than as members of the public) and disbenefit incurred or likely to be incurred by the public.

The Charities Register is divided into three sections: general, restricted and historic. General registration is required where it is intended to raise funds from the public and, consequently, its registered information will be publicly accessible. Restricted registration can be chosen when funds are not sought from the public (i.e. the family's own funds are utilised) and, therefore, limited information is publicly accessible providing more privacy for those funding purposes without public involvement.

Consequently, the Charities Register further enhances Jersey's ability to assist with charitable and philanthropic structuring providing families with a choice of either a public or private profile depending on what is appropriate to each family. This is a key offering not permitted by other jurisdictions.

CONCLUSION

Jersey is a stable, tax neutral jurisdiction with a highly regarded regulatory regime, flexible and innovative legislation and experienced professionals making it an ideal jurisdiction for both charitable and philanthropic structures. The Charites Law only enhances that position demonstrating Jersey as an innovative place where the highest standards are maintained in respect of charitable and/or philanthropic wealth structuring.

Footnote: This article is not intended to be comprehensive nor to provide legal advice and should not be acted or relied upon as so doing. Professional advice appropriate to the specific situation should always be obtained.

David Dorgan

David Dorgan, Partner and Group Head, Private Clients & Trusts, Appleby, Jersey.

David has a significant specialism in trusts and foundations with extensive experience of drafting bespoke and complex trust instruments and foundation regulations for high and ultra-high net worth individuals and families, preparing bespoke will trusts and providing documentation for SPV, philanthropy, charitable and non-charitable purposes.

He is a regular contributor of articles on trusts and foundations issues in the professional press, is the co-author of the ICSA Guide to Jersey Foundations and the author of the LexisNexis PSL Private Client Guides to Jersey trusts and foundations. He is also a member of Jersey Finance working groups for trusts, foundations and charities law.

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Making an impact

By Tim Ford

For many people 'impact investing' is a relatively new turn of phrase, however the term is gathering significant prominence as media coverage of climate change, excessive use of plastics and biodiversity loss increases significantly. As a consequence we can begin to feel our moral compass shifting as the very real threat of irreversible damage to the earth increases and the need for action grows greater. The natural desire to accumulate wealth, whilst being ever more mindful of the broader issues facing society, investors and wealth providers alike, is refocusing the need to invest with a greater degree of responsibility and target a positive impact from investments.

Jersey has a growing presence in such investment with a clear ability to meet socially responsible investment (SRI) needs. A recent report noted in excess of 30 SRI funds administered in Jersey currently valued at c£7.4 billion. This should be no surprise given Jersey's well respected, flexible and responsive regulator, political stability and strong fund administration and private wealth management capabilities.

THE GROWING TREND IN IMPACT INVESTING

Sustainable and socially responsible investment strategies have gathered considerable momentum in recent years. At the start of 2018, SRI assets across the world's five biggest regional markets stood at $30.7 trillion – a 34% increase in just two years. Increasing awareness of climate change and environmental, social and governance (ESG) issues has generated wider interest in the field of impact investing. Increasingly, investors are demanding measurable social and environmental impacts, greater corporate transparency and a wider range of investment opportunities that better reflect their values. Whilst undoubtedly having an impact on corporate behaviour, there is mounting evidence in the commercial world that sustainable business solutions are ultimately more cost effective for providers, more commercially attractive to consumers and strong drivers of policy change – therefore financially sound.

The world is facing diverse and complex social and environmental emergencies. Climate change, biodiversity loss, modern slavery and the threat of antimicrobial resistance, are among a growing number of sustainability challenges seeking innovative solutions and the investment to help finance them. While companies and the private sector have often shouldered the blame for targeting short-term profits despite the long-term costs, the private sector is crucial to the delivery of positive impacts on social wellbeing and environmental stewardship. For companies and investors alike, investing for positive impact has become a business imperative as well as a moral duty. Investors in Jersey can source investment managers who understand this approach and have the expertise to advise them on strategies and products to reflect their values.

WHAT IS IMPACT INVESTING?

Impact investing looks to generate measurable social and environmental benefits alongside a financial return. These returns can range from below-market to market rate. While ESG factors have a role in impact investing, investment decisions are based on a different set of parameters. While both ESG and impact investing consider business operations (e.g. board composition, workers' wellbeing and supply chain transparency) and company outputs, impact investing places greater emphasis on intentionality and additionality. Is there a clear intention to address the world's sustainability challenges? Do the company's products or services reflect that intention? A company may rank highly in terms of its own operational ESG performance – displaying strong workplace policies, board-level gender equality and good resource management for example, yet if the underlying business or product is environmentally damaging or a risk to public health, it may be difficult to define it as having a positive impact.

However, 'intention' can be measured by impact investors in other ways. Companies not demonstrating a clear link to sustainability in their core operations may nevertheless support sustainable development in a different capacity. For example, this could be reflected in the way they incorporate circular economy principles into their design and manufacturing processes, limiting waste, preserving the value of production resources through recovery and reuse and changing consumer habits. It could also be reflected in a company's 'best-in-class' approach to workforce management, regarding employees as assets to be invested in, not costs to be minimised. This kind of culture promotes good, secure work, reduces inequalities and ultimately demonstrates impact by helping to transform social wellbeing. New technologies also play a prominent role in impact investment decisions, the remote delivery and management of data and energy solutions via the internet of things (IoT) being a recent example.

INVESTING FOR IMPACT

Impact investors can use a spectrum of approaches to satisfy their investment mandates, ranging from applying positive and negative screening strategies, where the intention is to produce market comparable returns, to 'impact first', where investors accept that there may be a trade-off between financial and social returns. Important to any approach is the understanding that accurate calculations of positive net impact require the measurement of both positive and negative factors. Investors may act to avoid social and environmental harm by assessing these impacts to gauge the overall contribution to positive outcomes. They can direct investments to organisations working to benefit people and the planet without necessarily being transformational and they can target others contributing directly to transformational change. >>

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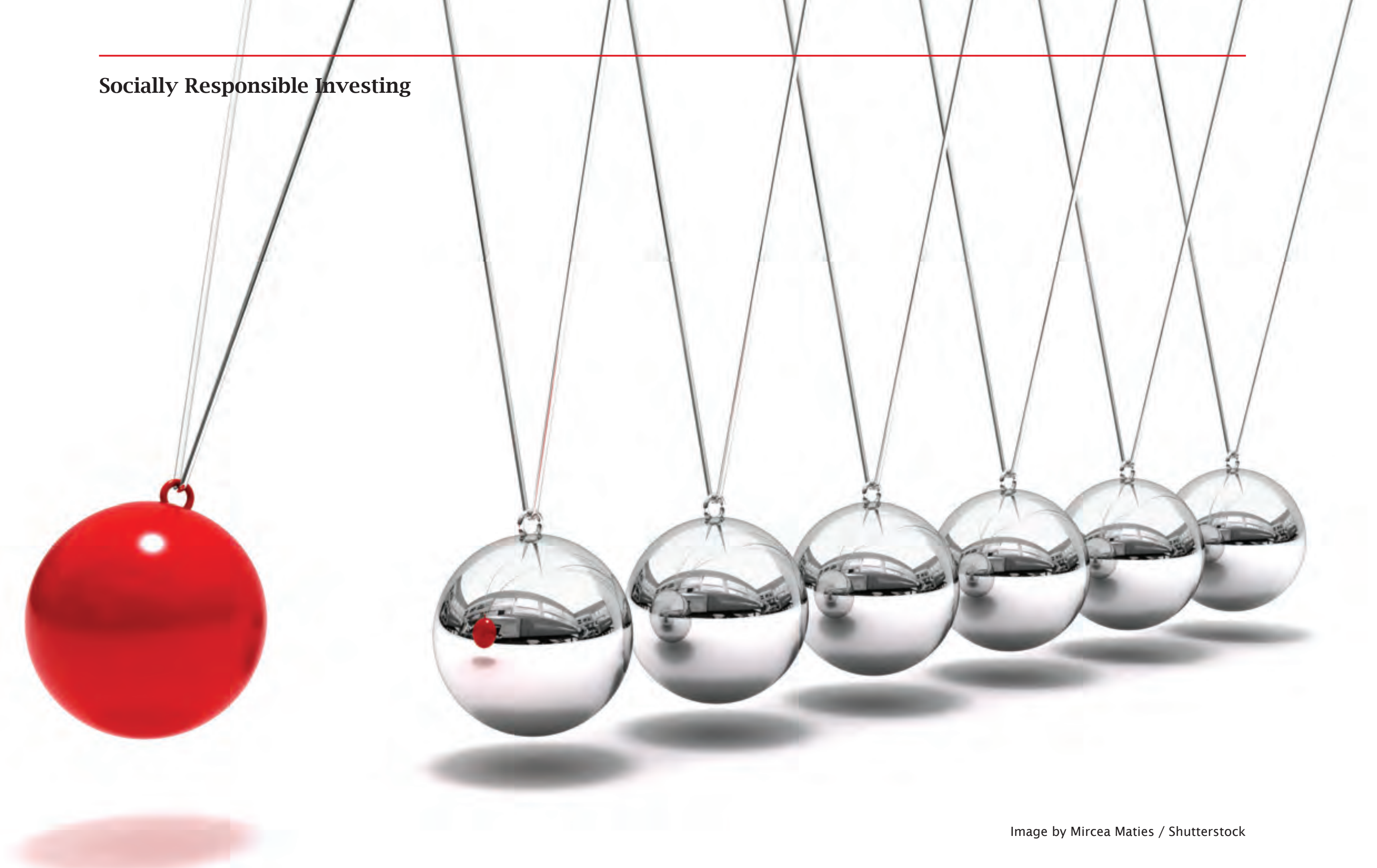

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There are various frameworks available to assess impact outcomes. One prominent example is the UN's 17 Sustainable Development Goals (SDG), which target key areas of global economic, social and environmental concern. The goals between them contain 169 targets, each with between one and three indicators for measuring progress. The SDGs have become a useful metric for impact investors to determine how closely their investments might be aligned to a global sustainable development framework with broad support. The IRIS+ framework, developed by the Global Impact Investing Network (GIIN) is another comprehensive reference point for identifying impacts outcomes to be measured and tracked. Alongside traditional financial performance indicators, investors can obtain a much broader picture of the impact of their holdings through non-financial indicators: is production waste being minimised? How much clean energy has been generated? How have workplace inequalities been addressed? Good or bad, non-financial indicators can help investors assess risk and make a material difference to future financial performance.

Establishing proof of positive impact is a cornerstone of impact investment, yet there is often a scarcity of available and comparable data, plus with reporting requirements falling short of what they could be, a concern that impacts are being assessed on incomplete or unreliable corporate disclosures. There is also the problem of 'impact washing' where organisations align with sustainability trends to enhance their public profiles but do little to incorporate them into their operations.

INVESTOR CONTRIBUTION

When looking at the overall impact of a portfolio, it is also important to consider the impact of the investor alongside that of the underlying holdings. In addition to signalling the importance of social and environmental factors to the wider market, investors can generate substantial positive impact via their engagement activities. Engagement can range from informal dialogue, through to formal measures such as meetings with company boards and filing or voting on AGM resolutions – all aiming to address issues of concern or encourage best practice. >>

Jersey has a growing presence in such investment with a clear ability to meet socially responsible investment (SRI) needs. A recent report noted in excess of 30 SRI funds administered in Jersey currently valued at c£7.4 billion

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One example is a growing body of investors committed to the Climate Action 100+ initiative, which has brought together over 320 global investors to engage with the world's largest greenhouse gas emitters, encouraging action on climate change, increased board awareness of climate-related risks and enhanced disclosure on these factors. A key achievement of the initiative was Royal Dutch Shell becoming the first international oil and gas company to announce targets for reducing operational emissions along with the net carbon footprint of its energy products. Though causation is difficult to prove definitively, continuous dialogue between the company and a dedicated group of investors undoubtedly had some bearing on Shell's commitment.

A GROWING MARKET

The GIIN estimated the size of the global impact investment market to be $502 billion at the end of 2018. This is collectively managed by 1,340 active impact investing organisations worldwide. While seeming relatively small in comparison to the overall investment market – or the capital flows needed to address global sustainability challenges – it is nevertheless suggestive of a rapidly growing market. As recently as 2015, the Global Steering Group for Impact Investment (GSG) published a market size and forecasting report, estimating that a global investment market of around $138 billion in 2015 would grow to $307 billion by 2020.

With a significant percentage of global assets under management considering sustainability principles and a growing investor base wanting their money to achieve more than purely financial returns, the future looks set for further expansion in impact investment. Jersey's strategy is to integrate the best of the jurisdiction and offer access to our tax-neutral environment, wide range of structures, expert workforce and cross border investment. Add a flexible and enabling environment, international connections, knowledge and expertise, plus innovation in service, product and instrument and Jersey offers a leading jurisdiction for impact, environmental, social and governance solutions to private clients and institutional investors as they explore global impact opportunities.

Increasing awareness of climate change and environmental, social and governance (ESG) issues has generated wider interest in the field of impact investing

STILL FURTHER TO GO

The financial services industry has made significant inroads in being able to offer investors a greater array of services that augment the work being done by companies to lessen their impact on the environment and enhance the world we live in, whilst being able to offer attractive investment returns. Some investment companies have been providing investors with such opportunities for a significant period of time and have a high degree of experience in this area, however as coverage of the issues being faced gathers momentum, it is acknowledged there is more to do and a greater impact still to be made. The good news is the bow wave of support and awareness continues to build and the multiplier effects of our collective efforts are turning the tide.

Tim Ford

Tim Ford, Investment Director, Rathbone Investment Management International.

Tim is responsible for managing private client, trust and charity investment portfolios. He forms part of the Jersey investment committee and also sits on the Rathbone Group Fixed Income and the Managed Funds Selection Committees and is responsible for the selection of Japanese funds for the Group.

Tim is a Chartered Member of the Chartered Institued for Securities and Investment.

Jersey's investment in delivering aid

By Deputy Carolyn Labey

For over half a century, Jersey Overseas Aid (JOA) has worked to alleviate the suffering of those afflicted by poverty, conflict and natural disasters. A little rock off the coast of Normandy has built schools and clinics on six continents, provided emergency food and shelter in the rubble of hundreds of earthquakes and airstrikes and given hope and dignity to millions of hungry, sick and displaced people. Almost as extraordinary, through our volunteering projects and home-grown charities, nearly a thousand of us have done so in person.

It is not just morally right to share a little of our wealth and expertise, it is a genuine pleasure to do so. However, we also take seriously our moral obligation to target and manage our overseas aid as carefully as possible. If we fund wasteful projects, or support second-rate charities, or foster dependency instead of self-reliance, we let down both those we should have helped and those whose money we should have used better.

Awareness of this responsibility has resulted in a well-governed, professionally staffed donor organisation, making the most effective use of its budget, concentrating on areas where Jersey can add the most value and focusing on long-term outcomes rather than short-term activities. Just like good investing, good donorship demands persistence and proficiency, informed and empirical decision-making and a thorough understanding of risk, capabilities and good practice.

Also, as finance and philanthropy increasingly overlap, these attributes enable JOA to help cement Jersey's position as one of the world's most attractive jurisdictions for doing good with one's money.

For example, from design to execution to final evaluation, Jersey's overseas aid projects relentlessly focus on the impact our funding achieves. We have long realised that if you do not measure something you cannot improve it and have become adept at analysing the impact of our activities on households, communities and even countries. >>

Image by Rochelle Lauren Bennett / Shutterstock

Just like good investing, good donorship demands persistence and proficiency, informed and empirical decision-making and a thorough understanding of risk, capabilities and good practice

JERSEY'S OVERSEAS AID PRIORITIES

Dairy for Development
A programme which focuses on boosting incomes and improving nutrition by enhancing dairy production techniques, strengthening value chains and improving animal genetics for low-input farmers. In addition to individual projects, many of them implemented by the Royal Jersey Agriculture and Horticulture Society, we are establishing a Jersey Gene Bank to boost milk yields in developing countries by promoting crossbreeding of native breeds with Jersey cows.

Financial Services for the Poor (Financial Inclusion)
A programme which tackles poverty and encourages economic growth and employment, by bringing financial services such as micro-credit, micro-savings and micro-insurance to poor communities and marginalised groups. JOA's joint £8 million project with Comic Relief in this field ('Branching Out') is already helping almost one million people in Sierra Leone, Rwanda and Zambia to access such services, as well as building the capacity of policy-makers and private firms.

Conservation Livelihoods
A programme which concentrates on the link between human development and environmental protection, in particular in vulnerable ecosystems under threat from population growth, habitat destruction and changing weather patterns. Projects aim to establish or strengthen a virtuous circle of human wellbeing and habitat or species conservation, underpinned by a system of sustainable livelihoods.

Meanwhile, Jersey acts as a huge conduit of investment funds into developing countries, many of which are now made with a double or even triple bottom line in mind. JOA now collaborates with Jersey's finance industry to help target investments aimed at solving social or environmental problems and to evaluate the results.

JOA has also specialised in certain topics, from mid-2019 onwards focusing all its development grantmaking in just three areas: Dairy, Financial Inclusion and Conservation Livelihoods. This more focused approach allows us to build up our own expertise and thus become a more effective and better reputed donor. It will also enable our projects to complement each other, which means better value for taxpayers and more people helped. Best of all, the fact that the three areas are already fields in which Jersey has substantial knowledge and proficiency means we can add even more value, deploying Jersey expertise internationally and serving as a nucleus for additional philanthropy and impact investment.

Jersey's Aid budget may be modest in global terms – and at 0.21% of Gross National Income (2019) it still falls some way short of the 0.7% target reached by the UK and other prosperous jurisdictions – but by adhering to the highest standards of good donorship we punch a long way above our weight. Furthermore, we increasingly help others in Jersey – individuals, companies, charities and foundations – to do likewise. An Island which only 75 years ago required handouts itself is quietly becoming reputed as a centre for professional grantmaking, impactful investment and effective philanthropy.

Deputy Carolyn Labey

Deputy Carolyn Labey, Minister for International Development, Government of Jersey.

After the May 2018 elections in Jersey, Carolyn was appointed as the Island's first ever Minister for International Development and Chair of the Jersey Overseas Aid Commission (JOAC).

She was also appointed as Assistant Chief Minister (International) and Chair of the Executive Committee of the Jersey branch of the Commonwealth Parliamentary Association.

Carolyn was elected by the Parish of Grouville as a member of the States of Jersey in 2002 and first served on the Education Sport & Culture Committee. Other roles include serving as an assistant minister for the Environment and Economic Development Ministries, holding the Agriculture and Fisheries portfolios.

She has also served on Scrutiny as Chair of the Economic Affairs Scrutiny panel and been Jersey's representative on the British Islands and Mediterranean Region's Steering Committee for the Commonwealth Women's Parliamentarians Association.

Carolyn was educated in Jersey and Paris, working in the finance industry before entering politics.

How Jersey can teach the world to save

By Peter Culnane

Globally, the shortfall in pensions funding is US$70 trillion. That is $70,000,000,000,000. It is expected to grow to reach $400 trillion in 2050. The numbers just do not add up.

As well as this, the value of the capital sums accumulated to create income required throughout retirement are also generally not sufficient to sustain the retiree throughout their retirement. So what can be done?

LEADING THE CHANGE

In 2008, the Jersey pensions industry went through one of the biggest changes in its history. This year, it has created a product which could do the same for pensions and savings globally.

The international market in pensions and savings schemes is dominated by insurance company products. These products, while generally adequate, are 'packaged', where little flexibility is afforded to companies wishing to tailor scheme rules and investment models, to their specific requirements.

Jersey's move to allow retirement trust schemes (RTSs) enabled Jersey residents to not only provision for their retirement but also to ensure that their retirement savings remain in Jersey and form part of their estate on death. It was a new, simplified and more flexible way for Islanders to control their futures.

International Savings Plans (ISPs) have the ability to do the same for jurisdictions with no history of pensions and savings provision or for multinational corporations with employees around the world with different legal and regulatory regimes.

Historically, employees would reach a predetermined retirement age agreed in their employment contract and the company's pension fund would then look after them for the rest of their life. This would provide a monthly income calculated on a combination of the value of their salary at the date of retirement and the years of good service they gave to their employer. No consideration had to be given by the employee to the economic climate, stock market performance or geopolitical issues such as Brexit. >>

Image by Alexander Limbach / Shutterstock

The cost and risk to companies to provide such generous pensions has led to a rapid demise in this type of employee benefit, resulting in some cases with no provision at all for employees or, at best, the provision of a defined contribution or savings scheme.

These schemes are 'pots' of investment funds which then become available to the employee, at a date determined by the rules of the scheme, for their use in creating income in retirement. These schemes ring-fence the employer from all future investment risk, which is now borne by the employee – the employee's income in retirement is determined by the performance of their funds.

This investment risk continues for the life of the individual throughout their retirement, unless they choose to use their designated funds to purchase an annuity (an income stream guaranteed for life by an insurance company, in return for an initial capital sum).

HOW JERSEY TRUSTS DISRUPT TRADITIONAL PRODUCTS

Technology-led, trust based solutions with independent investment fund platforms have emerged and have the potential to significantly disrupt the existing order. By utilising new technologies, significant efficiencies can be brought to a traditionally conservative industry and are highly attractive to international companies.

The Government of Jersey has worked hard in recent years, in close collaboration with the pensions and savings industry to position the Island as the jurisdiction of choice for multinational companies to base their international pension, savings and incentive schemes for their global staff.

Jersey providers already administer the pension assets of approximately 60 million people around the world and now is the time to offer its specialisms to the rest of the world.

Companies want to know that their Jersey service provider is being held to account, not just by themselves as client but also by the institutions of Jersey that are responsible for the supervision of our Island's finance industry. In addition to a well-regarded financial regulator, over 800 years of independence has created a robust and admired judicial system, which in modern times has evolved with the financial industry. This in turn has led to the creation of innovative, fit-for-purpose laws that are well suited to the promotion and protection of pension and investment business.

Jersey has been at the forefront of international finance for over 50 years and as such, has developed a world-leading regulatory framework, along with the implementation of numerous laws and processes designed to combat money laundering and the financing of terrorism. The Island's reputation has been further enhanced by the credible recognition that has been given by the key international organisations, such as the OECD, MONEYVAL, the EU Code of Conduct Group and the IMF.

Jersey has for many years formally recognised International Pension Plans but with the emergence of the requirement for Jersey providers to service the ever-evolving needs of international companies, it now also recognises that global businesses operate in countries where their employees do not have traditional 'retirement dates' and as such, need more flexible employee-savings solutions and has now recognised ISPs.

Very few jurisdictions in the world have the concentration or volume of highly qualified experts in this area of finance with, importantly, the proven track record of advising on, delivering and servicing these types of pension and savings arrangements.

It is the role of government to regulate and the role of the industry to innovate. With the creation and subsequent recognition of International Savings Plans, a small Island may have given the world a way to retire better.

Peter Culnane

Peter Culnane, Secretary, Jersey Pensions Association (JPA).

Peter is Director & Head of Pensions at Fairway Group and has over 17 years accumulated experience within the UK, Jersey and international pension arenas. His background is in investment management, international financial planning and as a pension trustee.

Peter's expertise spans the personal and corporate pensions markets in Jersey and includes the structuring of multijurisdictional pension schemes and international pension transfers. Peter has also represented both the domestic and international pensions industry in Jersey, as a member of numerous Working Groups responsible for advising the Government of Jersey on legislative change.

Peter is a Fellow of the Securities & Investments Institute, an Associate of the Institute of Financial Planning, a Member of the Institute of Directors and is a Certified Financial Planner.

Jersey builds on its Islamic finance expertise

By Daniel Hainsworth

For many years – and certainly the last 20 years of my career – Jersey has stood out in a crowded and competitive landscape as an international finance centre (IFC) of choice. It stands out for its robust regulatory regime, fair legal system, attractive and internationally relevant product offering and associated professional services industry. All of these factors are highly valued when it comes to Islamic finance.

Shariah compliant Islamic capital market structures, Islamic asset management structuring and Shariah compliant private wealth management through Jersey is not new. It has been prevalent in the industry for over 20 years. In a world where over 20% of the population is a practicing Muslim and where the Islamic finance industry attends to $2.5 trillion of assets, it is no surprise that Jersey – with the expertise and experience to pragmatically manage and understand the nuances of Islamic finance and its associated structuring – remains a jurisdiction of choice.

ISLAMIC FINANCE TODAY

Today, many Muslim families throughout South East Asia, the GCC and Africa benefit from the strength of Jersey law structures and their application in generational wealth planning and asset protection in compliance with Shariah law principles.

The evolution of Jersey law to include reserved powers, private trust companies and Jersey foundations, provides asset protection, governance and operational structures which are underpinned by key Shariah principles such as control, privacy and philanthropy. While the regulatory and supervisory frameworks of many other jurisdictions have not evolved to accommodate these requirements, Jersey has been forward thinking and client focused, designing and adapting its solutions to meet client needs.

Islamic finance is now one of the fastest growing sectors of the financial marketplace in the UK with London considered an emerging international hub, with many banks now offering Islamic finance products into the UK financial market.

Jersey's geographical proximity and time zone to the UK make it a favourable option for bringing skilled and specialist expertise to Shariah compliant financing transactions. Whether that is by way of hybrid conventional debt with commodity Murabaha, Musharakah or Musharakah with Ijarah, Jersey's trust, corporate and funds services are well placed to meet client requirements. It is rare to find a workforce in a predominantly non-Muslim IFC where such financing arrangements are commonplace, along with the depth of understanding as to how to account financially for harem sources of income. >>

Dubai's financial district. Image by Tom B Paye / Shutterstock

Recently Jersey has seen a steady flow of work connected to Islamic finance. While interest by Islamic compliant investors into UK commercial real estate has declined somewhat since the introduction of chargeable gains tax (CGT), investors are using Jersey holding entities for their European commercial real estate, infrastructure, debt and PE deals, not only due to our expertise and our tax neutral position but also for our ability to offer shareholders/investors a rule of law that provides certainty.

Islamic asset administration and fund domiciliation as well as securitisation and Sukuk structures come into play daily in Jersey. These may often be worked on by specialist teams within service providers – that have the necessary skills and experience to satisfy Shariah compliant objectives – all under the aegis of the Jersey Financial Services Commission (JFSC) whose regulation and processes allow the same treatment of securities whether conventional or Islamic.

THE FUTURE

Jersey will continue to broaden its relationship with the Muslim world. Muslim investors, asset managers and sovereign entities will continue to demand access to real estate. Whether it is assisting with a financing structure, issuing Sukuk or other Shariah compliant certificates, or units secured against real estate and real assets, the UK, Europe and the global market continue to see Jersey as a dominant jurisdiction for Islamic finance structuring.

Jersey's Islamic finance expertise may well play an important part in increasing Jersey's appeal to ethical investors. While investors may not themselves be Muslim, the principles and values surrounding Islam are attractive to the new wave of clients drawn to the social and ethical financing principles. With the UK real estate market being somewhat in decline and traditional UK banks taking their time in completing on financing packages, we see more and more non-Muslim borrowers looking at Shariah compliant finance as an alternative.

Non-traditional currencies will continue to be a growing area from 2020 in Jersey's established finance industry. Whilst there has been much uncertainty from scholars as to whether crypto is harem or halal, there is no doubt that Muslims are finding a balance in there. What started out as asset backed (typically gold) issuances, looks like morphing further as the rise of digital currency issuances seems to be growing. Whilst most scholars remain on the fence, it is probably only a matter of time before more conclude that certain crypto is within the boundaries. This leads on to Sukuks. The growing need for socially responsible investing has led the Middle East, Malaysia and Indonesia to issue Green Sukuk as either sovereign debt raising securities or, in the case of Futtaim, a corporate raising Green Sukuk. I am not aware that Jersey has had a part to play in Green Sukuk but given our expertise in Islamic finance and the prevalence of ethical, sustainable and socially responsible investment businesses, I think it is only a matter of time.

Finally, opportunity lies in Africa and specifically African sovereign debt raising by Sukuk. The continent, which is 50% Muslim, is undergoing a generation of growth in infrastructure, energy and financial services as they move from the developing to the developed world. To do this, finance needs to be raised and given the Muslim population, it is highly likely to be through Islamic capital market products. Jersey has for a long time acted as a bridge between capital raising in Europe and investment in Africa and the continent might well give rise to Jersey's first Green Sukuk.

RELATIONSHIP BUILDING

As an IFC, Jersey has led the way in evolving its offering and passing legislation for innovative products that address the challenges and opportunities of working in Shariah compliant jurisdictions.

I have no doubt that Jersey will capitalise on its relationship with Shariah compliant structuring in the Muslim world and will continue to be a leading jurisdiction in the international Islamic finance industry. There is a clear opportunity and will to build on the Islamic experience and services that the Island has offered for so many years.

Daniel Hainsworth

Daniel Hainsworth, Global Head of Corporate Services, Hawksford.

Daniel has over 20 years' experience in the financial services industry, the last 10 of which have seen him in either a management or leadership role. He has worked in the private wealth, funds and corporate service segments.

Based in Hawksford's head office in Jersey, Daniel has responsibility for the strategic direction and growth of Hawksford's Corporate Services business in new and existing markets, with a remit which sees him work with teams across the firm's offices towards delivering corporate administration, accounting, tax compliance and transactional services, as well as helping develop new business and new product offerings.

Daniel sits on the board of several substantial public and private real estate investment, structured finance and Islamic finance structures as well as small and large multijurisdictional corporate businesses.
He also sits on the main Hawksford Group Holdings board.

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Employing automation to address evolving requirements

By Tom Hill

According to government statistics, total employment in Jersey is at record levels, rising 1.9% during 2018. Within this, finance and legal activities, which account for a quarter of jobs on the Island, grew more rapidly, up 2.2%. Yet the number of jobs in banking grew more slowly – up 1.8% – and at the end of 2018 stood 9% below the level five years earlier at 3,380 jobs.

All 21 Jersey banks are components – branches or subsidiaries – of large multinational banking groups and developments here reflect trends in the industry generally.

At the moment, the profitability of the European industry is depressed, with aggregate return on equity below most estimates of the cost of equity. This partly reflects the currently low levels of interest rates in all major currencies and the flat yield curve, which lead to depressed margins on deposit-taking and lending; partly continued litigation and regulatory expenses; partly continued increases in the amount of capital required to support a given amount of business activity; and partly pressure on fee margins, including from new entrants emerging from the technology industry. >>

The Esplanade, St Helier, Jersey. Photo Chris George

Consequently, the entire industry continues to concentrate on reducing costs, in particular through process automation and simplification and focus of business models. This phase of the banking cycle, which began in 2008, seems likely to continue for some time.

Critical in this context is the application of new technology. All customers notice changes to the way they communicate with their banks, with many of us now using websites and apps where once we would have written letters and cheques.

However, a much heavier part of banking technology is applied to internal processes that customers never see and this accounts for the fact that the volume of business handled by the industry continues to grow while the number of people involved in handling it does not.

The banking industry continues to collaborate closely with government, the regulator and other industries within financial services, with the aim of making certain that the architecture around the industry remains at international standards.

In the last several years Jersey has introduced a Depositors' Compensation Scheme, a Financial Services Ombudsman and improved Data Protection arrangements and the Jersey Financial Services Commission (JFSC) has continued to evolve. All of these require time and effort from appropriate experts to establish and run and a substantial proportion of costs are met from levies on the industry, in particular on banks.

Over time, the quality of such institutional arrangements will be one of the main factors determining the success of the Island's industry, because all jurisdictions like Jersey – small, specialised, niche – need the trust and goodwill of large countries whose economies they support.

During 2018, Bank of Butterfield opened in Jersey, as a result of its acquisition of Deutsche Bank's banking and custody businesses in Jersey, Guernsey and Cayman. This adds a valuable new brand to the Island and underlines the continued attractiveness of the jurisdiction.

Tom Hill

Tom Hill, President, Jersey Bankers Association (JBA).

Tom is CEO of UBS in Jersey and has worked in the banking industry for nearly 30 years, in London, Tokyo, Zurich and in Jersey.

At various points in his career he has been voted a top investment analyst by institutional investors in multiple categories, managed large global functions and been advisor to the senior management of UBS on corporate communications, investor relations, business strategy and development.

KENDRICK
— ROSE —
RESOURCING EXCELLENCE

Recruitment in the Digital Age

By Shelley Kendrick, Managing Director, Kendrick Rose

From interviews over video to selection by Artificial Intelligence, technology has many applications in the recruitment sphere.

With more of us online virtually all the time, we're all effectively potential candidates - exposed to information about employers, corporate cultures, and different roles, every day on social media, whether we're thinking about changing jobs or not.

A smart phone is the interface, offering organisations greater exposure, and applicants greater choice. Innovation plays its role in all forms of recruitment, however, when it comes to finding the right person for executive level finance jobs in a jurisdiction such as Jersey, technology is only part of the solution.

For many organisations, attracting candidates is simple. The issue is how to attract the right candidates – people who are perhaps too busy to pay attention to adverts on social media, who don't flit from role to role for flimsy reasons. Deep Blue and AlphaGo might beat human world champions, but human recruiters still understand corporate culture, and the diverse skill set an executive role requires, better than any algorithm.

Since setting up Kendrick Rose over 10 years ago the nature of the jobs we recruit for has changed, reflecting the impact of technology on all areas of our economy, however, the attributes of the people we're looking for are remarkably similar. The best firms still want to work with the best talent, and the best talent in Jersey is still sourced by people who know people.

We consider our connections the most extensive in the business, allowing us to put people together in ways a computer would never dream of.

The roles of the future may require a higher level of digital skills, but finding the people who have these skills, or who can learn these skills is still a remarkably human process based on knowledge and trust, knowing the industry and knowing the people who work within it.

Image by Phongphan / Shutterstock

Substantially strengthened corporate services

By George Bryan-Orr

The last 12 months in Jersey have seen a number of changes, further strengthening the Island's position as being First for Finance.

As change in the international regulatory environment continues at pace, Jersey is responding well to international initiatives, whilst providing an intelligent environment in which to do business and remaining true to its core principles of cooperation, transparency and commitment to preventing financial crime and tax abuse.

These initiatives include new substance requirements and a political commitment to share beneficial ownership information on companies. Jersey has further demonstrated its commitment to adopting and complying with the leading OECD standards, by entering into a new Double Taxation Agreement (DTA) with the UK.

SUBSTANTIAL OPPORTUNITY

The Taxation (Companies – Economic Substance) (Jersey) Law 2019 (The Law) refers specifically to a number of 'relevant activities' including banking, finance and leasing, fund management, headquarters, holding companies, insurance, intellectual property, shipping and distribution and service centres. The Law brings more explicit requirements into play as to how companies tax resident in Jersey must demonstrate that direction and management are in Jersey, that they conduct Core Income Generating Activities (CIGA) in Jersey and that they have adequate people, premises and expenditure in Jersey. >>

Image by fizkez / Shutterstock

Professionally run corporations will be well used to the types of requirements to determine the tax residence of a company. Service providers in Jersey are similarly aware of what constitutes good corporate governance, with many members of the Institute of Directors (including its current Chair) and members of other professional bodies, resident in Jersey. Consequently, having quorate board meetings, populated by individuals (or individuals representing corporate directors) with the necessary knowledge and experience, in Jersey, whilst having the associated records and minutes kept in the Island, it will be business as usual.

Jersey's deep pool of experienced corporate services professionals is well placed to meet the needs of companies facing substance requirements.

What CIGA is applicable for a company will depend on the nature and extent of its activities. Each of the relevant aforementioned activities is catered for in the Law. Income subject to tax in Jersey will need to be supported by commensurate CIGA in Jersey. This requirement does not preclude outsourcing some activity off Island, as long as the outsourced function is not part of the company's CIGA. CIGA can also be outsourced to related or third parties. However, oversight of the service provider must be undertaken by the board of the company and to meet substance requirements, the outsourced activities must take place in Jersey. Higher value companies may also consider renting office space and hiring employees in Jersey. The highest value companies may also look to make investments and establish deeper operations in Jersey. >>

Companies and professional advisers can rest assured that in choosing Jersey, they are choosing a jurisdiction which has a strong and ongoing commitment to cooperation and transparency

Image by Yarr65 / Shutterstock

Evidence of compliance with the substance requirements will be required as part of new forms of tax returns that will be supplied to the Comptroller of Taxes as part of the annual tax returns for Jersey tax resident companies. Companies found to fail to meet the substance requirements, will face sanctions in the form of fines.

Companies able to demonstrate substance under this new regime, have the opportunity to do so in a quantifiable manner and parent companies will be able to take comfort from this and point to the substance their subsidiaries have, in Jersey's tax neutral environment. Parent companies will be able to state their subsidiaries have substance in Jersey that meets the requirements of the EU Code of Conduct Group, which the Law was designed to meet.

BENEFICIAL OWNERSHIP REGISTER

Jersey has made a political commitment to opening its beneficial ownership register to the public in line with the EU's Fifth Money Laundering Directive. In fact, Jersey has maintained a beneficial ownership register since 1989. The new commitment to open the beneficial ownership register to the public will take three stages. The stages are:

- the interconnection of the Island's registers of beneficial ownership of companies with those within the EU for access by law enforcement authorities and Financial Intelligence Units; then
- access for financial service businesses and certain other prescribed businesses for corporate due diligence purposes; then
- public access aligned to the approach taken in the EU Directive.

In practice this means Jersey will implement a public beneficial ownership registry in a similar fashion to that adopted by EU member states, which will take time to occur and quantify.

Interestingly, the current commitment of Jersey to share beneficial ownership information with the UK, where Jersey undertook to provide law enforcement agencies with beneficial ownership information in 2016, has recently been reviewed and a report submitted to the UK Parliament. The UK Law Enforcement Agencies report noted that the arrangement has been 'extremely useful in accessing the information needed to support ongoing investigations'. The report also noted that Jersey's procedure of not allowing any new company to be incorporated unless the beneficial ownership information is correctly supplied and registered, is an example of best practice. Jersey's commitment to sharing beneficial ownership information has thus been tested and passed with flying colours. Companies and professional advisers can rest assured that in choosing Jersey, they are choosing a jurisdiction which has a strong and ongoing commitment to cooperation and transparency.

NEW DUAL TAX AGREEMENT (DTA)

Jersey has had a dual tax treaty in place with the UK since 1952. While this agreement worked well in practice, the new agreement now complies with the OECD Model DTA Convention standard. As Jersey and the UK share close links at both an individual and corporate level, this DTA is critical to both jurisdictions. The DTA ensures no income is taxed twice, while also ensuring no income is avoided completely and allows for information sharing between the tax authorities of both countries. Cross border transactions between Jersey and the UK remain safe and operate within a tax neutral regime, supported by a robust yet flexible legislative framework.

CONCLUSION

With Jersey having effectively embraced recent developments to strengthen its corporate services offering, it continues to be the jurisdiction of choice for multinationals and institutional investors seeking advice and administration services for their financing, capital restructuring, transactions, private equity funding and M&A activities.

George Bryan-Orr

George Bryan-Orr, Managing Director, Trident Trust Company Limited.

George is a Member of the Institute of Chartered Accountants of British Columbia, Canada, a Member of the Chartered Alternative Investment Analyst Association and a Fellow of the International Compliance Association and a member of the Institute of Directors. He joined Trident in 2001 from a global audit firm. Before his current role in Jersey he held management positions in Trident's Guernsey and Luxembourg offices. His professional experience includes holding positions of various regulated fiduciary and investment companies domiciled in Jersey, Luxembourg, Guernsey, BVI and the Cayman Islands.

Jersey schemes of arrangement

By Nick Williams, Simon Dinning and James Angus

A marked development in offshore corporate restructuring in recent years has been the upsurge in the use of Jersey schemes of arrangement. Under the provisions of Article 125 and 126 of Jersey's Companies Law, the Royal Court can sanction a compromise or arrangement between a company and its creditors or members or any class of them.

To do so, the scheme must first have been approved by a majority in number representing 75% in value of each class of the creditors or members present and voting (either in person or in proxy) at a specific meeting (or meetings) convened for these purposes.

Jersey schemes are now a procedure of choice for complex and ultra-high value cross border M&A deals. Q4 of 2018 and Q1 of 2019 have seen the two highest value mergers by scheme of arrangement in Jersey history: Shire Plc's merger with Takeda Pharmaceutical and the merger of Randgold Resources with Barrick Gold Corporation. Every current indication in the market is that the popularity of schemes of arrangement with multinationals and their legal advisers will continue.

Jersey schemes have plenty to recommend them to complex cross border deals. They have a defined structure, a set timetable and a methodology for the swift, effective and fair gathering of shareholder consensus. The 75% threshold, whilst sufficiently stringent to protect minorities, is seen as a commercially viable route to progressing a transaction which enjoys ostensibly significant shareholder support. The final seal of approval by the Royal Court sanctioning a scheme ensures scrutiny and fairness to all shareholders, as well as lending finality and commercial certainty.

However, the structural benefits are not the be all and end all. Many large London law firms and their clients comment that Jersey as a restructuring jurisdiction, particularly as regards schemes, is a powerful attraction in and of itself. The Island is increasingly competing with – and in many cases exceeding – the reputation of other offshore jurisdictions more traditionally associated with restructuring and insolvency (R&I).

The strength, reputation and accessibility of the Royal Court is seen as a crucial factor in this. The proponent of a scheme must first demonstrate to the Royal Court that a meeting should be called (or meetings if there are multiple classes of shareholders or creditors – an issue that will be carefully considered by the Royal Court at the early stages of the process). The Royal Court will then, at the end of the process, consider whether the scheme is a proper one for sanction and that the proposals are in the best interest of shareholders or creditors as a whole. Where shareholders or creditors object, the application can be contentious and fully argued.

In any shareholder scheme, then, the legal team will comprise corporate and dispute resolution specialists. Whilst the corporate lawyers will have particular expertise on the technical aspects of the deal itself, the litigators will take responsibility for the Court facing aspects, including preparation and presentation of the supporting documents and oral advocacy. Getting a scheme through to completion is very much a joint effort.

The litigation input is even greater where the other main use of schemes comes into play – the creditor scheme. The scheme jurisdiction was originally conceived as a way for a struggling business to enter a compact with its creditors, with the 75% creditor threshold being required to support the proposal. Creditor schemes are now a major and developing part of offshore R&I practice. For example, in the Cayman Islands, in the Ocean Rig matter, such a scheme was recently recognised as "foreign main proceedings" for the purposes of obtaining US "Chapter 15" bankruptcy protection.

Creditor schemes tend, due to the pressure of imminent insolvency and risk to creditors, to be considerably more contentious than shareholder schemes. >>

Many large London law firms and their clients comment that Jersey as a restructuring jurisdiction, particularly as regards schemes, is a powerful attraction in and of itself

The litigation advocate will, therefore, often have complex and nuanced objections to address when presenting the proposal for the Court's approval. This is potentially compounded as Jersey does not have the statutory concept of "provisional liquidation", which is used in other jurisdictions to confer the benefits of a moratorium on proceedings against the company during the period of negotiation or presentation of the scheme.

As litigators regularly presenting schemes to the Royal Court, we receive consistent feedback from clients (large onshore law firms and the business they advise) that the dependability of the scheme jurisdiction in Jersey is seen as key. Jersey is very much seen as a safe, reliable and well-regulated jurisdiction to do business in.

In particular, as regards both shareholder and creditor schemes of arrangement, Jersey's compendious scheme jurisprudence and the rigorous and thorough approach of the Royal Court are seen as major advantages. The Royal Court has naturally observed the upsurge in Jersey schemes of arrangement in the last decade. The presiding Judges are all commercially experienced (having worked in Jersey private practice during their careers) and are careful in setting down in reasoned judgments the relevant principles to be addressed. The Royal Court's guidance on schemes leaves few stones unturned, resulting as it does from so wide a range of commercial transactions and restructurings, with all their individual facets, which have come before it. With Jersey's company law being heavily based on English principles, if there is any issue which has not yet been determined in previous Jersey case law, English jurisprudence on the point will be highly persuasive.

A particular advantage of the Jersey court system in relation to schemes is the role of the two Jurats, who sit alongside the presiding Judge to determine issues of fact. These are experienced and respected lay people, with sound judgment and common sense in spades. When considering whether to sanction a scheme, the Jurats will place themselves in the shoes of the putative shareholder/creditor in the company and ask: "If it were me, how would I vote? How would I perceive this proposal as affecting my interests?" The merits of a scheme when addressed on those terms are thoroughly assessed and fairly determined. Our clients often comment that this established jurisprudence and robust Court structure, combined with its equivalent time zone and proximate location, makes Jersey as sure and reliable a scheme jurisdiction as England & Wales, despite the comparative sizes of the two jurisdictions.

Nick Williams

Nick Williams, Partner, Ogier.

A Jersey Advocate specialising in contentious restructuring, contentious trusts matters and cross-border commercial litigation, he leads Ogier's Jersey Dispute Resolution team and co-chairs the firm's global regulatory group. He is recognised by Chambers UK as "a very capable litigator".

Simon Dinning

Simon Dinning, Partner, Ogier.

A Jersey Advocate specialising in providing corporate and finance advice on transactions involving British Virgin Islands or Jersey incorporated entities, he is Ogier's Global Head of Corporate legal services.

He has particular expertise in equity capital market deals and cross border mergers & acquisitions and is recognised in the IFLR 1000 2019 as Highly Regarded.

James Angus

James Angus, Managing Associate, Ogier.

Part of Ogier's Jersey Dispute Resolution team, he is a Jersey Advocate with expertise in shareholder litigation, contentious insolvency and contentious trust work. James was named one of the UK's Top 35 Under 35 (2018).

Fit for the future

By John Kelleher

Jersey's position as one of the world's leading international finance centres has not been achieved without considerable effort and resolve. It is a status that has taken many years to foster yet requires constant focus and effort to nurture and protect, as well as to develop and adapt in line with changing market circumstances and international demands.

Image by jurgenfr / Shutterstock

There is much to be said for Jersey's history of financial stability and security but for it to maintain its standing internationally and to retain a competitive edge in a dynamic and ever changing world, it needs to have a sound political environment, an effective regulatory structure and a robust yet flexible legal infrastructure that, collectively, gives confidence to investors, residents and the international community, is conducive to business and operates in line with ever increasing international standards and expectations.

While it is clear that Jersey enjoys a political, regulatory and legal landscape that enables it to maintain its status in the premier division of international finance centres, it is important to recognise the role that key stakeholders have in achieving and maintaining this positioning.

One of the major contributors in this respect is the part played by Jersey's legal profession. While it is a profession that is steeped in tradition and heritage, it has adapted to Jersey's needs and aspirations, acting and reacting to market trends and opportunities and has been instrumental in helping Jersey to attract business both locally and internationally, providing effective and flexible support for new streams of business activity and revenue for the Island. With legal expertise spanning the whole spectrum of banking, corporate finance, trust, fund, property, personal and offshore law, lawyers in Jersey play a critical role in establishing and maintaining Jersey's position as a jurisdiction of trust and integrity that is fit for the business world of the 21st Century. >>

The legal profession in Jersey certainly has strength in depth; there are now over 340 Jersey law qualified advocates and solicitors in private practice in Jersey, across no fewer than 47 firms, ranging from the long established sole practitioners who largely focus on the local personal and small business market and a range of medium-sized full service firms to the large, multidisciplinary and multijurisdictional firms who are engaged by local businesses, FTSE companies and international conglomerates, while also taking instructions from the so-called 'Magic Circle' firms in the City of London on matters of Jersey law.

The collective strength of Jersey's legal profession – its skills, its responsiveness, its tenacity, its expertise and its experience – cannot be underestimated. The whole is, without doubt, greater than the sum of its parts, although according to the Legal 500, many of the 'parts' of the profession in Jersey are quite exceptional.

The last five years has also seen the entry into the market, in line with demand, of a growing number of niche, specialist firms, focusing exclusively on key market sectors, such as corporate, criminal or family law.

In addition to the number of lawyers in private practice, significant benefit is derived (for the Island) from a further 70 locally-qualified advocates and solicitors who are working for trust companies and banks and using their legal expertise to nurture and grow these vital parts of Jersey's business community, while ensuring that the high standards by which Jersey has become known are maintained.

Jersey may have more lawyers per head of population than, for example, in the UK but this is reflective of the diverse and specialist nature of Jersey's operating environment and business mix, as well as the demand for legal services that does not appear to be abating, as demonstrated by the statistic that no fewer than 240 new advocates and solicitors have been sworn in over the past decade and there being no indication in the market place of a surfeit of lawyers looking for employment.

The legal profession in Jersey is immensely proud of its overall contribution to the Island, which is far wider than the purely financial Gross Value Added contribution of £200 million per annum, particularly its role in sustaining existing business streams while securing new business opportunities, underpinned by legislation that members of the profession have been instrumental in creating. This ensures the confidence of investors is maximised, whilst making certain that international standards are met at all times.

As the statutory regulatory body for Advocates and Solicitors of the Royal Court of Jersey, The Law Society of Jersey has a key role to play in representing the interests of its members, helping to shape the legal framework, supporting its members in the practice of law and in upholding the highest standards of professional conduct.

The collective strength of Jersey's legal profession – its skills, its responsiveness, its tenacity, its expertise and its experience – cannot be underestimated

In this regard, as well as working with the government to review and reform the system of legal aid which has, historically, been entirely funded by the profession, it has worked tirelessly to transform the legal landscape, helping to update historic laws and creating new market leading legislation that both keeps Jersey's doors open for business and encourages new streams of business, while playing its part in streamlining processes to improve judicial efficiency and implementing new conduct and client money rules to protect the interests of the clients its serves and in the wider public interest.

It is, though, the collective strength of Jersey's legal profession, its skills, its responsiveness, its tenacity and its experience, the depth of which truly makes a difference to Jersey, its prosperity and, above all, its position as a highly regarded international finance centre and for that we can be truly proud.

John Kelleher

Advocate John Kelleher, President, The Law Society of Jersey.

The Law Society of Jersey represents the interests and regulates the legal profession in Jersey, helping to shape and improve the legal framework, supporting its members in the practice of law, while upholding the highest standards of professional conduct.

John Kelleher was called to the English Bar in 1991 and was sworn in as a Jersey Advocate in 1994. He has been a partner of Carey Olsen since 1995 and was appointed as Chairman of the firm in 2009. John is a prolific writer on local law and is a founding member of the Jersey and Guernsey Law Review. He is a qualified mediator and is an Associate of the Chartered Institute of Arbitrators.

Continuous development in standards

By James de Veulle

Although we may not have seen much progress over the last 18 months in relation to Brexit, there have been some significant developments in the world of tax, accounting and audit.

Whilst Jersey is in many cases not directly affected by EU and UK legislation, the desire to continue to operate as a 'good neighbour', maintain equivalence and pursue high standards in relation to best practice, means that Jersey often adopts comparable (but proportionate) equivalent standards.

SUBSTANCE LEGISLATION

The single most significant tax development on the Island relates to the new Taxation (Companies Economic Substance) Law 2019, which came into effect at the start of this calendar year.

Any companies which are tax resident in Jersey have to consider the new legislation, which covers relevant activities and gross income earned from:

a. Banking
b. Insurance
c. Fund management (excluding companies that are collective investment vehicles)
d. Financing and leasing
e. Headquartering
f. Shipping and a distribution and service centre
g. Companies deriving income from intellectual property
h. Pure equity holding companies (or, in Jersey, simply 'holding companies') receiving an income

The law then requires that three key tests are satisfied to demonstrate substance on the Island, namely that:

1. Activities are directed and managed on Island in relation to that activity (not the same as managed and controlled)
2. Core Income Generating Activities (CIGA) take place on island or, if outsourced, that they are monitored and controlled from Jersey
3. The entity has adequate employees (people), physical assets or premises, and expenditure (PPE)

Failure to meet the requirements will result in a £10k fine the first time, a £100k fine the second time and then the potential to have the company struck off for repeated failures.

OTHER TAX DEVELOPMENTS

There is also a new Revenue Administration Law, addressing: the length of the assessment window; consideration of making public the findings of appeals that set important precedents; and the potential introduction of a civil penalty regime for information production notices. A taxpayers' code is also being considered.

Furthermore, in 2018 Jersey agreed a new Double Tax Agreement (DTA) with the UK and the new agreement is more consistent with the OECD model convention. It includes an 'offshore activities' provision containing clear residence rules with tie-breaker provisions. It also allows that, in most cases, dividends may be paid free of withholding tax in the payer jurisdiction and dual residents will now be able to benefit more readily from treaty relief.

There are also new rules extending the scope of UK tax on gains, effective from 6th April 2019. These changes give rise to new notification/filing obligations on non-UK residents, who are subject to UK tax on gains on direct and certain indirect disposals of interests in UK immovable property. Broadly, the indirect disposal rules apply where a person makes a disposal of an entity in which it has at least a 25% interest – or any interest in certain collective investment vehicles (CIVs) – where that entity derives 75% or more of its gross asset value from UK land. Disposals of interests in entities where the property is used in a trade are excluded from the charge, subject to certain conditions being satisfied.

ACCOUNTING DEVELOPMENTS

In the sphere of international accounting standards, the main developments have been the issuance of IFRS 9: Financial Instruments, IFRS 15: Revenue Recognition and IFRS 16: Leases and these have been largely mirrored in US GAAP by the FASB. UK GAAP either follows IFRS (for listed entities and those following the reduced disclosure framework FRS101) or, for smaller entities, versions of the aforementioned developments may be incorporated into GAAP during the next triennial review. >>

Of these issued standards, IFRS 9 has impacted those engaged with lending business as they consider both the classification of their assets and also how to measure them (either at fair value or, if they relate solely to payments of principal and interest and the assets are held with a view to collect, amortised cost). The standard was intended to simplify the accounting for financial instruments by reducing the number of categories; however, many would say that it has introduced greater complexity through the introduction of revised credit provisions in a move from incurred losses to forward-looking, expected loss provisions.

Meanwhile, IFRS 15 establishes the principles that an entity should apply in determining when to recognise their revenues from contracts with customers, particularly longer term contracts where there are staged performance obligations, using a five step model. IFRS 16 changes the lessee accounting for all leases that have a duration longer than 12 months, requiring the recognition of the asset on the balance sheet and also a corresponding liability for the future lease payments, which has the impact of grossing up both the asset and liability sides of the balance sheet for leases that would previously have only been recorded in the P&L.

AUDITING DEVELOPMENTS

Meanwhile, the auditing profession has been facing significant scrutiny, particularly in the UK, where a number of reviews have been taking place concurrently over the last year or so, namely by Sir John Kingman, by the Business Energy and Industrial Strategy (BEIS) Select Committee, by Sir Donald Brydon and also the Competition and Markets Authority.

Whilst each report has suggested certain actions to reform the audit profession, there is not yet consensus on exactly what legislative and regulatory changes might be imposed but the UK has announced a new regulator – The Audit, Reporting and Governance Authority – which will replace the FRC.

Closer to home, changes were proposed to the Crown Dependencies' Audit Rules in December 2018 but with the aforementioned reviews ongoing and Brexit taking attention away from legislators, it looks as though any revisions will wait until there is more certainty in wider regulatory regimes.

HOW DOES THE JSCCA SUPPORT ITS MEMBERS?

With so much change about, the JSCCA (Jersey Society of Chartered and Certified Accountants) fulfil some very important roles for the profession:

- Members of the Executive Committee regularly participate in discussions and panels with the local regulator, government, Jersey Finance, the taxes office (Revenue Jersey) and other industry leaders to help shape strategy and ensure that all parties are mindful of the impact of certain actions
- Our technical and regulatory subcommittee chairs ensure that representatives from industry meet to discuss, collaborate and respond to consultations and emerging regulations
- Our training sub-committee ensures that there are comprehensive development opportunities for members to stay abreast of emerging issues, both on a monthly basis but also through our two day CPD conference.

We have also been working hard on developing links with other related organisations, such as the GSCCA in Guernsey and the UK's professional bodies (ICAEW, ICAS and ACCA), to ensure that we uphold the highest standards of professional conduct and are aligned on key areas of topical interest.

The accountancy profession (including tax practitioners, auditors, management accountants, bookkeepers and those who may have moved into other tangential sectors, such as risk, compliance, operations and management) continues to be a core pillar for the various professional services the Island provides to support the international business, finance and investment communities and staying up-to-date with emerging developments is key to all of us in the industry.

James de Veulle

James de Veulle, President, Jersey Society of Chartered and Certified Accountants (JSCCA).

James de Veulle (FCCA) is a director in PwC's Assurance practice in Jersey and leads the Channel Islands Banking practice and structured finance team. He has more than 20 years of experience in the industry, delivering audits to a broad range of financial services clients in banking, capital markets, asset management and fiduciary industries. In addition to core audit services, James also leads on other assurance services (such as controls reporting) and provides advisory services in areas such as compliance, regulatory and process improvement.

Prior to moving back to Jersey in 2007, James worked for nine years in PwC's Banking & Capital Markets division in London, gaining broad experience on investment banking clients, broker dealers and other capital market institutions, leading multinational teams and working with clients during IFRS transitions, US GAAP conversions and preparation for SEC listings.

James has been on the Executive Committee of the JSCCA for the last four years, during which time he has also chaired the training sub-committee. Previously, James also served on the Jersey Funds Association (JFA) committee for four years.

Home to growth and prosperity

By Kevin Lemasney

Jersey has long been an attractive location for High Net Worth Individuals (HNWIs), their families and their businesses and we continue to see strong enquiry numbers year-on-year.

Le Portelet Bay, Jersey. Image by Phil Woolley / Shutterstock

The Island is an attractive option as a place to live, work and bring up a family and offers a true work-life balance in a beautiful, safe and secure jurisdiction.

With its unique combination of being both forward-thinking and well-regulated, as well as offering peace of mind, tranquillity and beauty, Jersey provides the ideal environment that many HNWIs and professionals crave. The Island's attraction as a place to bring up a family has seen a clear demographic of young, entrepreneurial individuals with families taking up this opportunity and enjoying Jersey's many attractions.

Jersey boasts a stunning coastline and a maze of traditional country lanes that weave from one parish to another. St. Helier, the Island's vibrant and cosmopolitan capital is also Jersey's main business centre. The Island is renowned worldwide for the quality of professional and financial services firms that base themselves here and the talent and expertise they provide.

The Island also offers a highly-developed communications network including Island-wide gigabit fibre and 4G connectivity supported by a pro-business attitude and a strong, forward thinking legal and regulatory framework. With links to over 20 UK mainland airports and further afield, as well as regular ferries to the UK and France, it is just a short commute off-island when needed.

MOVING TO JERSEY

There are certain criteria to be considered for an application of High Value Residency for Jersey. The Government of Jersey's team with responsibility for inward investment, Locate Jersey, provides advice and guidance and works closely with government colleagues and private sector professionals to ensure a seamless application process, allowing for a smooth and easy transition to living on the Island.

One of the key considerations for government is that a HNWI's residency will be of benefit to Jersey, whether through business or socially, underlining the importance of our Island community and the commitment we have to the preservation of Jersey's culture and integrity. A HNWI must have comfortable and sustainable annual worldwide income in excess of £725,000 per year on which they would pay 20% income tax (£145,000). All other worldwide income in excess of this amount is taxed at 1%. >>

Bathing pool, St Helier, Jersey. Image by greenbutterfly / Shutterstock

The Island is renowned worldwide for the quality of professional and financial services firms that base themselves here and the talent and expertise they provide

St Helier yacht marina, Jersey. Image by Alagz / Shutterstock

AN ISLAND OF OPPORTUNITY

In 2018, Jersey had 120 High Value Residency enquiries, 15 approved applications and saw 29 new HNWIs make Jersey their home. There were also 22 inward investment business approvals, in turn creating 192 potential job opportunities for Islanders.

The majority of HNWIs moving to Jersey are British nationals, choosing to live closer to home for family reasons and a more stable business environment. There is an eclectic mix of families moving from other regions too, such as Australia, Singapore, Switzerland and Germany, often due to geopolitical uncertainties elsewhere and fast paced, ever changing environments in larger cities. Jersey is often seen as the answer to the balance to be found between quality of life and maintaining a successful business. >>

In fact, in HSBC's latest Expat Explorer Survey, the Crown Dependencies were found to offer a significantly better work-life balance, natural environment and feeling of safety and security than the global averages.

Whilst also being known around the world as a leading international finance centre (IFC), the Island's cosmopolitan lifestyle is incredibly attractive for individuals and families needing the best of both worlds. Jersey's clear commitment to the highest standards of regulation as reinforced by global bodies such as the IMF, OECD and EU, provides a good level of surety for people wanting to continue their work from the Island.

In addition, from a digital perspective, Jersey is considered a real hub of innovation, thanks to forward-thinking by government in developing a digital-first agenda which is being implemented by Digital Jersey, the organisation responsible for developing and promoting the sector.

For entrepreneurs and successful business owners, these things make all the difference in ensuring they experience the same, if not a better, standard of provision for doing high quality business, as they would in a large city. Jersey Finance plays a vital role in promoting the Island's financial services industry and encouraging new business flow into Jersey.

For those individuals with children of school age, there are a number of private schools on Island which offer very competitive fees compared with other jurisdictions. Jersey's lifestyle also offers the opportunity for numerous extra-curricular activities, both indoors and out. The ability for parents to leave work, pick their children up and head to the beach – all within 30 minutes from office to the sea – means Islanders enjoy memorable family time, not limited to weekends.

Similarly, for individuals moving to Jersey, the Island provides the opportunity to seek out new experiences, take up new sports or hobbies and develop new business and friendship networks.

If food is your thing, Jersey is renowned for its quality of fresh produce and world-class dining; with a number of Michelin star restaurants, beach side dining and cosy pubs, there is something to suit everyone. St Helier on a Friday or Saturday night is a bustle of activity in its tasteful selection of bars and alfresco dining restaurants; a popular way to end the week for office workers meeting up with friends.

If you are a culture buff, Jersey will not disappoint with its museums, heritage sites, galleries, theatres and societies that all add to the rich tapestry of its Island life.

ADDING TO THE ISLAND'S STORY

It is clear to see why Jersey is a popular choice for high net worth families and individuals wanting to enter a new chapter in their lives, where everything is perfectly aligned.

Locate Jersey are highly experienced in helping a variety of people and their businesses set up home in Jersey and are willing to assist at any stage of the application process. Even after you have moved over to the Island, the relationship continues and contact is maintained to ensure everything is going as planned and you are enjoying Island life to the full.

Jersey is a unique, beautiful destination and we are equally proud of its heritage past and its flourishing future. It is a story that our increasingly diverse population of Islanders continue to write and that we love to share.

Kevin Lemasney

Kevin Lemasney, Director, High Value Residency, Locate Jersey.

Kevin is Director for High Value Residency at Locate Jersey, the Government of Jersey team responsible for attracting and relocating Inward Investment Businesses and High Value Residents to the Island.

Acting as a single point of contact for all interested and established HNW families, he is responsible for assisting High Net Worth Individuals (HNWIs) through the process of moving to Jersey. He works with them on the relocation of their families and businesses, providing comprehensive, independent, confidential and free advice throughout the process, something he is well placed to do having himself relocated with his family in 2001.

In addition to living and working in his native Ireland, the UK, France, Switzerland and Jersey, he has carried out consultancy work in Greece, Malta, Kenya, Zimbabwe, Ethiopia, Australia and New Zealand.

Married to Cora, with two grown up children, he is a champion of sport, education, culture and community projects in Jersey. He is also a keen traveller, skier, fluent French speaker and a former chairman of the Jersey Rugby Football Club Academy.

Index of Advertisers

ADDITIONAL RESOURCES

JERSEY FINANCE

www.jerseyfinance.je
Jersey Finance represents and promotes Jersey as an international finance centre (IFC) of excellence and is funded by members of the local finance industry and the Government of Jersey.

JERSEY GOVERNMENT AND REGULATION

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

www.jerseyfsc.org
The Jersey Financial Services Commission (JFSC), 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.

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 Government of Jersey – develops government land and property assets no longer required for public service and the Waterfront development.

JERSEY HERITAGE

www.jerseyheritage.org
Jersey Heritage is responsible for the Island's major historic sites, museums and public archives, including the Jersey Museum (which features an exhibition on the Island's finance industry).