

Guernsey Fund Industry

Guernsey sets its sights on the Indian market



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International Finance Centre

As I write this article on the cusp of moving from one year to another it is an appropriate time to look back at the past 12 months and also into the crystal ball for what might lie in store during 2011. What I can clearly see is that Guernsey is well positioned to increase our supply of financial products and services to both corporate and private clients from India.

Corporate services

Guernsey is already recognised by a significant number of Indian institutions and their advisers as a leading provider of corporate services, including structuring and incorporation, investment fund administration and exchange listings. London Stock Exchange (LSE) data shows that – of those Indian entities on its Alternative Investment Market (AIM) at the end of October 2010 – the latest five to list have all been established in Guernsey, including all three added during the year. We can see that these entities operating principally in India and incorporated in Guernsey are, in the main, sizeable companies and also spread across a broad range of sectors including private equity, transportation, energy and film.

In addition, more general LSE statistics to the end of September 2010 also show that there are more Guernsey-incorporated companies on each of the UK main market, AIM and the Specialist Fund Market (SFM) than any competitor jurisdiction. Indeed, a significant attraction of using Guernsey is the ability to establish vehicles which can then be listed on these exchanges or Euronext, as well as the local Channel Islands Stock Exchange (CISX). This provides promoters with a menu of options which can be utilised as they best see fit. For example, some promoters want the comfort of using a recognised exchange such as the CISX while at the same time having access to the investment pool and liquidity provided by a London capital market such as AIM. Establishing vehicles through Guernsey allows for either to be accessed independently or both to be used as part of one overall structure.

Guernsey also offers significant potential as a leading centre for investment funds. The total value of funds under management and administration was 34% year on year to reach more than £243 billion at the end of September 2010. Our business includes alternatives such as property and substantial proportion of private equity /venture capital. The general characteristics of this latter asset class, including the fact that it will be held for a significant time period before being realised, make it similar to infrastructure funds where there is notable demand for investment into India.

Building relationships

During October 2010 we held our first official delegation to India, led by Carla McNulty Bauer, Minister for the Commerce and Employment Department within the Guernsey Government. We had a series of meetings across both Delhi and Mumbai with some very senior government, regulatory and business officials as well as a number of industry practitioners. In addition, we hosted our own specific Guernsey event in Mumbai which proved to be an extremely popular networking opportunity. We were able to inform our hosts about Guernsey but also learn from them about how we can do business together in the future.

There appear to be plenty of opportunities and not just in corporate services but also the wealth management arena where we can capitalise on our experience in providing fiduciary services for high net worth individuals. Guernsey

can meet the needs of private clients, no matter whether resident or non-resident Indians, who are trying manage their wealth and assets for the benefit of future generations in an increasingly globalised world. The Island has more than 150 licensed fiduciary providers ranging from independent, boutique operations to large multinational organisations, who together hold more than £300 billion of client assets in trust and company structures. The breadth and depth of our finance industry means we also have private banks, asset managers and the full range of tax and legal advisers to offer Family Office services.

Why Guernsey?

A study by The Banker magazine published in September 2010 ranked Guernsey number four in a list the world's specialised finance centres. In the same month, the eighth Global Financial Centres Index (GFCI) also ranked Guernsey very much within the top tier of 'offshore' finance centres.

Guernsey has 50 years experience as an international finance centre which means that we are tried and tested, have developed significant infrastructure and accumulated a wealth of expertise across a broad range of products and services. We are also dynamic and forward-thinking, as demonstrated by the launch of our own regional stock exchange, the CISX, and our innovation of the cell company concept.

The Guernsey Financial Services Commission (GFSC) has built a reputation for robust yet pragmatic regulation, an approach that encourages flexibility and creativity while ensuring agencies such as the IMF are able to declare that the Island is working to international standards. The Guernsey Government also continues to ensure we adopt international standards of tax transparency, as exemplified by the fact that the Island was within the first wave of territories placed on the OECD/G20 'white list'.

In addition, Guernsey has already begun talks on signing a Tax Information Exchange Agreement (TIEA) with India. While Guernsey does not have a Double Taxation Agreement (DTA) with India, we do have a corporate tax regime with a standard 0% rate for all companies. This is under review but our government has made a commitment that investment funds will remain exempt and the regime as whole will be sustainable and competitive.

So, as you can see, there are plenty of reasons to believe that Guernsey is well positioned to increase our provision of financial products and services to both corporate and private clients from India during 2011.

GUERNSEY: IN BRIEF

- Situated in Europe between the United Kingdom (UK) and France.
- A British Crown Dependency
- A special relationship with the European Union (EU)
- English speaking
- Currency: British pound Sterling (GBP)
- Same time zone as the UK
- Direct links to both London and Europe

If you want a more enterprising approach to fund business, there's one place you should look

where?

Guernsey

International Finance Centre

Guernsey offers the experience, the infrastructure and the intellectual capital to deliver innovative fund solutions for any market, in any asset class. We combine a breadth and depth in management, administration, custody and structural innovation that is second to none, with a wide non-executive director resource, as well as a first class, well regulated professional infrastructure.

Make Guernsey your first port of call.

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India's economy is expected to expand by 8.5% this year, according to Morgan Stanley and, while China's economy is four times bigger at the moment, India's growth rate could overtake China's by 2013 if not before. Some economists think India will grow faster than any other large country over the next 25 years. Rapid growth, a country of 1.2 billion people and one of the youngest working populations in the world – is it any wonder really that investors are focussing on India?

The Economist cites the two reasons India will outstrip China. The first is demography – China's population is aging while India's is a young and growing workforce. In 2020 the median age in India will be 28 compared with 38 in America, 45 in Western Europe and 49 in Japan. The working-age population will increase by 136 million in India by 2020.

The second is democracy. The publication points out that while the government may be weak the system has promoted a business freedom which has resulted in millions of new entrepreneurs all given licence to do their own thing.

Many pundits see a risk in India's infrastructure problems – as evidenced by the build up to the Commonwealth Games – and might think there is a hesitancy to invest as a consequence. However, the converse could be said to be true. There are opportunities for investors with the promise of high yields if India gets it right. The Indian government is part way through a commitment to spend \$500 billion to 2012 and that pace is likely to speed up as the Indian government gets better at inducing private investors to inject capital.

The opportunities for investors are often within India's burgeoning information economy.

Call centres might be the public face of this knowledge-intensive society but behind the scenes there are banks, consumer giants, software providers, renewable energy initiatives and many other sectors looking for brains at a cheaper cost than in the West. India's government is doing its best to broaden its educational offering to meet this voracious demand. These young entrepreneurs are tapping into a wealth of international support on offer such as Microsoft assisting Indian businesses to improve information technology infrastructure. Goldman Sachs is spending \$100m on female entrepreneurs – many of them in the emerging markets. Certainly the entrepreneurs in India are shaping new markets such as mobile video games and online karaoke.

Guernsey companies are increasingly being used as listed vehicles,

whether on the main market of the London Stock Exchange (LSE), the Alternative Investment Market (AIM) of the LSE or elsewhere. Indeed, the promotional body for Guernsey's finance industries (GuernseyFinance) takes India's potential very seriously. Indeed Guernsey Finance has sent, and will be continuing to send, delegations to the key cities with a view to "drumming up" new business.

It would be wrong to paint a picture of a flood of new work from Indian businesses courting European and US investors. It is more of a steady flow but this will grow as the region grows and it will take Guernsey with it as the jurisdiction gains in reputation for experience and expertise when dealing with the structures best suited for investing in India.

Guernsey has not seen much, or indeed any, work where Indian investors are looking for overseas opportunities. They are very much concentrating on the domestic market at present but as the wealth grows, and the entrepreneurs seek new opportunities, Indian investors may indeed look elsewhere. For Indian businesses right now is much more about finding the right jurisdiction with the appropriate structures to facilitate raising the capital needed. Guernsey is attractive for a number of reasons not least the access to European and UK investors and the ease and expertise available in the island to assist with listings on AIM and the LSE.

The type of structure for making investment into India that Guernsey lawyers have seen is the establishment of a Guernsey-registered holding company with a wholly-owned subsidiary, based in Mauritius, and the operating company based in India. The shares of the Guernsey holding company are then placed with UK and European institutional investors and listed on the LSE or AIM.

A Guernsey-registered holding company mitigates many of the tax issues and gives the business respectability that may not be achieved by solely using Mauritius. The double tax treaty entered into between Mauritius and India means that a foreign credit in respect of the tax suffered in India may be offset against the Mauritian liability, subject to local requirements. The consequence of which is that Mauritian tax may be payable by the Mauritian company on dividends received from the Indian company at a possible maximum effective rate of 3%. Dividends

paid by the Mauritian company will generally not be liable to tax in Mauritius nor will they be subject to Mauritian withholding tax.

Typically any dividends which are paid out by a Guernsey holding company will, where the company has exempt status, be exempt from income tax in the island (except, in certain circumstances, where dividends are received by shareholders who are resident in the island). No withholding tax will be payable on the dividends to shareholders who are not resident in the island. Essentially the island offers a tax neutral platform through which to raise capital for the Indian based business. In other words incorporating in Guernsey will not add to any taxes which are otherwise due.

So where is the investment going?

Of course, whenever there is talk of the opportunities for investment in India Bollywood is never far from being a cited example. The Indian Film Company Limited (IFC) is a Guernsey-registered company established as a closed-ended investment fund. The Indian Film Company was admitted to the AIM market in 2007 and on admission raised £55 million in order to invest in a diverse portfolio of Indian films targeted at audiences across varying genres, languages and budgets. The deal was notable as IFC is the leading film investment company listed on AIM.

On the securities side, the Indian bank ICICI recently established ICICI Ventures in Guernsey. The fund's objective is to invest in Indian equities and it raised £50m from European and UK investors.

On the private equity side Alchemy and Ashmore Group plc established the AA Indian Development Capital Fund as a joint venture. This Guernsey registered limited partnership which is a feeder fund for an underlying Mauritius based fund raised commitments of \$80m with a view to partnering with management teams to build the next generation of Indian companies.

More recently renewable energy is an area where investors are looking to India with interest. Due to the economic and population growth over recent years, there is a marked deficit of energy supply and as a result wind energy is being seen as a profitable source of renewable energy in India. The Indian government has created legislation which

has enabled an attractive tariff and fiscal structure for private sector investors which has stimulated the growth of this type of industry in the country allowing the demand for energy to be satisfied.

Investors can see the benefits of this type of investment in India because it is private enterprise alone driving the investment and there is no need for a government subsidy unlike in Europe where subsidies are the norm. Not having to rely on subsidies to generate returns removes one of the risks in terms of the long term pricing of electricity.

For instance, Indian Energy Limited (IEL), an independent producer of electricity and power, is constructing large wind farms all over India. IEL's aim is to become the largest provider of wind energy in the country and the group currently owns and operates 41.2MW across two wind farms - one on the Gadag plains in Karnataka and another, newly commissioned, farm at Theni, Tamil Nadu. IEL is looking to acquire a portfolio with an aggregate of 300 MW of annual generating capacity by the end of the 2012-13 financial year.

IEL is a Guernsey registered company and was admitted to AIM in 2009. Through the AIM listing IEL wanted to open the company up to a wider investor audience, raise capital to acquire further wind power assets and purchase a new wind farm in India. Many of the investors were from UK institutions.

This trend for renewable energy investment in India has continued with Caparo Industries and its associates floating Caparo Energy Limited on AIM in October 2010. The company is registered in Guernsey and acts as the ultimate holding company of Caparo Energy India and other members of the group.

The group is focused on becoming one of the leading independent power producers in India. The company seeks to generate predictable and long-term cash flows by building up a portfolio of wind power generating assets in the Indian wind energy market, which it believes to be currently fragmented. The group intends, in due course, to acquire and develop a portfolio of wind farms with a target total annual generating capacity of up to 5,000 MW.

Guernsey's expertise in the Indian market has received a ringing endorsement from this recent admission to AIM which goes beyond the general platitudes of political stability, smooth regulatory environment and experienced business community.



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The Legis Group is a best of breed independent providing multi-jurisdictional fund, corporate and trust structures alongside supporting administrative services to institutional and private clients. The group is headquartered in Guernsey and has 30 years of experience.

Stuart Platt-Ransom, group managing director, explained that offshore advisers play a key role in the structuring of offshore investment vehicles taking into account where and to who the fund is to be distributed and the tax considerations. He commented:

"It's key that advisers have a track record in this space and that they are innovative and take a pragmatic approach."

Mr Platt-Ransom noted that, like everywhere else, flows of fund business into Guernsey during 2010 have substantially slowed and there has been a clear requirement to restructure some existing funds. He commented:

"During the downturn we implemented a marketing strategy to ensure that we remained the first port of call when the upturn started. As a result we are now seeing so-called green shoots as new business is coming in, including some sizeable funds in the infrastructure, Shariah and green technology space."

According to Mr Platt-Ransom, there are high levels of innovative structuring experience within Guernsey's legal sector.

"For example," Mr Platt-Ransom commented, "funds investing into the Indian sub-continent will generally use a Mauritian company somewhere in the structure to benefit from the island's double taxation agreement with India. Leveraging a Guernsey feeder into a Mauritian company assists with raising capital investment into Indian investment structures, particularly on the AIM and main London markets."

Commenting on the benefits of using Guernsey as a domicile, Mr Platt-Ransom noted the jurisdiction's demonstrable track record of providing financial products and services for nearly 50 years. In times of increasing demands from investors for high levels of independence and corporate governance, Guernsey has developed an enviable reputation as a highly respected offshore jurisdiction.

The Guernsey Financial Services Commission, whilst seeking to ensure that high standards of regulation are maintained, is seen to be flexible and pragmatic. Guernsey is also home to the Channel Islands Stock Exchange which continues to attract international recognition.

Guernsey is being referred to as the "jurisdiction of choice" for incorporating Indian entities listing on AIM. According to Mr Platt-Ransom, this can be attributed to the island's flexibility and fleet-footedness in dealing with the various changes and challenges it has faced, especially in recent times. He explained:

"We are perceived as a domicile that specialises in the provision of high quality services to fund structures, built around our expertise in

the fields of administration, legal, custodial and accounting services, in particular closed-ended alternative fund mechanisms, which is the area where the majority of new fund businesses to the island is focused. It's key for Indian businesses to find the best jurisdiction with the most suitable structure to facilitate raising capital.

"Another reason the island continues to attract business flows is its access to European and UK investors and the ease and expertise available within Guernsey to assist with listings on AIM and the LSE. It's worth noting that LSE figures reveal that of those Indian entities listed on AIM at the end of October 2010, the latest five to list have all been incorporated in Guernsey, including all three added during this year. In fact LSE's statistics to the end of September 2010 show there are more Guernsey-incorporated companies on the UK main market, the AIM and the Specialist Fund Market than any other competitor jurisdiction."

Guernsey is in the early stages of developing its relationship with India, and Mr Platt-Ransom believes that it is too early to say which part of the business will have the greatest synergy. He noted that, in the funds arena, London promoters are using vehicles for infrastructure funds which are investing into the Indian sub-continent. He explained:

"We see this as a catalyst for Indian fund promoters using Guernsey as a means of raising capital in the London market, which dovetails with our close ties with the City and the London Stock Exchange (LSE) for raising capital. We have also seen cases of Indian clients using tax-efficient structures to purchase property in the UK."

Legis has recently been directly involved in providing services to funds investing in real estate in the UK and further afield, and for structures established from an Islamic Finance perspective looking to ensure compliance with Shariah law.

Mr Platt-Ransom said:

"Guernsey's finance industry is split into sectors concentrating on banking, funds and investment, insurance and fiduciary and trust services. It has a unique mix of talent, independence and natural assets that facilitates the provision of these services as well as being a well regulated and highly respected offshore jurisdiction."

"We have carved out a position for Guernsey as a specialist closed-ended, alternatives provider – which is where the majority of new fund business seems to be arising. The resolution of the Alternative Investment Fund Managers Directive will potentially offer us a wider marketability for Guernsey-based products."

Mr Platt-Ransom concluded by explaining that Legis' aims for 2011 are to "continue to grow the business in a disciplined manner with a sustained focus on client service and accurate execution of client deliverables. We will also continue to look to expand our jurisdictional reach."