

Strength out of adversity

Peter Niven reflects on the past year in Guernsey



ABOUT THE AUTHOR

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When I wrote in the *STEP Journal* just shy of a year ago the world was only just beginning to pick itself up off the floor of the global financial downturn. Since then, we have seen renewed confidence in the markets, but this is just the start of a trip down what will be a very long road to recovery and at the moment general economic conditions remain fragile.

Guernsey cannot be completely immune, although the Island has to a large extent remained resilient in the face of these pressures. Perhaps the most significant fallout though has been the increased focus on so-called 'tax havens' or 'offshore' centres.

Remaining resilient

Recent economic conditions have demonstrated the way in which today, more than ever before, we are part of a global financial community. Guernsey has been adamant throughout that it has not exported instability, but has been subjected to it, and we have not been able to completely shelter ourselves from the impact.

However, a breadth of finance business is carried out on the Island. So, while the general downturn has adversely impacted business flows within some sectors, such as banking and funds, others like (captive) insurance and fiduciary services are seeing an upswing or have identified new prospects.

Guernsey's fiduciary sector has been a mainstay of the Island's finance sector

over the last 50 years and this heritage has developed significant expertise and infrastructure. Today, we play host to more than 150 licensed fiduciary providers, ranging from large multinational organisations to local, independent boutique operations. Together they hold more than GBP300 billion worth of assets in trust. In addition, there are some 60 licensed individuals who can act within the sector as directors, co-trustees or trust protectors. These fiduciary organisations and individuals are supported by a comprehensive network of legal, accounting, audit, tax and actuarial services. The Island also operates within a strong regulatory environment, with an effective licensing and supervision system.

More recently, a new *Trust Law*, *Company Law* and a Company and Intellectual Property Registry have been introduced. These have proven extremely popular developments in meeting evolving client needs and were instrumental in the Island being named International Finance Centre of the Year at the STEP Private Client Awards 2008/9.

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What we have seen during the past year is that globally there has remained a significant amount of private wealth looking to take advantage of appropriate structures for asset protection or estate planning (and – albeit to a lesser extent – corporate monies seeking sound investment opportunities). In addition, the financial crisis triggered something of

a 'flight to quality', with the uncertainty and turmoil crystallising the benefits of using familiar vehicles and jurisdictions to maintain and even enhance wealth for future generations.

It is within this context that our fiduciary providers are reporting real buoyancy in business flows. As part of this we have seen a growing interest in Qualifying Recognised Overseas Pension Schemes (QROPS) from Guernsey. During 2010 Guernsey Finance, in conjunction with industry, is stepping up the promotion of QROPS, as well as our wider fiduciary offering.

The Island's practitioners are also increasingly attracting new clients from India, the Middle East and the Far East. Some of our independent fiduciaries already have offices in locations such as Hong Kong, and are now looking to establish links into Shanghai – where Guernsey has had a representative office for two years – as a way to directly access the Chinese market. We are therefore also working to increase awareness of the Guernsey brand across these markets and regions.

Top tier

One of the key developments resulting from the financial crisis has been the increased focus on so-called 'tax havens' or 'offshore' centres. During its 50 years as a finance centre, and particularly during the last decade or so, Guernsey has faced scrutiny from the likes of the UK Government (the 1997 Edwards Report), the EU, the International Monetary Fund (IMF), the Financial Action Task Force (FATF) and the Organisation for Economic Co-operation and Development (OECD)/ G20. The Island has always cooperated in

these processes and on each occasion been placed highly amongst the international finance centres.

This has continued to be the case during the past year. Guernsey features alongside the UK and US on the OECD 'white list', which was published at the conclusion of the London G20 summit in April 2009. The review of British Crown Dependencies and Offshore Territories by Michael Foot on behalf of HM Treasury placed Guernsey highly amongst the international finance centres. Lord Hunt's review of the Guernsey banking sector has revealed that there are opportunities for us to increase our provision of private banking and wider fiduciary services to the wealthy across the world, as well as attracting high-net-worth individuals to live and do business in the Island.

In addition, there is every reason to believe that Guernsey will perform well under assessment by the IMF during the first half of this year. Guernsey, like the UK, does not have a banking secrecy law and continues to show its commitment to meeting international standards of tax transparency through the signing of further Tax Information Exchange Agreements (TIEAs). Our very first was with the US in 2006 and we have now signed a total of 15, with the prospect of more in the coming months.¹

Guernsey continues to embrace transparency and eschew secrecy, but not at the expense of confidentiality or privacy for clients. There have been many scaremongering stories about 'leaky buckets', but this could not be further from the truth. In particular, within each TIEA there is a very specific procedure for accessing information and this ensures that there is an underlying bona fide reason for the information request and that fishing expeditions will not be allowed. Fiduciary practitioners have in the past viewed TIEAs as potentially jeopardising confidentiality and therefore a threat to attracting new business. However, our experience means that they are now embraced as providing confidence to clients



that Guernsey is working to the highest international standards.

2010 and beyond

Guernsey was ranked 15th in the latest Global Financial Centres Index (GFCI 6, September 2009). Despite this impressive ranking we are currently facing challenges in a variety of guises: tax transparency, corporate tax rates, a revised EU Savings Tax Directive (EUSTD) and sector-specific EU initiatives, such as the Alternative Investment Fund Managers (AIFM) Directive.

Having said that, we have also been challenged many times in the past and the Island has always proved capable of adapting to survive. For example, Guernsey worked very closely with Jersey and the Isle of Man regarding the original EUSTD and we are intending a similar level of cooperation again now, not least in the need to review corporate tax rates.

We believe the Island can continue to offer exempt companies to the fund management industry. We have also made it clear that the taxation of trusts and partnerships will be outside the scope of our review, which will focus on the taxation of Guernsey-resident

companies and companies carrying on business on the Island through permanent establishments here. There are important issues of detail which have yet to be resolved, in particular whether tax liabilities for Guernsey-resident companies should be based on worldwide income, or wholly or partially on income arising in Guernsey. Importantly though we have no intention to introduce taxes on capital or capital gains. The bottom line is that we are working to adopt an internationally acceptable, competitive and sustainable corporate tax regime for the future.

It is so that we can tackle such challenges most effectively that the Island is also stepping up its representation within the corridors of power in both the UK and the EU. Guernsey is determined to do all it can to ensure that it remains attractive to clients as a jurisdiction within the very top tier of international finance centres. ■

1. Guernsey has signed TIEAs with the following 15 jurisdictions: Australia, Denmark, Faroes, Finland, France, Germany, Greenland, Iceland, Ireland, Netherlands, New Zealand, Norway, Sweden, United Kingdom and United States.