

Private equity sector well set to ride the storm

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Created 28/04/2008 - 21:09

Guernsey has been home to international private equity funds for well over a decade, but the sector's vigorous growth over the past few years, coupled with a series of reforms to the island's regulatory framework for the fund industry, have placed it the forefront of the jurisdiction's growth. And while the global environment for private equity has darkened since last summer, there are no signs that Guernsey's position as a domicile of choice for the sector is being undermined.

The steady growth over the years in the range of private equity structures domiciled on the island has nurtured the development of an administration sector with a breadth and depth of specialist expertise in private equity servicing, alongside the experience of the jurisdiction's legal and accounting capabilities, that rival jurisdictions struggle to match.

Guernsey's attractiveness to the private equity industry is down to a number of factors, according to Peter Niven, chief executive of the island's financial industry promotional agency GuernseyFinance. 'Over the past few years we have certainly put ourselves on the map for private equity,' he says.

'One thing is the number of service providers, particularly niche administrators who specialise in private equity and deliver a first-class service in that one area. Although our agreement with the Dutch regulatory authorities has since been emulated by other jurisdictions, we attracted KKR to put their structure here to enter the European market via Euronext Amsterdam, and several other firms have used that route after KKR blazed the trail.

'That got us very firmly on the map with the US lawyers, and this year we are travelling to centres such as New York, Boston and Chicago to reinforce the message that we are a private equity jurisdiction they can use very successfully. It's a mixture of the right experience and expertise, the regulatory framework, and agreements with other jurisdictions that have enabled us to really capture this market.'

As an example of the role played by specialist providers, Niven cites the growth of International Private Equity Services, which was launched by experienced fund administration specialists Connie Helyar and Peter Gillson more than a decade ago to focus exclusively on private equity work and now has almost 100 staff, offices in London and Jersey, and plans to open soon in Luxembourg. 'We were the first people to provide a service that was purely geared toward back-office private equity fund administration,' Helyar says.

Niven does not underestimate the importance of the regulatory changes of the past few years, including the introduction of Qualifying Investor Funds in February 2005 and the publication just over a year later of the Harwood Report, which set out a comprehensive blueprint for regulation of the fund industry through a principles-based approach focusing on supervision of service providers rather than products.

Based on the Harwood recommendations, the framework for closed-ended Registered Funds was launched in February 2007, and other changes still in the pipeline include a new Protection of Investors law. 'People like to see you're looking at regulation and the law with a fresh eye on a regular basis,' Niven says. 'We have new structures put together by our local lawyers, and we're looking again at the regulation to see if we can be more flexible.'

Darren Bacon, a partner with law firm Mourant du Feu & Jeune, says the new legislation has done much to improve Guernsey's competitiveness. 'The introduction of Qualifying Investor Funds and Registered Funds adds a fast-track process for promoters to launch new products and enables us to compete with the funds turnaround in places like the Cayman Islands, because people expect to be able to do things very quickly,' he says.

'There was 55 per cent growth in closed-ended funds last year, and a large chunk of that was down to QIFs and Registered Funds. Guernsey is a different environment from Cayman and benefits from being well regulated, but the problem is to satisfy client expectations in terms of the speed of response from the regulator and the ability to launch very quickly. It's always a difficult balance, but we now have a very strong offering.'

Susan Clark, managing director of the BNP Paribas Securities Services fund administration business in the Channel Islands, agrees that the new fund regulation gives Guernsey the opportunity to win business that was out of reach in the past, without compromising its standards. 'As an industry, we see what is happening in Cayman and Dublin and want a piece of the action, and it's starting to happen,' she says. 'But we are very mindful to make sure that everything is controlled and regulated. We don't want any brass nameplate scenarios.'

Rob Hutchinson, a partner with KPMG in Guernsey, says that the perception created by rapid regulatory turnaround can be if anything more important than the actual delivery. 'In theory, it shouldn't be vital, because raising a private equity fund takes a long a time anyway,' he says. 'You need to have a lot of things in place, like the partnership agreement, before you see the investors. If the process is handled correctly, whether it takes one day, three days or no days at all shouldn't matter. The quickness of the approval process is good for Guernsey, but it's not a deal-breaker per se.'

'However, there's no doubt that the Registered Funds regime has been a success, as the commission's figures indicate. At the end of September 55 registered closed-ended funds had received consent since the launch of the regime in February 2007, and a further 12 were added by the end of November. The fact we have this in our armoury proves we are respond to clients' demands.'

Niven notes that with managers of private equity and hedge funds under pressure on several fronts from the UK tax authorities, it is also an opportune time to step up efforts to attract managers and promoters of alternative funds to set up operations in Guernsey or even to move completely to the island. With HM Revenue & Customs examining carefully the reality behind funds' offshore status, Niven says, funds can base substantial operations on the island - as well as establish solid corporate governance structures.

'HMRC is doing so many things these days that seem to be turning these people away from the UK,' he says. 'We'd certainly like to attract more private equity players. People like [Alchemy Partners founder] Jon Moulton have come to live in Guernsey, while Terra Firma is expanding its operations here. We are seen as a good place to do business, and just an hour away from London.'

Niven acknowledges that like other small island jurisdictions, Guernsey needs to answer convincingly questions raised about the capacity of the private equity sector - and other areas of the financial industry - to handle increasing quantities of business. 'This is always an issue with small jurisdictions, and we're not alone in that,' he says. 'Clearly we have limited resources.'

'But private equity players say they don't have a problem in securing good staff. It's particularly interesting that staff appear to be attracted from businesses that do everything for everyone to niche players where they can gain expertise in a particular asset class. Certainly Ipes and Augentius, another relatively new business, are able to attract good people.'

'Bigger players active in private equity such as Northern Trust have centres of expertise elsewhere in their organisation to which they can delegate certain functions. There are different ways of skinning that particular cat to find flexibility despite the inevitable constraints.'

Leading the industry's efforts to attract new financial businesses to the island, Niven admits to frustration over steps by local politicians to maintain a cap on Guernsey's population. While this does not necessarily imply a rigid bar to firms bringing in employees from outside the island, he agrees that it does not send out the right message to the industry.

'I've always said that a population cap flies in the face of what we're trying to do in attracting more

business to make up the shortfall when our new tax regime comes in this year,' he says. 'We need the people to continue to service existing business and the massive new inflows that continue to come through to the island. That's not to say we need thousands of people, but we do need employees with good professional qualifications.'

Niven believes the argument can be won, but it may take time. 'A marker has been put in the ground and we must be aware of that,' he says. 'However, we need to find a compromise in areas where we see opportunities to allow companies to bring in on a licensed basis people who can provide intellectual capital and add value.'

'That's not bringing in droves and droves of people, it's focusing on those people we really need, and I believe there is still willingness on the part of the authorities to enable those people to come in. Certainly as far as I am aware, we're not seeing companies prevented from recruiting good staff from outside the island. There has always been an inflow and outflow of people, so when people leave there's always an opportunity to bring in others.'

The biggest problem, he acknowledges, is perception. 'Once you say this is our intention, people start to worry about how they will satisfy demand and start looking at their business models. It makes it all the more important to retain higher added value business on the island, which means highly-paid staff are paying personal tax that helps fill the so-called black hole.'

'Meanwhile, where possible lower-value business is outsourced to other centres, whether within the same group or outside. We are already seeing work outsourced to operations in jurisdictions such as the UK, South Africa, Mauritius and Ireland, and it is helping us continue to handle the flows of business we've been seeing in recent years.'

Despite the population argument - and a political squabble last year about whether the financial industry was paying its fair share toward GuernseyFinance's budget - Niven says Guernsey's politicians have been supportive in helping equip the island with the legislative framework the industry needs to flourish. 'They have been very helpful in passing legislation for the financial services sector,' he says. 'Over the two years that I've been at GuernseyFinance, we've got a lot of new legislation and regulation through.'

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