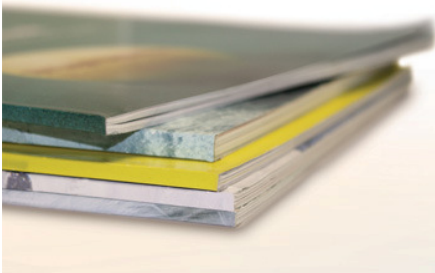


## Jersey Funds Industry – Reasons for Optimism but no Room for Complacency

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BY ALEXANDER LAST

**Since the start of the financial crisis, there has been much debate about whether the “offshore” funds industry has a future. I do not have a crystal ball and do not propose to spend much time speculating on this, I do however remain optimistic for the long-term future of well regulated tax - neutral jurisdictions.**

It is clearly very important to be aware of the negatives, (e.g. the uncertainty created by the AIFM Directive in Europe and increasing political pressure to find ways of plugging budget deficits etc) but the fact remains that the economy is becoming increasingly global. Life spans are increasing and there is a world of opportunity with emerging markets in Asia, Africa and the Middle East developing at a rapid pace. These are likely to maintain (or increase) demand for all sorts of products and services produced in the developed world (including financial services).

Offshore jurisdictions such as Jersey facilitate the flow of capital and investment between jurisdictions which may have very different legal, regulatory and tax regimes. They also offer the neutrality (in a wider sense than just tax neutrality – which must be given) that is important to ensure a level playing field for all sides of a transaction.

I see no reason for this to change, although it seems likely that the increasing demand for regulation and transparency will mean that the number of offshore jurisdictions which are deemed fit for purpose will shrink. If that is the case, it would seem to follow that there will be opportunities for established and well respected jurisdictions such as Jersey.

### **No Room for Complacency**

Quite rightly, Jersey is very proud of its heritage and reputation as a sophisticated and well regulated jurisdiction. There also seems to be a wide spread belief in the Island that, all things being equal (which is open to debate), Jersey will be able to satisfy any equivalence test which may be set in the context of the AIFM Directive.

In my view, although Jersey is well positioned (relative to other offshore jurisdictions) to achieve recognition of equivalence there can be no room for complacency. Equally, it is not clear what equivalence will mean and whether it will be the key driver for future work flows. There is no point having a regulatory regime which is the equal of any onshore jurisdiction if that is not what the majority of end users want. Ultimately, Jersey is an offshore jurisdiction which needs to be competitive against other offshore jurisdictions.

With this in mind, Jersey needs to remain open minded and realistic about future work flows and strive to remain flexible albeit without diluting the message that it is a jurisdiction of substance. A key part of this is making sure that both service providers and the regulator are alive to the fact that we operate in a highly competitive market. To this end, we must not be ashamed of the unregulated end of the product range or forget the need to be user friendly. Jersey is not the only well regulated offshore jurisdiction.

## Hedge Funds

It is important to recognise that fund domicile is not the whole story. Taking hedge funds as an example, in spite of its proximity to the City of London, Jersey is not the offshore domicile of choice for the European hedge fund industry. The opportunity to demonstrate equivalence under the AIFM Directive and the general move towards greater regulation may be the exogenous shock to this market which gives Jersey its opportunity, but that is a very optimistic view.

However, that does not mean that Jersey cannot play a key part in this industry going forward. Since the start of this year, we have seen an uptick in new hedge fund formations in the Cayman Islands, this includes new instructions from both established and start-up investment managers in London.

At the same time, we are seeing an increasing number of enquiries about the possibility of providing Jersey resident directors and service providers to funds domiciled in other jurisdictions. In my view, this business should be actively encouraged by the regulator and the local industry.

## Opportunities and New Frontiers

It is a truism that one of Jersey's key advantages is its proximity to the City of London. However, it is vitally important for Jersey to seek to exploit opportunities further afield. In my view, Asia in particular offers huge potential opportunities on the funds side.

In contrast to Europe and the US, a significant number of new hedge funds were established for start-up managers in Asia over the last year. This may be because of the lower barriers to entry (as investors are more willing to invest in relatively small funds) but it is a positive sign. Furthermore, there is still a strong demand for new investment funds for Japanese retail investors, due in part to a combination of very high personal savings and low investment returns domestically.

The Cayman Islands have a dominant position in this market largely due to the implementation of the Retail Mutual Funds (Japan) Regulations, which were designed specifically to comply with the regulatory requirements of the relevant Japanese authorities.

Jersey still has a good story to tell. It has a time zone advantage over the Caribbean and can offer genuine expertise and credibility on the retail side. Further, the vehicle of choice for the Japanese market is the unit trust which dovetails well with Jersey's mature trust industry. In my view, the future for Jersey's funds industry is bright as long as it is pro-active and flexible enough to seize the opportunities open to it.

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