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CISX FUNDING FOR TRAINING AND EDUCATION IN THE CHANNEL ISLANDS

As part of its tenth anniversary celebrations, The Channel Islands Stock Exchange has agreed double sponsorship in support of the two further education centres in the Channel Islands.

In Guernsey, the CISX has agreed to provide £5,000 to support the work of the Guernsey Training Agency, whilst in Jersey a similar amount has been set aside for a project at Highlands College.

The sponsorship in Jersey will help fund the creation of a dedicated Study Centre area at the College for use by the students who are embarking on a Foundation Degree in Financial Services, the first degree course to be made available in the Island. The degree is being spearheaded by Highlands College and the Jersey Business School in conjunction with the University of Plymouth. It is intended that CISX Chief Executive, Tamara Menteshvili, will be one of the guest presenters once the course is underway this September, when she will offer an insight into the work of the Exchange.

“The last 12 months have been a period of significant growth and development for the GTA University Centre,” said Professor Richard Conder, Chief Executive of the GTA University Centre. Last year more than 6,500 delegates signed up with the GTA to study for post graduate, professional and personal development programmes.

Another milestone in the life of the GTA was marked when in October 2007 we moved our teaching facilities from Nelson Place, which has housed the GTA in its various guises since 1996, to splendid and modern new premises at St Peter Port House, Saumarez Street. We are grateful to all our sponsors for their financial support in making this possible.

This year sees the start of a fruitful relationship with our friends at the Jersey Business School. Together with Southampton University we have helped them to facilitate one of our most popular and prestigious post graduate programmes – the Masters in Business Administration – so that Jersey islanders have the opportunity to study towards the world-leading qualification on-island. This is a first for Jersey and we are delighted to have played a part in bringing such a successful course to the Island.”

Tamara Menteshvili, CISX Chief Executive, commented:

‘It is a significant year for the CISX and we were keen to mark the occasion by making a small contribution to learning and skills development in both Islands and, at the same time, focus our efforts on helping young people considering a career in the Finance Sector. We are delighted to offer our support to both the Guernsey Training Agency and Highlands College - two institutions that play such a valuable role in developing the skills and talent of our young people.’

Photograph - Left to right - Dr Ed Sallis, Principal, Highlands College, Jersey; Mrs Fiona Naftel, Deputy Chief Executive, GTA University Centre; Mrs Jan Channing, Director, Jersey Business School; Professor Richard Conder, Chief Executive, GTA University Centre.
BOARD APPOINTS NEW CHAIRMAN

“On behalf of the Board, the retiring Founding Chairman, Harry Taylor CBE, is pleased to announce the appointment of Mr Jonathan Hooley as Director and Chairman.”

Harry Taylor commented, “Jonathan Hooley is a very capable, professional man, who has always shown a keen interest in the development of the CISX. We are delighted to have Jonathan’s acceptance. He has held senior appointments, including those held in both the Bailiwicks of Guernsey and Jersey, and is well known and well regarded in international financial circles. Jonathan is eminently suited for the position and I extend my best wishes to him for the future.”

Jonathan Hooley is a chartered accountant and chartered tax adviser. He has recently retired as the Senior Partner of KPMG in the Channel Islands.

Born and brought up in Guernsey, Jonathan spent the larger part of his 30 year career with KPMG in London where he was made a partner in KPMG’s tax practice in 1987. The 1980’s was a time of change in London with ‘Big Bang’ and other changes in the way financial business was conducted. This provided Jonathan with the opportunity to be involved in identifying and solving many of the emerging UK tax issues that were relevant to hedge funds, private equity funds and other new forms of financial business.

While in London, Jonathan was head of KPMG’s UK bank tax practice and as such was responsible for the development of KPMG’s knowledge of the UK tax treatment of matters such as transactions in derivatives, stock lending and trading in emerging market debt. Jonathan was also the UK representative on KPMG’s European tax network and in that capacity was responsible for developing KPMG’s response in the UK to the growing body of EU tax law.

Jonathan returned to the Channel Islands in 1995. Shortly after moving back to Guernsey he joined the working party that was responsible for establishing the CISX and was closely involved in obtaining the recognition of the CISX from the UK Inland Revenue (now HM Revenue and Customs).

Jonathan has been involved for a number of years in advising the States of Guernsey on its response to the OECD and EU tax initiatives and continues to advise the States of Guernsey on its external tax affairs.

In addition to chairing the Board of the CISX, Jonathan is also a director of a number of investment funds based in Guernsey.

Out of work Jonathan enjoys sailing with his family and has recently been appointed as one of the Constables of St Pierre du Bois.
CHALLENGING TIMES AHEAD
By Dr Elaine Monkhouse, Executive Director
KPMG Channel Islands Limited

Global economic uncertainty is causing concern in every sector of the finance industry. Dr Elaine Monkhouse of KPMG Channel Islands Limited explains, there is another challenge facing the funds management industry and many are not ready to tackle it.

‘Demographics’ is unlikely to be the first suggestion when the challenges facing the fund management industry are discussed; it’s unlikely to even make the top five, and therein lies the problem.

The changing demographics of our business community cannot be ignored and a recent study by KPMG International has found that many in the funds management industry are unaware or simply unprepared for generational changes affecting their business and they need to analyse how to engage with what is known as Generation Y, both as customers and employees.

Generation Y, or less formally Gen Y, is broadly defined as comprising those born over the 15 years from June 1976 to June 1991; they are the children of the baby boomers and are today’s 20-somethings. They are currently establishing careers, forming relationships and households and having families. Gen Y is a generation that will develop into tomorrow’s accumulators of wealth and shape the future success of the global economy.

The global funds industry has boomed over the last 15 years. In the Channel Islands the industries on both islands grew by 37% in 2007 with £246.1bn under management in Jersey and £178.2bn under management in Guernsey. One of the factors which contributed to this growth has been the impact of what might be termed as the “middle-age-isation of the baby boomers or those born over the 15 years following the end of World War II to 1961. By the middle of the first decade of the 21st century the baby boomers had been preparing for retirement for more than a decade leading to extraordinary growth in demand for the services of the Fund Management (FM) industry. But the boomers are now on the cusp of retirement and as they do so the demand on the FM industry will decrease.

The industry’s response is to continue to focus on the boomers by managing the drawdown of their asset base. But what they arguably should be doing is focusing on what it takes to engage with the generation that will evolve into “wealth accumulators” and
indeed “wealth inheritors” of the future. This engagement needs to focus on Generation Y, not only as customers, but as employees as they have an even greater role to play in ensuring the long-term success of the FM industry. It is this pool of skilled employees that will provide the next generation of senior management.

The study by KPMG International analysed 125 survey responses from 17 countries which accounts for 20 percent of the USD 19,000 billion of global funds under management, commissioned focus groups and undertook one-to-one interviews. Entitled Beyond the Baby Boomers: The Rise of Generation Y and launched at Fund Forum International 2007, it provides a fascinating insight into how the industry is facing this challenge and has received international acclaim.

**Generation Y as customers**
The study showed that only 22 percent of fund managers have focused on Generation Y customers over the last two years and a further 28 percent intend to develop a relationship during the next five years.

These figures may not appear dangerously low but it does indicate that only half of the industry is changing the way it works to appeal to these customers who are no longer wealth accumulators like their parents were but create their own wealth or inherit it. Those companies who have been complacent will have products which simply do not appeal.

The survey shows that the industry is confident that it knows which products and asset classes will appeal to Gen Y with mutual funds and equities dominating, but it is unsure how to engage them and therefore in reality has no real grasp of what Gen Y’s needs are. For example respondents from the FM industry said the key factors which make a product attractive were ‘easy to start’ (23 percent) and ‘top-tier performance’ (19 percent). They entirely dismissed concepts like ‘low-risk’ and ‘self-management’ with only two percent mentioning either. Yet these were the very factors that Gen Y said was very important to them.

It would appear that the funds management industry knows its products better than its future.
customers and so, if it wants to continue to grow and prosper, then it must take stock, form a relationship with Generation Y to understand their needs and then adapt.

**Generation Y as employees**

Globally growth in the labour market population (aged 15-64) is slowing down and in some nations, it is contracting. The decrease in the birth rate a generation ago is having the effect of reducing the population pool from which the workforce is drawn and this is magnified in the Channel Islands by the relevant population controls.

The balance has shifted from employer to employee and 20-somethings now have multiple options in the workplace. This is reflected in the KPMG International study which showed that the industry has a poor track record in keeping young staff with 25 percent of businesses having an annual staff turnover rate of more than 30 percent among Generation Y. Amazingly, despite this alarmingly high rate of staff turnover, only one percent of companies thought they were unsuccessful in recruitment and retention.

Businesses in the FM industry must understand that the labour market dynamics have changed. Employers need to fully understand the reasons why staff are leaving and then take action. Employers have to refine recruitment and retention strategies and embrace concepts like becoming an Employer of Choice. By doing this retention rates will increase which will in turn have a positive impact on profits.

The study is a unique perspective of the FM industry. The results are at times challenging and confronting as is to be expected when dealing with inter-generational issues. Nevertheless the views and the thinking in this definitive study of the interplay between Gen Y and the FM industry cannot and should not be ignored.

Anyone wanting a copy of the full report should contact Martine Marshall on 01481 741890 or martinemarshall@kpmg.guernsey.gg or Denise Paland on 01534 888891 or dpaland@kpmg.jersey.je
The broader significance of wealthy individuals should not be underestimated. As leaders, innovators, facilitators and pioneers, the wealthy often represent the most dynamic sections of society, while as investors they tend to be the most prescient, passionate and incisive individuals you can meet.

The Barclays Wealth Insights reports, developed in partnership with the Economist Intelligence Unit, provide a comprehensive picture of what it means to be wealthy in the 21st century.

Based on global research with over 600 mass affluent, high net worth and ultra-high net worth individuals and the views of a panel of wealth experts, drawn from academia, industry and financial circles, each Insight report paints a picture of the private world of this influential group, by analysing their shifting demographic profile, priorities and preferences.

And by uncovering the complex social and psychological dynamics – including gender, family and social interactions – that define the behaviour and outlook of the wealthy, our reports provide a compelling snapshot of the deeper trends that shape the future of society at large.

Bulletin Board is very pleased to provide an extract from the second in a series of The Barclays Wealth Insights reports. For more information or for a copy of the entire report, please email: barcalyswealthinsights@barclays.com.

Affluence of Women is Increasing

From luxury goods manufacturers to private banks, the commercial world is starting to sit up and take notice of women’s growing spending power, and is now redoubling its efforts to tap into this money-spinning market.

A recent study from Datamonitor, an independent research company, finds that the gap between the wealth held by male and female millionaires is narrowing. In 1998, the average male millionaire in the UK was worth £2.71m (US$5.42m), while the average female millionaire owned just £1.28m (US$2.56m). By 2006, women had caught up considerably, with the average female millionaire worth £1.97m (US$3.94m) compared with £2.96m (US$5.92m) for men.

This increase in female wealth has not been limited to developed economies. In 2006, the female paper tycoon Zhang Yin was listed by the Hurun Report as the wealthiest person in China, with an estimated US$3.4bn. Even in Saudi Arabia, a country in which women can neither vote nor drive a car, women are making their presence felt in the higher reaches of business. In 2005, Nahed Taher became the first Saudi woman to head a large investment bank when she founded the Gulf One Investment Bank in Bahrain.

1 Barclays is the UK’s leading wealth manager and has £93bn (US$184bn) client assets globally. It serves affluent, high net worth and intermediary clients worldwide, providing international and private banking, financial planning, investment services and brokerage. Thomas L. Kalaris is the Chief Executive of Barclays Wealth and he joined the business at the start of 2006.

Barclays Wealth is part of the Barclays Group, a UK-based financial services group, with a large international presence in Europe, Middle East, the USA, Africa and Asia. Barclays has been operating for more than 300 years with 25 million customers and 122,600 employees in over 50 countries.
More generally, it is clear that women around the world are becoming an economic force with which to be reckoned. Since the 1950s, the proportion of the female workforce in Sweden, the UK and the US has risen from one-third to two-thirds. In South-east Asia, a region that has in recent years enjoyed impressive economic growth, women hold two-thirds of jobs in the export industry. Perhaps most strikingly of all, a recent report in The Economist suggested that, over the past decade, the increased employment of women in developed countries has contributed much more to global growth than China.

The combined wealth of Britain’s 100 richest women in 2007 is £33.27bn

The flip side of wealth creation is spending, and women’s spending habits are being watched more closely than ever by companies that are keen to tap into this rich vein of opportunity. With some studies suggesting that as much as 80 per cent of all purchasing decisions are made by women, the importance of developing products and services that meet their needs, combined with clear and effective marketing, cannot be overstated. This has been recognised for a number of years by luxury brands, and even by the traditional male bastions of cars and gadgets. Other industries, such as financial services, have been slower to catch onto this trend, but as women increasingly flex their muscles in the global economy, this is a trend that can only accelerate across the entire business world.

Drivers and Goals of Wealth

The traditional sources of wealth for women have been inheritance from their parents or deceased husbands, or financial gain from the divorce of a wealthy husband. While these methods of achieving wealth status are still evident, a recent global survey conducted by the Economist Intelligence Unit on behalf of Barclays Wealth of 600 affluent, high net worth and ultra high net worth individuals indicates that this perception is becoming outdated.

The vast majority of those surveyed – both men and women – have earned their money through their job or the ownership of a business, although in both cases, the proportions are slightly higher among men. Less than one-fifth of women, and just over one-sixth of men, have generated significant wealth from an inheritance.

Meanwhile, marriage is a significant source of wealth for around one-quarter of women, compared with just one in 10 men. Looking in greater detail at the research, one finds notable differences between the regions. For example, the proportion of women who say that marriage is a significant source of wealth is highest in the Middle East and Africa, at 30 per cent, and is lowest in North America, at 19 per cent.

Dr Rebecca Harding, Senior Fellow in the Foundation for Entrepreneurial Management at the London Business School, and Director of Global Entrepreneurship Monitor (Gem UK), corroborates this general shift in sources of female wealth. “A lot of the female wealth is still coming from divorce,” she says, “but younger women are becoming more independent and going through the career profile more swiftly.”

As women generate more of their own wealth from income and investments, an unfortunate side effect is that we may see divorce levels increasing. Recent research by Randall Kesselring, Professor of Economics at Arkansas University, in which the finances of more than 100,000 women were examined, found that, with every US$20,000 that a woman’s wealth increased
relative to the family’s overall income, the chances of marital break-up rose by one per cent.

As well as climbing the corporate ladder with greater ease, women are also becoming increasingly common in the world of entrepreneurship. Holly Sargent, Senior Associate Dean for Advancement and Senior Director for University Women’s Studies at Harvard University, points out that when women do start a business, it often does not have the sole purpose of generating wealth. More often than not, there will be a social element to their entrepreneurship, which is often as important, if not more so, as their need and willingness to create wealth Dr Harding agrees, and notes that women at home who have time and resources behind them are likely to go into the labour market by being entrepreneurial. “Their businesses are more likely to be family orientated, less commercial, and more socially, or ‘gap in the market’ based,” she explains. “A lot of innovative products are created around female-orientated gaps in the market.”

Women and personal finance

Many experts contend that women are far less likely to take risks with their money, whether in their personal finance or business affairs. This perception is borne out by the research, which finds that, in the past three years, more men than women have invested in vehicles that are generally considered to be at the riskier end of the financial spectrum, such as hedge funds, private equity, structured products and derivatives. Men are also more likely to have invested in stocks and shares.

Amy Nauiokas, Managing Director and Head of Brokerage, Barclays Wealth, says that this analysis fits with the typical female customer profile. “Our female investors tend to be between 45 and 65, and they tend to have a more cautious approach to risk,” she says. [Research] shows that property is an important investment vehicle for many women around the world. In North America and Europe, property was second only to stocks and shares as the preferred investment over the past three years, and it also scored highly for women in Asia and the Middle East. Large increases in property values since the 1990s have encouraged many women to channel their funds into bricks and mortar, and have also been significant in terms of wealth creation. Income from property rental or the sale of property is cited as an important source of wealth for 20 per cent of women in our survey, and 31 per cent say that they plan to invest in property over the next three years.

The survey suggests that women in North America have a propensity to be most sophisticated in terms of the breadth of their investments. The continent has the highest proportion of women that invest in stocks and shares, bonds, property and personal pensions. Women in the Middle East, however, are more likely to invest in commodities, such as gold, and hedge funds, than those in any other region. European women, meanwhile, are most likely to invest in alternative assets, such as antiques and art. Furthermore, when asked how they would choose to spend a cash windfall, 25 per cent of women cited investment or personal purchase of property if they were to receive $2m.

However, women tend to place less importance than men on their income from investments, and from property rental and property sales. “I keep coming back to the fact that women tend to have purpose-driven investing,” says Ms Nauiokas. “They will alter their approach as they reach their goal and will often act to protect what it is they have built up. Male investors tend to look for income and growth.”

Women and a Wealth of Opportunity

Women’s wealth and economic influence around the world is on the increase. What’s more, this report reveals a clear shift from the traditional view of women’s prosperity deriving from inheritance and marriage. It points out that more women are increasingly making their money through entrepreneurship and business.

Despite this progress in socioeconomic standing, our findings show that women are still more cautious and display less confidence towards taking risks with their money, whether in personal finance or business matters. This is evident in their investment behaviour. Their focus tends to be more purpose driven - seeking to protect their assets - while men display greater confidence, professing a deeper knowledge of personal finance matters.

The challenge for financial institutions is to take notice of these differences and recognise that a one size fits all approach to how they communicate with their clients doesn’t work.

Over the past 10 years the opportunity for women to increase, invest and enjoy their wealth has grown significantly. With predictions that the ‘female wealth explosion’ is set to expand further during the next decade, organisations targeting wealthy women are encouraged to respond to the innovation from the financial industry in its endeavours to connect with this powerful market segment.
China Pub Company plc (CPC) was established in 2005 as a specialist operator of branded food and beverage outlets throughout Asia and particularly Greater China.

China Pub Company plc is focused on building a portfolio of branded food and beverage outlets which it is using to target the huge potential of the Chinese Market. The Company’s main focus has been to take advantage of the enormous interest in ‘Western’ branded themed pubs and bars in the region. China Pub Company is expanding its portfolio of outlets through acquisition and conversion of existing properties as well as new developments. To date the Company has acquired the well established brands of the Junk Pub and the Bull & Bear as well as Mbox and Malone’s through an exclusive licensing agreement.

On the 8th April 2008, China Pub Company launched its anticipated expansion programme into Greater China with the opening of the Malone’s Thumb Plaza in Shanghai. The Malone's Thumb Plaza is a 9000 square foot American-themed sports bar in the heart of the vibrant Pudong business and residential district of Shanghai. The Malone’s Thumb Plaza features on several tourist websites, brochures and maps which promote restaurants to visit and try when out in Hong Kong.

The first pub that the Company acquired in November 2005 was The Junk Pub, a well established English style pub based in Hong Kong. The Junk Pub has been open since 2000 and is very popular among the expatriots based in  Hong Kong. It has an excellent location (based just a minutes walk from the MTR station) and its small and friendly environment is matched by its strong brand image as one of Wanchai’s most popular pubs. China Pub Company is in the process of expanding the brand to other areas of Hong Kong and Greater China in order to capitalise on the brand’s strong image with the ever increasing number of expatriots in the region.

With the well known and inspiring outlook for the region, combined with the business infrastructure, team and inherent knowledge of the area, China Pub Company is excited and confident of its continued growth and development into a premier operator of branded food and beverage outlets in Greater China.

2008 celebrates both the first anniversary of China Pub Company as a quoted plc and its Listing on the Channel Islands Stock Exchange.
Admitted to the Official List on 11 December 2007, Cenkos Channel Islands Limited (CCIL) has made rapid progress since it opened its doors on 1 August 2005. CEO Jon Ravenscroft is thrilled with the company’s evolution: “When Robin Newbould and I started the business, the remit was to establish the private client wealth management operation of Cenkos Securities plc, our London-based parent, and we planned to have a small client base and a niche stockbroking business. Clearly, things have moved on quite quickly, but we were never going to stop the business from growing – provided that additions to the team were like-minded. We remain determined to continue offering the small-office premium service for which I hope Cenkos is becoming renowned.”

2008 has started where 2007 left off: CCIL has opened in Jersey with two former Rathbones directors, Jérôme Thérèse and André de Gruchy, joined by ex-UBS directors Tim Pollard, Barry Le Cheminant and associate director Ian Jones. More recently, the Guernsey office has announced the acquisition of the Brewin Dolphin Asset Management team of Mark Bousfield, Ben Byrom, Steph Bouwmeester and Sophie Crosland who will add greatly to our market presence and strengthen the firm’s resources. CCIL is now delighted to reveal that the stockbroking team of Chris Brock, Toby Peatfield, Jeremy Stubbs and Debbie Wilson together with marketeer Paul Matthews will be joining their former Brewin Dolphin colleagues. A company announcement relating to a proposed office move will follow shortly.

Chairman Tom Scott is in no doubt as to what the future holds: “When Jon asked me to chair CCIL I wanted to know what his plans were. Like him, I could see all sorts of ideas in the Channel Islands and beyond, but counselled that we should take our time. Obviously, he wasn’t listening! But, seriously, sometimes opportunities just present themselves and we are determined to make the most of them.” The next project is the creation of a fund investing in the Channel Islands themselves – a direct response to the demand from investors for a local product. CCIL offers the complete spectrum of wealth management and broking services. Moreover, its continuing close relationship with Cenkos Securities plc – now a 50 per cent shareholder following the CISX placing – offers clients not only choice, but the ability to consult one of the fastest growing investment houses in the City.
The Guernsey Protected Cell Company (‘PCC’)

Bryan Dix, a Managing Director of Barclays Wealth, Guernsey provides an overview of the structure of the PCC, outlines the key features and benefits they offer and highlights why they have become so important following the Budget.

The Guernsey protected cell company (‘PCC’) is now a well-known structure that has proved successful in a variety of roles and commercial structures. Introduced in 1997, the Guernsey PCC was initially the preserve of the captive insurance, hedge fund and securitisation industries, however, in 2005 the rules surrounding and restricting their use were relaxed, thereby making them available for use in a range of private client wealth management structures.

The strength of the PCC as a tool in wealth planning lies in its unique structure. It is a single, legal, corporate entity consisting of a ‘core’ vehicle that has the power to create individual cells. Each of these cells can hold an asset or assets on an entirely segregated basis, issue shares and enter into contracts and agreements in its own right.

One of the principal attractions of the PCC is in this segregation or ‘ring-fencing’ of assets. The PCC legislation expressly provides that the assets of any one particular cell are only available to the shareholders and creditors of that cell – creditors of another cell having no recourse against them. Furthermore, the assets of the core are also immune from attack, unless the creditor has previously put in place a recourse agreement.

The immediate attraction of such a cellular corporate structure to the captive insurance, hedge fund and securitisation industries will be obvious. By way of example, this can be demonstrated by an umbrella fund where the risk of cross-losses or cross-contamination across share classes can be managed by segregating assets within different cells and even, perhaps, appointing a different manager to each.

The PCC and private client wealth management – some key features and benefits

In 2005 the changes to the rules surrounding the use of Guernsey PCCs led to the availability of the key benefits of these vehicles to private clients and their wealth managers who, working in association with Guernsey financial service providers, were able to start using them in the structuring of the financial affairs of their clients.
Typically, the 'core' vehicle is established and managed by a registered Guernsey agent. Barclays Wealth, for example, is the manager, administrator and provides directors to Walbrook PCC (No 1) Ltd – a PCC specifically created for use by clients of Barclays Wealth.

The core is then able to create one or more cells which are then made available to clients. This saves clients time and the cost of establishing the PCC themselves. Clients may purchase one or more cells depending on their assets, personal wealth and business affairs.

The PCC - flexibility and range of investments that can be held

An individual client or a family may decide to purchase their own cell and within that cell there is complete flexibility in terms of the investment parameters and the ability to realise the assets at any time.

The range of investments that can be held within a cell is broad and includes equities, commercial and residential property, alternative investments such as hedge funds, interests in partnerships and intellectual property.

This can be demonstrated by way of example through a wealthy individual who decides to segregate a portfolio of properties into one cell, yacht and private jet into a second cell and investment portfolios into a third. The reasons for doing this may be for tax planning; to segregate wasting assets from capital growth assets; or, to separate assets that may attract a liability from those which will retain or grow in value. Cells may even be used to segregate assets as between family members.

To reiterate: a single PCC may be used by many different clients, each with any number of cells and that the assets of one client are safe from attack or cross-contamination by the actions or investments in any other cell.

PCCs and the Budget

Given the demonstrable power and flexibility of the Guernsey PCC as a wealth management tool, it is not surprising that some of the features of the PCC may offer planning opportunities to UK resident taxpayers and UK resident non-UK domiciliaries.

One of the opportunities arising relates to whether or not the PCC is considered a ‘close’ company for UK capital gains tax purposes. Currently, if a Guernsey PCC is listed on the Channel Islands Stock Exchange and meets certain other criteria in the taxes statutes, then it is not classified as a ‘close company’ for UK tax purposes.

This means that chargeable gains realised by the PCC should not be apportioned to UK resident PCC shareholders under the provisions of s13 of the Taxation of Chargeable Gains Act 1992.

Another opportunity arises because each cell may apply for certification as a distributing fund in its own right. With this certification the profit realised on shares in the cell may be treated as capital gain in the hands of the UK resident taxpayer, rather than being subject to income tax. The latest draft legislation issued by HMRC proposes a flat rate of 18 per cent on chargeable gains compared to the top income tax rate of 40%.

Finally, it is possible to subscribe for shares in a cell either in cash or in specie. It may be attractive for UK resident taxpayers to subscribe in specie if they are considering action in the near future because this can trigger a disposal for Capital Gains Tax purposes.

Summary

The Guernsey PCC is an extremely flexible and powerful tool for the management and preservation of wealth. With the unique cellular corporate structure, the statutory protection of one cell’s assets from the creditors of another cell, the opportunities it currently offers to UK resident taxpayers and the ease of use and establishment, it will remain an important planning structure for the foreseeable future.

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There is no doubt that the Channel Islands provide an attractive location for investment funds which can benefit from the specialised professional services sector which has developed here and the balanced level of regulation. Of course, tax planning will also be a key consideration.

However, achieving a tax efficient structure is not something which follows automatically from establishing a fund offshore and the Channel Islands are not necessarily a safe haven from the scrutiny and potential challenge of outside tax authorities. Indeed, there are many aspects of an offshore fund’s operations that, if not carefully managed and monitored on a regular basis, may jeopardise the tax status of the offshore fund.

Under UK tax law, a company is resident in the UK if it is incorporated there or if that is its place of central management and control. The concept of central management and control has evolved through case law and a number of factors may be taken into account, such as:

(i) Location, attendance and substance of board meetings
(ii) Residence of directors
(iii) Extent of use of professional advisors and their locations
(iv) Who the key decision makers are
(v) Influence from other parties

In reviewing these areas and factors, HMRC will look at the overall pattern of conduct and this may span a number of years. If HMRC decide to challenge a structure, they may draw upon various sources of information as part of their investigation including the obvious formal documents such as board minutes, accounts and legal agreements but also the more informal evidence such as e-mails and telephone conversations linked to key individuals and notes from other management meetings. Not only could this information prove damaging if the roles and responsibilities of these individuals has not been properly defined and monitored, it is also a very time consuming and lengthy exercise to locate and produce the details required.

Reflecting for a moment on the recent court cases mentioned above, these centred predominantly on the substance of board meetings and whether these really constituted the place where key decisions were being made. In both cases, it was held that board meetings are indeed crucial in the determination of central management and control. Some obvious ways to improve the residence status of the offshore fund would therefore be as follows:

• Ensure all board meetings are conducted offshore
• All directors should attend in person – telephone attendance is to be avoided
and is a particular area on which HMRC have focused in practice

• It is preferable for a director not to attend a meeting than to attend by telephone from another location

• Board minutes should record all discussions and document the deliberations of the directors when, for example, considering the advice and recommendations of an investment advisor.

So let us assume that the residence risks have been properly addressed; the offshore fund is regarded as resident in its Channel Islands domicile, or more importantly and correctly, it is not regarded by any other jurisdiction as tax resident in that place. There is another pitfall for the offshore fund if it is trading and if the activities of the fund could be regarded as taking place through an investment manager or investment advisor located in another jurisdiction. A common example is the way in which an investment manager may take key decisions or carry out transactions on behalf of the fund. Similarly, an investment advisor may have authority to conduct business and/or take decisions on the fund’s behalf.

Many tax authorities, including the UK, could take the view that the fund is trading through a permanent establishment and seek to tax the profits attributable to this establishment.

In the UK, this risk is often managed by the existence of the Investment Management Exemption (IME) which, as long as certain conditions are met, allows UK investment managers to trade on behalf of an offshore fund without creating a taxable presence in the UK. HMRC’s interpretation of the IME is set out in their Statement of Practice 1/01 which, in its original version, provided the following main conditions:

(i) The manager is in the business of providing investment management services;

(ii) Transactions are carried out in the normal course of business;

(iii) The manager acts independently of the fund;

(iv) The 20% test is met – which is that the manager and persons connected to him are not entitled to more than 20% of the profits of the fund;

(v) The manager receives customary remuneration – this is the same as the arms’ length principle commonly referred to in transfer pricing; and,

(vi) The manager is not the fund’s representative in any other capacity.

Furthermore, the exemption only applies to “investment transactions” which includes transactions in shares, stock, commercial paper, warrants, futures, options, currency, carbon emission credits, swaps and placing money at interest. It does not include transactions in land, investment banking type activities such as originating, negotiating or syndicating loans.

In the past, adherence to all of these conditions was of critical importance in order to avoid the ‘cliff edge’ scenario; whereby a breach of any one condition could lead to the whole of the fund’s attributed profits becoming taxable in the UK.

This result was widely regarded as unfair since non-compliance was disproportionate to the potential tax liability and not consistent with the position in other countries. In July 2007, HMRC re-issued their SOP 1/01 on the IME, setting out their updated interpretation of the legislation and how they would seek to apply it in the future. The revised SOP is intended to be more wide ranging covering the customary remuneration test as well as providing additional comment on whether a fund is trading and how HMRC will apply the IME to certain transactions not falling within the definition of investment transactions.

The revised SOP states that taking a lead in arranging a loan syndicate, managing or originating a loan in which the fund is not a lender does not qualify as an investment transaction. However, where a UK investment manager undertakes capital raising or loan origination and receives taxable remuneration at arm’s length, this will not be a breach of the IME. Credit default swaps, whether settled physically or in
cash, fall within the definition of investment transactions. Futures and options relating to commodities that provide for physical delivery will be treated as investment transactions, as long as physical delivery does not occur.

The revised SOP confirms that an investment manager may undertake minor or inadvertent transactions that were previously not permissible, provided those transactions are taxed in the UK. This should save UK investment managers from the so-called "cliff edge" scenario.

When HMRC apply the customary remuneration principle they will look at the overall structure to determine if the net fees paid to the UK investment advisor or manager are representative of the value they add or the risks they take on behalf of the fund. The updated guidance confirms that where the appropriate transfer pricing documentation is in place the investment manager will have the opportunity to agree adjustments to the remuneration rate in order to meet the test without having breached the IME.

In the UK Budget 2008 the government announced some changes to the IME. Legislation will be introduced to simplify the approach to defining investment transactions. It was previously suggested that this simplification would be achieved through alignment with activities regulated by the Financial Services Authority, but instead a streamlined statutory process will be introduced to enable appropriate products to fall within the definition. Many will feel that the most important change announced in the Budget is that transactions failing to meet the definition of investment transaction will no longer cause the fund to fail the IME in its entirety. Instead, those specific transactions will be subject to UK tax. These changes are regarded as important steps in the simplification of the rules and will have effect from the date the Finance Act 2008 receives Royal Assent. This is likely to be Summer 2008.

A final point to emphasise is that the IME is only relevant for a fund which is trading. Hence, an offshore fund which is simply investing in assets for capital appreciation, such as a long-only fund, should have nothing to fear in this regard as it is not trading. So, whether we are considering residence or trading, what all this boils down to is that other tax authorities will inevitably question structures using offshore funds where the result is the disproportionate accumulation of profits offshore.

We know that HMRC may question a structure where the Channel Islands fund manager retains a level of margin which is not commensurate with the skills or involvement of this party, especially when it is apparent that the parties which should really have earned these profits is in the UK. For example, a lack of performance fees payable to a UK investment manager may invite questions as to where these funds have been paid. HMRC would review the agreements and examine the roles of all parties within the structure to support their analysis. In reality, HMRC may use UK’s extensive transfer pricing legislation to challenge the attribution of profits within a structure and seek an adjustment of tax to address any perceived anomaly.

In conclusion, the role of the investment manager is often critical to the performance of the fund, but without careful planning and consideration the involvement of the investment manager can, in certain circumstances, compromise the tax efficiency of the structure. Similarly, the fund should be managed and administered in such a way to ensure that residence offshore is achieved in practice and this should remain a key consideration at all times.
OFFSHORE INVESTMENT FUNDS - WHERE’S YOUR COMI?
By Sam Shires and Erin Gray of AO Hall

While ensuring that an offshore investment fund is truly managed offshore has always been important for tax reasons, in these times of turbulent markets the location of the management and administration of the fund is also becoming an important factor for worst-case scenario purposes and the possible liquidation of the fund.

The turmoil brought to world financial markets by the “credit-crunch” has seen several recent cases of cross-border insolvency involving offshore investment funds come into the spotlight. Because these types of funds tend to be vehicles established in an offshore jurisdiction, but managed and sold to investors onshore, the obvious question is which jurisdiction’s law should be applied to the liquidation of the fund’s assets? The United States and England have both adopted the UNCITRAL Model Law on Cross-Border Insolvency (the “Model Law”) to deal with situations like this. The Model Law introduces the concept of “centre of main interests”; or as it is more commonly known, the “COMI”. If the COMI of the fund is deemed to be in the offshore jurisdiction then the Court will recognise the offshore liquidation proceedings as foreign main proceedings under U.S. or English law. The importance of this recognition is that foreign main proceedings attract an automatic stay of execution against creditors’ claims under the Model Law, which is obviously attractive to the manager of the fund.

The recent cases dealing with this issue have arisen mainly in the U.S. The Bear Stearns cases\(^1\) concern two funds which were both Cayman Islands companies. A Massachusetts corporation acted as administrator, registrar and transfer agent and provided accounting, clerical, shareholder register, investor relations and distribution services to the funds. The books and records of the funds were maintained and stored in Delaware by the administrator. Bear Stearns Asset Managements, a U.S. corporation, acted as the investment manager for the funds and the assets managed by it were located in New York.

The funds began to suffer significant devaluation of their asset portfolios following the volatility in the U.S. sub-prime lending market. The funds’ filed petitions for the appointment of local liquidators in the Cayman Islands. The liquidation orders were granted and the liquidators then filed petitions pursuant to the United States Code (the “Bankruptcy Code”) for orders recognising the Cayman Islands liquidations as foreign main proceedings in the U.S. The Bankruptcy Code incorporates the Model Law, and provides that “in the absence of evidence to the contrary, the debtor’s registered office… is presumed to be the center of the debtor’s main interests”. This is often referred to as the COMI presumption.

The U.S. Bankruptcy Court looked to UNCITRAL for guidance on the concept of the COMI. In the regulation adopting the EU Convention the COMI concept is referred to as “the place where the
debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties.” The Court noted that the COMI presumption may be overcome “particularly in the case of a “letterbox” company carrying out any business in the territory of the Member State in which its registered office is situated”.

The Court was quick to seize onto the fact that all of the administration and management of the funds took place in the U.S., that the assets of the funds were located in the U.S. and that the funds’ only connection with the Cayman Islands was that they were registered there; in effect they were “letterbox” companies. As a result the COMI presumption was held to be rebutted and the application refused.

The judgment in the Bear Stearns case differs from the previous main decision to have considered the issue, SPhinX2. In that case it was stated that if the parties had not objected to the Cayman Islands proceedings being recognised as foreign main proceedings, recognition would have been granted on the sole grounds that no party objected and no other proceeding had been initiated elsewhere. In SPhinX the court refused “main” status on the basis of the bad faith motives of those who brought the Cayman Islands proceedings.

The second recent case concerns the Basis Yield Alpha Fund, also a casualty of the US sub-prime crisis. Sydney-based fund manager Basis Capital has placed the Cayman Islands fund into provisional liquidation and the liquidators have taken action in both the US and England to have those proceedings recognised.

It has been reported that an order recognising the Cayman Islands liquidation was issued by England’s High Court of Justice Chancery Division Companies Court. However, the fund’s liquidators have recently been dealt a blow in their U.S. proceedings. In a judgment delivered on 16 January 20083 the U.S. Bankruptcy Court denied recognition of the Cayman liquidation proceedings as foreign main proceedings. The liquidators argued that following SPhinX, in the absence of any objections or contrary facts, the COMI presumption should apply. The Court disagreed with this approach and noted that the liquidators’ petition was “strikingly silent” as to the nature or extent of the fund’s business activities in the Islands. The Court itself noted there was evidence to the contrary as the fund was organised as an “exempted company” in Cayman, which prevented it from conducting any business there except in furtherance of business carried on outside the Islands. Denying the application, the Court concluded by listing the facts that the liquidators would need to show the Court in order to succeed. These included detailed information on the fund’s assets, the number and location of investors and the relative percentages held in each location. Whether the manager is willing to disclose this information remains to be seen. Meanwhile a decision on the appeal of the Bear Stearns cases is eagerly anticipated.

It is interesting to compare the facts of the Bear Stearns and Basis Yield cases to the typical investment fund established in Guernsey to see if a similar result would be likely. On the face of it the answer would seem to be no:

- all investment funds established in Guernsey are required to appoint a licensed Guernsey administrator;
- Guernsey’s developed finance industry means that most of the management and administration of a fund, including all of the services which were carried on in the U.S. in the Bear Stearns cases (with the exception of investment management) are normally carried out in Guernsey;
- Guernsey’s strong corporate governance ethic and the availability of experienced resident non-executive directors means board decisions, including investment decisions, are always implemented in Guernsey;
- the Guernsey Financial Services Commission does not entertain applications from fund promoters looking to simply establish “letterbox” type vehicles in Guernsey;
- the ability to list the securities of a fund on the Channel Islands Stock Exchange can create a greater connection with Guernsey; and
- subject to certain exceptions, tax exempt status for Guernsey funds does not prohibit a fund from carrying on business in Guernsey.

1 In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd. (In Provisional Liquidation) Case No. 07-12383; In re Bear Stearns High-Grade Structured Credit Strategies Enhanced Leverage Master Fund, Ltd. (In Provisional Liquidation) Case No. 07-12384.
3 In re Basis Yield Alpha Fund (Master) Case No. 07-12762(REG).

“Post-script: The Financial Times reported on 29 February 2008 that rebel investors had seized the two funds and replaced the liquidators with investor supported liquidators.”
Arab Bank, through its subsidiary Arab Bank Fund Managers (Guernsey) Limited, has a number of investment products domiciled in Guernsey.

The new funds, structured within Protected Cell Companies, have been listed to attract investment from institutional clients in the Middle East/North Africa (MENA) region who have a requirement for a recognised stock exchange.

The IIAB Sukuk and Murabaha MENA Fund and the IIAB MENA Feeder Fund, are Islamic, or sharia’a compliant funds and are both part of IIAB PCC Limited. The investment adviser for these funds is AB Invest in Jordan, a leading asset manager in the MENA region.

Within the AB International Fund PCC Limited, are the AB Defensive Fund, AB Conservative Fund, AB Balanced Fund, AB Growth Fund and AB Dynamic Fund, referred to collectively as “profile funds” with different risk profiles. They are the first funds in the world to consist of all seven investable asset classes, to cater for investors’ different risk and return requirements.

Allianz Global Investors is the investment adviser to the profile funds. Allianz Global Investors is a wholly owned subsidiary of Allianz SE and is responsible for all asset management activities within the group as well as for 3rd party clients. Allianz Group’s total assets under management were EUR 1.28trillion as at December 31, 2007, ranking it among the largest asset managers worldwide.

The other two funds listed are the new AB MENA Feeder Fund, also within AB International Fund PCC Limited, and an existing fund, AB Alternative Arbitrage Fund, within the AB Alternative Strategies Fund PCC Limited.

All of the funds are US dollar denominated and open-ended, with monthly valuation and dealing.

The Guernsey fund management company recently held a board meeting in the Island, attended by Ramez Sawabini, Global Chief Investment Officer, Private & Investment Banking, Arab Bank plc, based in Bahrain.

“We are grateful to the Guernsey Financial Services Commission and have also been very pleased with the way in which the Channel Islands Stock Exchange has approached our request and with their quick turnaround. Once we provided all the information they required we got these funds up and running in a fairly short space of time,” said Mr Sawabini.

Tamara Menteshvilli, the Chief Executive of the Channel Islands Stock Exchange, said: “The CISX has become the exchange of choice for an ever-increasing number of international issuers. The Market Authority is very pleased to welcome such a prestigious Issuer and their innovative investment products to the CISX Official List.”

Peter Niven, Chief Executive of GuernseyFinance, said: “The Middle East is a booming business region. For a financial institution of the size and scale of Arab Bank to choose Guernsey as a fund domicile seriously endorses our capabilities in the fund sector.”

The Guernsey administrator for all the funds is Legis Fund Services Limited.

Arab Bank Group was established in 1930 and has the largest Arab banking branch network worldwide, with over 400 branches in 30 countries, spanning 5 continents.
CORPORATE GOVERNANCE IN INVESTMENT FUND ADMINISTRATION

By Antony R. Gardner-Hillman
Independent Non-Executive Director

This article explores the fortuitous union since the 1990s between, on the one hand, fundamental changes in the Channel Islands’ investment funds industries and, on the other hand, the codification of strong principles of corporate governance and the refinement of regulation to appropriate levels.

Until the early 1990s the Channel Islands’ investment fund industries relied on open-ended retail bond and equities funds. Then came the EU’s 1985 UCITS directive. “UCITS” stood for “undertakings for collective investment in transferable securities.” The directive was aimed at enabling such undertakings to have a single regulatory regime based on legislative uniformity across the EU. In that way, funds authorised in one EU country could be sold to the public elsewhere in the EU without further authorisation. The UCITS regime led to the Channel Islands’ retail bond and equities funds businesses moving by and large to the EU fund administration centres in Luxembourg and Dublin. That process was completed by the early 1990s.

The Channel Islands fought back by analysing the skills they had to offer and re-directing those skills towards categories of investment fund business not looking for the UCITS passport. The Channel Islands identified the closed-ended privately placed schemes associated with private equity, property and other alternative asset classes.

That re-direction has to a degree been fuelled by a shift to a new brand of fund promoter, the entrepreneur with new ideas. This new brand of promoter included individuals from outside the traditional fund management industry: deal-makers who saw opportunities to increase their personal success by gearing-up their investments using capital raised from third-party investors. With that shift came a change in the demands placed on fund administrators: deal driven now and less reliant on the valuation, price reporting and issue/redemption processing focus of the open-ended funds industries of the early 1980s.

This re-direction opened the door for the private client trust companies to enter the fund administration business.

At the same time, the re-direction raised the possibility of a widening gap between the interests of the fund promoters and those of investors. This created the perfect environment for a strong corporate governance regime to slot into place.
In parallel, regulators’ demands were changing in line with the increased international focus since the early 1990s on corporate governance. For example, the Channel Islands have now seen regulators making “themed” visits to regulated businesses examining their procedures for administering specific categories of funds, and indeed specifically examining their approach to corporate governance. Record-keeping requirements have become stringent (“how did you come to that decision?”). Corporate administration processes, including content and organisation of board meetings and deadlines for publication of interim and final accounts, have come more to the forefront of regulatory interest.

Further the new fast track approval processes adopted in both Jersey and Guernsey have passed burdens from the regulator to the administrator with regard to the box-ticking principle and the obligation on the administrator to ensure that the regulators’ personal questionnaires (required for each “principal person”) are complied with and filed if time deadlines are to be met.

Administrators are under growing pressure to understand inside out the businesses they administer and to recognise that they are custodians of reputation for all the stakeholders in the business. The “stakeholders” are the shareholders, board of directors, employees, suppliers, customers, banks and other lenders, regulators, the environment and the community at large. That includes the Islands themselves, whose reputations and therefore whose finance industries are ultimately at risk.

All of this points to the need for strong processes and policies governing the way investment funds are directed and administered with careful regard for the relationships among all the stakeholders and the goals towards which the fund is targeted. In other words, strong corporate governance, which in turn means a strong system of internal control, which in turn requires a thorough understanding and regular updating of the risks a business faces. Risk management, in turn, requires effective financial controls, based on the maintenance of proper accounting records, to ensure that a business is not unnecessarily exposed to avoidable financial risks. Before fund administrators can ever hope to achieve that they need to understand the investments held by the schemes they are administering and ensure those investments can be valued accurately. These are the first questions to direct at any new business enquiry.

The financial scandals of the 1990s led to the development and codification of the principles of corporate governance which are now established and generally accepted. There are now many sources of available guidance. Principally, the July 2003 revision of the Combined Code on Corporate Governance. More locally, principles of corporate governance are to be found in the Codes of Practice issued by the Channel Islands’ Financial Services Commissions.

The approach since the 1990s has been based on setting out guiding principles, so requiring business leaders to think hard about internal control and risk management issues and how the principles should be applied to the businesses they are responsible for.

Good corporate governance is a target to be achieved by every part of the chain of corporate responsibility. This begins with the board of directors of the investment fund itself and feeds down through all the service providers (administrators, bankers and the like) and institutional investors. Each is expected to operate so as to meet the standards and requirements of the regulatory system, including adequate supervision of investment employees, with fail-safe authorisation procedures for handling client assets and for guarding against involvement in financial crime.

At the same time, the Channel Islands have chosen to close the gap between the interests of the fund promoters and those of investors by encouraging the use of the Islands by schemes targeting expert investors. These are investors whose aims, understanding, analytical skills and monitoring resources are a match for the “new brand of fund promoters” they are entrusting with their substantial investment funds. Most recently, this development has seen the introduction in the Channel Islands of the new “super expert” category of unregulated investment funds.

The outcome of the new environment is that the Channel Islands’ investment fund industries are now in safer hands than ever before. They are focused to make the best use of the skills the Islands have to offer. They are targeted specifically at the category of investors most appropriate to the specialised products on offer. They have access to the guidance provided by relevant principles of strong corporate governance. Finally, the signs are that regulation is fast developing in a direction appropriate to the needs without being excessive.
FURTHER CHANGES TO JERSEY’S COMPANY LAW IN 2008: THE IMPACT UPON JERSEY’S STRUCTURED FINANCE INDUSTRY

By Bill Gibbon
Group Partner, Voisins Commercial Depart.

The changes have been widely welcomed by Jersey’s finance industry and in particular its booming funds’ sphere.

The Regulation No 2 came into force on 22 January 2008 and Amendment No 9 of the Companies (Jersey) Law 1991 is anticipated to come into force during the second quarter of this year.

The 2008 company law amendments include the removal of the prohibition on companies giving financial assistance for the acquisition of their own shares (applying to both public and private companies); the simplification of the rules on company distributions and redemptions; and the introduction of the concept of treasury shares.

These amendments, together with the introduction of corporate directors and provisions allowing for greater flexibilities on the board of directors of Protected Cell Companies (“PCCs”) and Incorporated Cell Companies (“ICCs”) and their respective Cells, will provide new advantages for Jersey’s specialist fund industry as well as its capital market structures.

The Removal of Financial Assistance Prohibition

The prohibition against a Jersey company giving unauthorised financial assistance for the purchase of its own shares has been removed in the Regulations passed in January 2008.

Unlike the position under English law (following the Companies Act 2006 amendments which came into force in October 2008) where financial assistance continues to be prohibited for public companies, Jersey’s amendment applies to both public and private companies. This change will provide significant transaction management advantages for Jersey public companies, which will, of course, include all Jersey corporate funds. The changes will, of course, bring benefits to all forms of private companies particularly within group structures and will greatly simplify transactions involving the target company giving security to support borrowings in connection with the acquisition of its own shares.

Treasury Shares

The introduction of treasury shares will enable a Jersey company or fund to purchase its own shares and hold them “in treasury” for a short period of time (rather than cancelling them) following redemptions by investors. Treasury shares should prove very popular with Jersey funds as well as employee share schemes and employee benefit trusts. The changes should allow the efficient subsequent transfer of the treasury shares to new investors, avoiding a complicated cancellation procedure.

A company or fund that holds treasury shares is able to cancel the shares, sell the shares, transfer them to an employee share scheme or hold them without either cancelling, selling or transferring them. Shares held as treasury shares by a company will not carry voting rights or count towards the company’s total issued share capital for the purposes of determining shareholders’ resolutions.

Corporate Directors

Additional changes in the January 2008 amendments allow a Jersey regulated financial services business to act as a corporate director of a Jersey company. In practice, many directors of structured finance products are provided by Jersey regulated
businesses. It, therefore, makes sense that those businesses, rather than its officers, should act as directors of the Jersey company.

A corporate director must be permitted so to act under the terms of its existing Financial Services (Jersey) Law 1998 licence. It must be able to act as, or to fulfil the requirements of a director and must itself have no director which is a body corporate. In practice, most Jersey administration service providers will be able to obtain the relevant approvals within the scope of existing licenses from the Jersey Financial Services Commission.

**PCC/ICC Directors**

Amendment No 9 allows individual cells of cell companies to have different boards of directors from the cell companies themselves. This means that experts in a particular field can sit on the board of a cell without being on the board of the main ICC or PCC. Equally, the director need not necessarily be on all of the boards of all of the Cells in the structure.

Both PCCs and ICCs are proving to be popular vehicles for investment funds, as well as in capital markets and other corporate finance areas where legal segregation of assets is vital. Many of these are listed products. Following this latest change in the law, these vehicles may be increasingly used in what were formerly group holding company structures and in securitisations.

The ability to appoint the most appropriate directors for individual Incorporated Cells (coupled with the ease of set up of an Incorporated Cell) will allow Jersey to use its fund and corporate expertise by allowing each Cell to have among the most experienced directors for the individual product within the European time zone. An individual Incorporated Cell will be able to appoint directors that are especially knowledgeable in the particular investment strategy pursued by an individual IC. If the IC is a property fund, it is sensible to have a real estate expert on the Board. If the IC is a derivative, long/short or arbitrage fund, it would be prudent to have an experienced equity and derivative expert on the Board of that Cell or Protected Cell.

**Dividends**

The criteria for the payment of dividends by Jersey companies and corporate funds is also to be changed by virtue of Amendment No 9 which is anticipated to come into force during the second quarter of 2008. The proposed changes provide that dividends may be paid by a Jersey company or fund on the satisfaction of a cash-flow solvency test only. This contrasts with the current requirement, modelled on the English law position, which generally requires dividends to be paid out of distributable profits/reserves. From the middle of 2008, Jersey companies will be permitted to make distributions to shareholders without reference to distributable reserves. Instead, distributions may be made out of a company’s assets, provided that the directors approving the distribution are able to give the appropriate solvency statement. This will greatly simplify the payment of dividends by Jersey companies and funds.

**Redemptions**

In line with the lifting of the requirement to make distributions out of distributable profits/reserves, a Jersey company’s redeemable shares may, after Amendment No 9 comes into force, be redeemed out of any capital source. In particular, in the case of par value companies, this will allow shares to be redeemed in whole or in part out of share capital accounts. These changes will also apply to share repurchases.

Dividends will be able to be paid by Jersey companies without specific regard to whether or not profits or gains are realised or unrealised. There will also be no obligations on the directors to “make full enquiry into the affairs and prospects of the company” for the purposes of the payment of the dividend. This ambiguous statement in the existing law has often led to companies preparing audited accounts before paying even conventional dividends.

**Additional Proposed Changes under Amendment No 9**

Special Resolutions will now be approved at extraordinary general meetings called on 14 days’ rather than 21 days’ notice.

Shareholders of Jersey public companies will also be able to waive the requirement to hold annual general meetings (as private companies can at present).

Jersey public companies will be able to use the “PLC” suffix which will clarify some current presentational issues, particularly with regard to listed Jersey companies on the Channel Islands Stock Exchange and other similar exchanges.

Overall, the amendments to Jersey’s company law proposed for 2008 should be of major benefit to the Island’s fund and structured finance industries.

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**TREASURY SHARES**

With effect from 1 May 2006, new provisions for Treasury Shares came into force under Guernsey Company Law.

Effectively, what the change means is that shares will be able to be bought into treasury and the rights attaching to the shares will be suspended, not cancelled whilst the shares are held in treasury by the company. There is to be a limit to the aggregate nominal value of shares held in treasury which is 10% of a company’s issued share capital (or 10% of each class of share). Whilst shares are held in treasury, they cannot be voted on and cannot participate in the profits of a company. The company can however resell those shares for cash, transfer them to an employee share scheme or cancel them.

CISX-listed companies, including closed-ended investment companies, may purchase their own shares into treasury without having to cancel them. The company benefits because it will have the option of holding shares in treasury for resale, in addition to the option of cancellation (which they already have), gives companies the ability to adjust their share capital to achieve optimum financial gearing without the costs of issuing new shares and might therefore lead to a reduction in companies’ overall cost of capital. This could well stimulate investment.

The provisions offer companies the option of using their broker to resell treasury shares in small lots through the market at the full market price. This option would provide an alternative to other approaches such as rights issues and placings of shares, which often involve significant underwriting costs. There would also be savings in not having to cancel shares and re-issue them at a later stage.
New Company Law for Guernsey
The Companies (Guernsey) Law, 2008

By Ian Kirk, Head of Collas Day Commercial

Present position
The new law was approved by the States of Guernsey on 30th January 2008. It comes into force on 1st July 2008.

Current legislation
The main legislation is the Companies (Guernsey) Law, 1994. This law was based primarily on the Companies (Guernsey) Law, 1908. Companies legislation has, however, not stood still since 1994 and there has been a considerable amount of legislation since that date which has offered new opportunities to attract business to the Island.

Examples include the creation of special types of companies such as the Protected Cell Company (Guernsey was the first to have this legislation) and the Incorporated Cell Company.

What does the new Company law do?
It consolidates existing company legislation and incorporates a number of further improvements to corporate law, which will benefit Guernsey’s competitiveness as an offshore financial centre.

What are the main Changes?

New types of companies
Two new types of company are introduced - “Unlimited” Companies (where the liability of the membership is unlimited) and “Mixed” Liability Companies (which can have shares, unlimited liability members and guarantee members).

The incorporation process for companies
The incorporation of companies ceases to be a judicial or court process. Currently, the consent of the Crown Officers, the Guernsey Financial Services Commission (GFSC) and court sanction are required before a company can be registered. The incorporation process will now be controlled by the new Company Registry discussed below.

Single member companies
Currently, a Guernsey company must have two registered members. This is reduced to one, recognising the fact that many companies are beneficially owned by one individual or company.

Standardised Articles of Association
Standard Articles of Association are prescribed which will be automatically adopted, unless otherwise indicated on incorporation.

Corporate capacity
Unless a company’s memorandum of association specifies otherwise, its objects are unrestricted. This should in future avoid any issues being raised as to whether a particular act or transaction is within a company’s powers.

Arrangements and reconstructions
The new law facilitates compromises and arrangements between a
company and its creditors (or any class of them) or its members (or any class of them). Subject to agreement of 75% majority of the creditors or members, the Royal Court may sanction the compromise or arrangement. This should assist in insolvency or possible insolvency situations. Currently, despite a proposal being supported, for example by the vast majority of creditors, a minority can block a proposal.

**Company takeovers**
Squeeze-out provisions will allow a proposed purchaser with 90% acceptances to compulsorily acquire the remaining shares.

**Directors’ liabilities**
It is not possible for a company to exempt a director to any extent from any liability for negligence, default, breach of duty or breach of trust, although the company in general meeting can ratify or approve an action which constitutes such.

This underlines the importance of directors obtaining appropriate directors’ and officers’ insurance in respect of potential liabilities.

**Directors’ interests**
The new law emphasises the need for a director to disclose his or her interest in any proposed transaction with the company. Earlier fears concerning a proposal to codify directors’ duties in the manner introduced into the UK Companies Act 2006 have not been realised.

**Dividends and distributions**
Currently, the repayment of share capital or the payment of dividends to shareholders are subject to complex rules, particularly the accounts from which payments can be made or profits distributed. The new regime does away with these rules. As a general principle, distributions can be made or paid provided that any requirements set out in the company’s memorandum and articles are fulfilled and the company satisfies a solvency test. The directors must issue a certificate stating that in their opinion the company will, immediately after the distribution, satisfy the solvency test and the grounds for that opinion.

A distribution made at a time when the company did not satisfy the solvency test can be recovered, subject to certain exceptions.

In addition, the directors may be personally liable to repay to the company amounts which are not recoverable from the members. The effect of these provisions will be a much more flexible regime both for repayment of capital and distributions to shareholders. However, the onus is on the board of directors to ensure that payment can properly be made.

**Solvency Test**
A new solvency test will be in place which will be applicable to a number of company actions including:
- migrations;
- amalgamations;
- making distributions (including dividends);
- financial assistance for the acquisition of own shares;
- certain payments connected with the acquisition of shares by a company; and
- redemptions.

Under the new provisions, a company satisfies the solvency test if:
- the company is able to pay its debts as they become due;
- the value of the company’s assets is greater than the value of its liabilities; and
- in the case of a supervised company, it satisfies the various requirements laid down in other applicable laws.

The new test adds certainty and consistency to the processes involved.

**Electronic communication**
The law permits documents to be sent electronically to shareholders by the company if such means of communication is agreed by the shareholders.

**Companies Registry**
In tandem with these developments in Guernsey’s company law, a new Companies Registry has been launched and is ready for operation on 1 July 2008. The new Registry will facilitate fast-track on-line registration and searches.

A new office of the Registrar of Companies been established who takes over the role currently undertaken by HM Greffier and his staff. His role will include advising the Commerce and Employment Department of the States of Guernsey on ways to promote and enhance the Register of Companies and the law relating to companies in order to encourage business growth in Guernsey.

A modern, flexible company law underpins Guernsey as both a finance centre and as an entrepreneurial jurisdiction. This progressive company law should enable Guernsey to attract further business.

Ian Kirk is the Head of Collas Day Commercial. Collas Day Corporate Finance Limited is a category 1 listing sponsor of the CISX. For further information, please contact Ian on +44(0) 1481 734207 or ian.kirk@collasday.com
REGISTERED CLOSED-ENDED INVESTMENT FUNDS

By Advocate Paul Christopher – Partner Advocate Andrew Walters – Senior Associate

Background

In 2007, the value of Guernsey’s funds under management and administration grew by £48 billion to reach a total of £178.2 billion. This represented an increase of 36.9% for the year. Nearly £28 billion of that growth was attributable to closed ended investment funds.

Despite having only been introduced in February of that year, 2007 saw a total of 82 closed ended funds established under the new “Registered Fund Regime” (“Registered Funds”).

Traditional Closed Ended Funds

The establishment of a closed ended fund in Guernsey (and the associated capital raising) requires the consent of the GFSC under the provisions of the Control of Borrowing (Bailiwick of Guernsey) Ordinance, 1959 to 1989, as amended (“COBO”). Traditionally, the consent application process has required the fund’s promoter to submit sufficiently detailed information to allow the GFSC to assess the suitability of that promoter, providing the GFSC has no objection to the identity of the promoter, a three stage application process follows for the purpose of obtaining COBO consent. This process typically takes between six and eight weeks.

Registered Fund Regime

Under the Registered Fund Regime, the GFSC has introduced an expedited process for obtaining consent. Providing the relevant documents and warranties are delivered, the GFSC will issue COBO consent within three working days of receipt of an application.

Unlike the Qualifying Investor Fund Regime introduced by the GFSC in 2006, Registered Funds are not restricted to certain types of investors, although such funds may not be promoted directly to members of the public in Guernsey. The new regime can be used for obtaining consent on behalf of companies (including protected and incorporated cell companies), limited partnerships and unit trusts. Furthermore, the GFSC has not imposed a minimum subscription level in respect of these funds.

Application

The standard closed-ended application fee is payable to the GFSC prior to the granting of consent for a Registered Fund. Furthermore, the documents to be submitted to the GFSC are, in the main, the same as those that would ordinarily be required under the traditional three stage process. An application under the expedited process is therefore unlikely to involve higher application costs or more paper work.

Prior to granting consent, the GFSC has traditionally relied upon its own assessment of the promoter and fund documentation to satisfy itself as to the quality of the parties and documents involved. However, under the new regime the GFSC relies on assurances provided and certified by the fund’s Guernsey-based administrator (the “Administrator”). These assurances are contained in the Form REG signed by the Administrator and submitted with the other fund documents. The Form REG contains warranties to the effect that:
(a) the Administrator has performed sufficient due diligence to be satisfied that the promoter and associated parties are fit and proper (honest, competent and solvent);
(b) effective procedures are in place to ensure that the fund is not offered directly by the issuer to the public within Guernsey. For the purpose of this regime, the public means any person not regulated under any of Guernsey’s financial services regulatory laws; and
(c) the fund’s status as a Registered Fund is specifically referred to in the offering document and such document makes clear that neither the GFSC nor the States of Guernsey Policy Council have reviewed the document and that neither takes any responsibility for the financial soundness of the fund nor for the correctness of any of the statements made or opinions expressed with regard to it.

Timetable

The GFSC will provide COBO consent within 3 business days of receiving a completed Registered Fund application. However, all warranties given to the GFSC in connection with the application must be based upon documentary evidence that can be produced immediately, if required. The relevant Administrator will therefore require sufficient time to undertake its due diligence on the promoter and the fund structure prior to submission of the application.

In the event that a related company is to conduct some form of regulated activity in or from the Bailiwick, it will be necessary to obtain the appropriate license under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 to 1998, as amended. This normally takes longer than the 3 business days required to obtain COBO consent. Having said that, this process is currently under review.

Future Developments

The introduction of the Registered Fund has further enhanced Guernsey’s reputation as a market leader in the field of closed-ended investment funds. The wide range of fund structures to which the regime applies, coupled with a three day regulatory turnaround period, has already generated significant interest in the investment fund world.

Open and closed ended funds are currently regulated under different legislative regimes. It is expected that an equivalent to the Registered Fund Regime will be introduced for open-ended funds shortly. Steps are also being taken to remove closed ended funds from the scope of COBO so as to harmonise the regulatory processes that apply to the two fund types. Such steps are unlikely to have any significant impact upon the end users of Guernsey-based investment funds.

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The Collective Investment Funds (Unregulated Funds) (Jersey) Order (the “Order”) came into force on the 19th of February and creates a new classification of fund which falls outside of the traditional collective investment funds regime and requires no pre-approval from the Island’s regulator: the Jersey Financial Services Commission (the “JFSC”). Just three months old, the Order has become the hot topic within the funds industry at the time of going to press and will, without doubt, provide a huge boost to Jersey’s funds industry.

The Order covers two types of fund, the “unregulated eligible investor fund” and the “unregulated exchange-traded fund”, both capable of being marketed to the public (subject to compliance with the provisions of the Order) but neither of which constitute a “collective investment fund” for the purposes of the Collective Investment Funds (Jersey) Law 1988, as amended (the “CIF Law”), meaning that the requirements of the CIF Law are disapplied.

As these funds are unregulated, the only filing requirement is to give notice (post launch) to the Jersey Registrar of Companies (the “Registrar”) of the establishment of the fund, confirming that the conditions for the type of unregulated fund have been met. The fund must put procedures in place to ensure that the conditions continue to be satisfied.

Simple to digest, easy to apply and, in many ways more flexible than funds established pursuant to either the JFSC’s Jersey Expert Fund Guide or Jersey Listed Fund Guide, the key qualifying features common to both unregulated eligible investor funds and unregulated exchange-traded funds are as follows:

- Jersey-based: the fund must be a Jersey company, a Jersey limited partnership or a unit trust;
- name: the fund must not have a name which is undesirable or misleading;
- no units in issue: the fund must not have issued units prior to the coming into force of the Order;
- functionaries, directors and officers: save in the case of limited partnerships (which must have a Jersey general partner) or unit trusts (which must have a Jersey trustee and manager), there is no requirement for the fund to appoint Jersey service providers, directors or other officers. However, in the event that a Jersey-based service provider is appointed, it must be regulated under the Financial Services (Jersey) Law 1998, as amended to carry on fund services business; and
- risk warning: the fund’s prospectus or listing particulars must contain a prominent warning in the language prescribed in the Order, to the effect that the fund is not regulated in Jersey, the JFSC has not approved the fund, the parties involved in the fund or the prospectus itself and has no ongoing responsibility to monitor the performance of the fund or its management or protect the interests of investors in the fund.

In addition to the above common key qualifying features, all investors in an unregulated eligible investor fund (which may be open-ended or closed-ended) must qualify as an ‘eligible investor’ and sign a declaration that they have received a risk warning in the prescribed form. Whereas, the units of an unregulated exchange-traded fund (restricted to closed-ended funds only) must be listed on one of the stock exchanges or markets “recognised” under the Order within 90 days of the notice of establishment of the fund being given to the Registrar.

There are a number of ways in which a person may qualify as an eligible investor, but a person who invests not less than USD 1,000,000 or the currency equivalent in an unregulated eligible investor fund will automatically qualify.

The Order contains a list of certain stock exchanges or markets which are “recognised” for its purposes, including the Channel Islands Stock Exchange (the “CISX”), the London Stock Exchange, the Irish Stock Exchange, the Deutsche Bourse, the Dutch and French Euronext exchanges, the Bourse de Luxembourg and the New York Stock Exchange. Significantly, the Order also recognises the Alternative Investment Market of the London Stock Exchange.

Jersey now provides a very competitive and user-friendly framework for the listing of Jersey funds where the investor-base has no need for a regulated entity. These factors, combined with the efficiency with which funds can be established and listed (particularly on the Channel Islands Stock Exchange), are expected to increase the desire for Jersey funds as listed vehicles, with the added bonus of containing the fees and time which may otherwise be expended on satisfying the normal regulatory requirements.

For further information on listing Jersey (or non-Jersey domiciled) funds, please contact Simon Pascoe at simon.pascoe@bedellgroup.com or Caroline Fitton at caroline.fitton@bedellgroup.com
With volatility in global stock markets likely to be a continuing problem for investors for the foreseeable future, Channel Islands-based structured product issuers are seeing a surge in demand for investment products that are less vulnerable to fluctuations in the value of individual stocks.
Recent years have seen a substantial increase in the number of structured product issuers domiciled in the Channel Islands. The issuers, which are spread between Jersey and Guernsey, are typically structured as closed ended corporate funds issuing preference shares listed on the CISX to UK based investors. The issuers have established programmes for the issue of structured preference shares, which are sponsored by leading investment banks including Citigroup, WestLB, Credit Suisse and Morgan Stanley amongst others, with major players entering the market on a regular basis.

Preference shares are issued in series and the performance of one series is not linked to or affected by the performance of any other series issued by the issuer. This is achieved through contractual ring fencing of the assets and liabilities in relation to each series, or by establishing the issuer as a protected cell company (in either Jersey or Guernsey) or an incorporated cell company (currently only available in Jersey).

Historically, offers of such preference shares were primarily targeted at UK resident investors acquiring the shares through ISA and PEP plans or, more recently, SIPS and SASS schemes. A listing on the CISX – a Recognised Stock Exchange for UK Inland Revenue purposes – makes the preference shares eligible to be included in the stocks and shares components of such schemes. As the popularity of equity structured products has grown, the target market has diversified and a number of issuers now also target high net worth investors, either exclusively or through targeted offers to the relevant market sector.

The return on a structured product is typically, although not exclusively, linked to the performance of a basket of shares or the performance of one or more global indices. This enables an investor in the product to obtain exposure to the performance of an entire index, basket of shares or basket of indices, at a much lower investment cost than would be the case if the investor attempted to assemble a portfolio of the constituent stocks. Although the majority of preference shares track the performance of indexes, the flexibility of the platform has seen products issued tracking the performance of a proprietary trading strategy or the performance of a basket of commodities.

Following issue of the shares the issuer invests the proceeds in a hedging investment designed to generate a return on the investment, often either a derivative contract or structured note. The issuer does not hedge its exposure by acquiring a direct interest in the shares or indices by reference to which the return on the shares is linked. This makes the issuer a cost effective vehicle through which to structure products, which would otherwise require complicated hedging arrangements or active portfolio management.

Structured products remain attractive to promoters in the current liquidity crisis, as they use capital markets and investment fund technology to access funding on attractive terms from non-institutional investors. The products also offer relative stability of funding lines, as they are subject to redemption in accordance with their terms or on maturity only and not at the option of holders. Investors are able to obtain exposure to a broad range of risk, diversified by market sector and geographical spread in a cost effective manner.

Changes in 2008 to Jersey’s fund regulation regime have quickly been adopted by structured products issuers and Mourant du Feu & Jeune recently structured the first unregulated exchange traded funds in Jersey. This level of innovation and regulatory flexibility has helped keep Channel Islands’ issuers at the forefront of the sector. With the outlook for global credit and equity markets remaining uncertain, we expect activity in the sector to remain strong for the medium term.
Cenkos Securities plc

Cenkos Securities is an independent, specialist institutional securities firm. Located in Tokenhouse Yard, in the heart of the City, our principal activities are corporate finance, corporate broking, institutional stockbroking, investment funds, institutional equities and market making. We also provide offshore brokerage services to institutional and high net worth private clients through Cenkos Channel Islands Limited, our Guernsey-based subsidiary.

Our directors and senior management have, on average, more than 25 years’ experience in the UK securities market. Their experience spans a broad range of sectors including property and leisure, technology and telecommunications, energy and utilities and mining.

Heather Bestwick
Walkers Capital Markets Limited

WCML established a presence in Jersey in June 2006, when Walkers merged with Crills, in order to better serve clients in the UK and Europe needing Jersey legal, administrative and listing services.

Lawyers in the Walkers Group have extensive experience of listing debt and equity issues on the Channel Islands Stock Exchange, AIM, the London Stock Exchange’s international market for smaller growing companies and the Cayman Islands Stock Exchange.

Walkers Jersey office provides advice across the full service spectrum of corporate and international finance, banking, asset finance, capital markets, structured finance, investment funds, commercial litigation, property, commercial and private trusts and private client. The office aims to offer the client service levels and expertise for which Walkers are known globally.

Heather Bestwick, Resident Cayman Partner, commented:

“Walkers decision to expand into Jersey was based on the needs of our clients, and our business has grown accordingly. Jersey continues to gain recognition as an important region for alternative investment funds with recent legislative and regulatory changes, fuelling Jersey’s reputation as a major European offshore financial centre.”
This special supplement of Bulletin Board commemorates the tenth anniversary of the Channel Islands Stock Exchange (CISX/Exchange) and provides a review of its business growth and insight into future plans.
The CISX has raised its profile internationally and occupies a significant position in the financial services sector of the Channel Islands, completing the range of services offered by financial services professionals and attracting new business to the Channel Islands.

During its formative years, the Founding Chairman, Harry Taylor CBE, provided unstinting support for which the Board, management and staff will always be grateful.

As the CISX celebrates its tenth anniversary, it is with both fondness and greatest respect that we thank Harry for all he has done to establish the CISX on such firm ground – operationally, financially and with international high regard.

The rapid growth of the Exchange and the growing demand for the Exchange’s services within the Channel Islands and beyond, confirms the regard that the CISX is held within the international financial community. Its trademark high standard of personal service, delivered efficiently and pragmatically, has attracted an ever-increasing number of international issuers. At the same time, the Exchange’s disclosure regime and credible track record has enabled the CISX to obtain recognition from regulatory authorities in some of the world’s leading economies.

The Market Authority understands the need for differentiation and innovation in a competitive marketplace and is well placed to meet the challenges of a demanding and diverse universe of product providers. The flexibility inherent within the CISX Listing Rules, coupled with the support of all the Members of the Exchange, with whom the Market Authority works in partnership, the Exchange’s Shareholders and the exceptional team at the CISX, have proved to be a successful formula with which to take the Exchange forward. The CISX will continue to build upon its foundation values and will aim to continue to provide an unrivalled service for its Members and their valued clients.
Differentiation

The CISX is a stock exchange with a difference – it offers a professional and personalised service with flexibility and responsibility. Its key features, including consistency of response, swift turnaround of documentation, competitive costs and approachability of the Market Authority (who meet daily to approve listing applications), set it apart. Its differentiating features have made the CISX the Exchange of choice for a growing number of international issuers. Ease of listing is a particular feature experienced by issuers, who have welcomed the Market Authority’s pragmatic approach to disclosure requirements.

International Recognition

The CISX continues to attract international recognition as demonstrated by the designation of the CISX by the US Securities and Exchange as a Designated Offshore Securities Market under Regulation S of the Securities Act 1933, the designation by the UK Financial Services Authority of the CISX as a Designated Investment Exchange under the Financial Services Markets Act 2000 and recognition by HM Revenue and Customs under Section 841 of the Income and Corporation Taxes Act 1988.

In 2003, the CISX became an Affiliate Member of the International Organisation of Securities Commissions (IOSCO), whose organisational aims include the setting and promotion of high standards of market practice. Membership of IOSCO is an important development and is a further endorsement of the Exchange’s reputation as a stock exchange that operates within a regulatory structure of internationally accepted modern standards.

The Market Authority has been proactive in promoting its facilities and the advantages of the Channel Islands, attracting world-wide coverage with every milestone achieved and raising the profile of the Channel Islands in the process.

An important factor for quality issuers in choosing on which exchange to list their securities is the regulatory environment of the jurisdiction in which it operates. In this regard, the CISX is fortunate to have the support of the regulatory authorities in both Jersey and Guernsey.

The Channel Islands are in the premier league of financial centres and continue to demonstrate their commitment to the highest of regulatory standards.
The Market Authority has approved over 2700 securities as at 30 June 2008, with the securities on the Official List having a market capitalisation in excess of US$50 billion (excluding capital markets products).

Of the securities listed, the majority are on a primary basis. These securities include a wide variety of legal structures including protected cell companies and limited partnerships. An interesting statistic is that over half of the securities on the Official List are domiciled outside the Channel Islands, further demonstrating the international profile of the Exchange.

Over the years there has been a general shift in the types of securities admitted to the CISX Official List from that of predominantly investment funds to that of structured products and specialist debt securities. This is a trend that is likely to continue into the future.

There are a number of factors, which can be attributed to the rapid growth and renewed interest in the Exchange. The first is the achievement of international recognition. The second factor is the impact of various EU Directives and the ability of the CISX to provide a useful alternative to EU exchanges within the same time zone.

The CISX is widely used for the listing of a range of alternative fund structures, including property and hedge as well as private equity funds. In addition, it has also established a specialisation in truly alternative funds that invest in a broad range of assets; the CISX already lists the first wine fund, two art funds, agricultural fund and forestry and tree funds.

Long before the recent boom that has made private equity investment recognised around the world, the Channel Islands Stock Exchange had been a pioneer in the field as one of the first stock exchanges in Europe to allow the listing of interests in limited partnerships. Today the CISX has a number of these listings, particularly from the Scandinavian region, where this type of structure has been used by pension funds to invest in asset classes such as property and for mezzanine financing.

With regard to the private equity sector, CISX has developed a significant role in providing a tax-efficient means for raising debt for the UK private equity market. Over the past four years, issuers in England and Wales have been responsible for more than GBP30bn in debt listings on the CISX.

As well as the CISX, various other stock exchanges within the European Union are recognised for the purposes of the exemption. However, because the Channel Islands are not members of the EU, issuers are not subject to a wide range of European legislation including the Prospectus Directive and the Transparency Directive. This means, for example, that there is no requirement to prepare accounts according to International Financial Reporting Standards, with all the additional costs and complexity that entails; the exchange offers issuers the flexibility to use US or UK GAAP instead. It is this freedom from some of the constraints imposed by EU Directives, plus flexibility in other areas, such as continuing obligations, and the speed and efficiency that gives the CISX a clear advantage.

One of the key reasons for the Exchange’s rapid growth is its flexible and pragmatic approach. In its approach to listing services, the Market Authority has demonstrated its willingness to list innovative structures, including limited partnership interests, master feeder funds, structured products and acquisition vehicles.

The CISX enjoys a niche market in the listing of structured funds and property funds and is looking to capitalise on its position to attract further such listings in the light of developments in this sector within the UK, particularly property limited partnerships and UK REITS.
Trading

The CISX is one of the few offshore stock exchanges to have created a local market and have active trading. All trading activity is free from VAT and Stamp Duty. The CISX market continues to develop, with trading volumes and turnover steadily increasing.

The Exchange offers a full listing and trading facility for commercial trading companies and closed-ended investment companies, with market makers and an order book facility. Transactions have the advantage of full CREST settlement. In March 2005, the Exchange extended the trading facilities to open-ended investment companies. Shares that are partly paid shares may also be traded, which it is believed will be of particular interest to the private equity sector.

Trading is conducted every weekday (Monday to Friday) excluding public holidays and any other day determined, from time to time, by the Board. Trading takes place on a continuous basis during normal trading hours of 9.00am to 4.30pm. Orders and quotations may be added, deleted or amended on the trading system by Trading Members prior to normal trading ours between 8.00am and 9.00am.

When the International Monetary Fund (IMF) carried out its assessment of the Channel Islands’ regulatory regime in 2003, it carried out a separate assessment of the CISX. The IMF assessors established that the CISX did not simply provide a mechanism for listing securities and noted that a proper trading facility also existed. Their assessment was favourable in the key aspects of their evaluation.

Enhanced Marketability and Visibility

The CISX offers added value in marketing both the services of its Members and that of the securities listed on the Exchange through its web-site www.cisx.com. This service is in addition to the market data and prices distributed world wide through the CISX’s Reuters pages <CISXINDEX>.
CISX Website
www.cisx.com

Flagship of the Market Authority’s promotional efforts

In June 2004, the Board announced the launch of the Exchange’s redesigned website. Since that time periodic updates ensure a continuously refreshed look with increased relevant content and functionality.

Recently introduced features include the publication of news on CISX Listed securities and the ability to search for market data, as follows:

- Market News Page, which publishes, in real time, corporate actions - both news headlines and detailed announcements;
- Listed Securities Page, through which searches can be made for information on listed companies by a variety of filters such as security type, date of listing, domicile, etc;
- Closing Prices, for all CISX-Traded shares, with hyper-links selected by the Issuer;
- Net Asset Values, for CISX Listed Investment Companies (open and closed-ended), utilising the Exchange’s Market Data Management System.

The enhanced services of the CISX website will ensure that the Exchange delivers timely market news to a wider audience. Its technical design has created a dynamic site and offers greater flexibility to the Exchange to respond to future developments.

The following product specific listing guides are available on-line, www.cisx.com.
Challenges and Opportunities

Ensuring the delivery of high standards, consistency and personalised service requires proactive management of resources, both personnel and technology. There is also the ongoing work required to keep abreast of developments both locally and internationally on legislative changes affecting business generally and stock exchanges specifically, on regulatory changes and on trends and product development.

Service First

One of the unique selling points of the Exchange is delivering a professional and personal service. It is a feature that the Market Authority of the Exchange has to manage carefully as business grows - and growing it is, with over 750 securities admitted to the CISX Official List in 2007 alone. The CISX is also cost effective, offering an opportunity for those international businesses already attracted to the Channel Islands to take advantage of a personalised approach and fast track processing of applications within a highly regulated and innovative marketplace.

Business relationships are all-important to the Exchange and international issuers may depend on an individual, focused service - an approach that is in keeping with the way business is done in the Channel Islands. The Market Authority is always willing to take the time to meet and talk to people and is flexible in meeting demands. It is willing to work with each issuer to see how their product structure might fit into the Exchange’s Listing Rules and, then, how the Exchange might bring added value to the listing. It is an approach that will be maintained no matter how big the Exchange grows.

The Market Authority is fully committed to providing even higher standards of service in the future.

Flexibility With Responsibility

Being outside the EU is viewed as a distinct advantage, as is having an independent Market Authority that can exercise discretion and take a more commercial and pragmatic approach to the application of disclosure requirements. To clarify the position, EU Directives do not apply to the CISX. The CISX is not a EU regulated market for the purpose of the Prospectus Directive, for example. This status provides for maximum flexibility under the CISX Listing Rules.

Maintaining flexibility, whilst upholding international standards, is high on the Market Authority’s agenda. It is committed to reviewing the CISX Listings Rules on an ongoing basis and, as in the past, carrying out market research in conjunction with its Members. Recent themes have included reviewing such matters as accounting standards, corporate governance issues and market transparency.

Public Relations and Corporate Communications

Effective communication with Members, shareholders, issuers, international regulatory authorities, and government agencies is part of the work of the office of the Chief Executive.
The CISX is a relatively unique institution within the Channel Islands, as it represents practitioners in both the Islands of Jersey and Guernsey. The Market Authority is therefore engaged in ensuring it plays its part in creating business opportunities in both the finance centres of Jersey and Guernsey.

It is the Market Authority’s view that the Islands’ competitive posture with respect to other international finance centres has never been better. The Market Authority will continue to work closely with the two Jersey promotional agencies, regulatory authorities and Chambers of Commerce to get the Exchange’s key messages across and to assist in the process of promoting the Islands as premier, international finance centres.

Innovation

The Exchange itself is innovative on many levels, from its structure (a hybrid company that has Members and Shareholders), its membership structure (listing agents are actually Members of the Exchange), to the fact that the Market Authority meets daily to approve listings.

A reputation for embracing innovative products and creating market firsts has stood the Exchange well in the international financial community. As mentioned earlier, the CISX was one of the first Exchanges in the European time zone to introduce the listing of limited partnership interests, the trading of partly paid shares and the traded open-ended fund (OEIC).

The Market Authority will continue to embrace pioneering ideas. It is currently developing its plans for the introduction of a centralised settlement system for its traded OEICs, similar to the service provided for other CISX-traded securities.

Market Data Management System (MDMS)

Accuracy and timeliness of information is essential to an Exchange’s reputation and that can only be improved by the enhanced utilisation of technology.

The MDMS is a vital part of the Exchange’s plans to expand and enhance its services. The MDMS provides benefits to all parties – to the marketplace and investors (timely information flow), to the Issuer and the Listing Member (visibility, control of information and compliance with the Listing Rules) and to the Exchange itself.

Trading Facility

It seems fitting to conclude this review of future challenges and opportunities by citing the plans for the further development of the Exchange’s trading platform.

The Market Authority was very pleased to announce that its Trading Facility had been integrated into the Market Data Management System, with effect from 26 November 2007. Market Data from the Trading Facility continues to be displayed on Reuters; however, closing prices are available on the CISX website (see Market Data pages) as are news announcements and a range of other market data.

The Exchange's enhanced Trading Facility provides the Market Authority with the framework it needs to attract further Trading Members. It is hoped that this will in turn create a more active market, with increased liquidity and ultimately the creation of its own Index.
CISX Members

The ongoing success of the CISX is directly attributable to its Members. It is the CISX Members who provide the client network, the innovative product structure and first-class services, which in turn attract international businesses to the Islands.

Nine new Members of the Exchange were approved in 2007, bringing the total number of Members to 52, as at 31 March 2008. By comparison, the Founder Members of the Exchange totalled 24. The growing number of Members is very gratifying and demonstrates that the business model upon which the Exchange was based is as relevant today as it was at inception.

Increasingly, Channel Islands’ organisations that have joined as a Category 2 Member, specialising in the sponsoring of investment fund listings, have expanded their businesses to include the sponsoring of other types of securities on behalf of their clients, thus changing their status to a Category 1 Member. This illustrates how effective the CISX has been in broadening the scope of corporate activity for its Members and how their respective businesses have benefited from membership of the CISX.

Member Services

The Market Authority works in partnership with its Members. The facilities of the CISX are a natural adjunct to the services that its Members provide. The CISX provides a professional and knowledgeable team to offer advice and guidance on the Listing Rules and is always willing to meet issuers and their professional advisers.

The list below offers a brief summary of the Exchange’s services to its Listing Members:

- Ongoing guidance and advice on the application of the Listing Rules
- Consultation on Listing Rules development
- Dedicated CISX website page for Members
- CISX marketing and promotional services
- Client briefings and meetings
- Use of Exchange facilities
- Dedicated Member Workshops and Briefings
- Newsletter (Executive Fact File)
Exchange Milestones

01 July 2008    First dividend payment to CISX shareholders
17 March 2008   10th Anniversary of the Company’s formation
24 August 2007  Market Authority approves 50th Member
30 June 2007    CISX Warrants fully subscribed raising £0.5million
18 May 2007     Announcement of Exchange’s 2000th Listing
11 October 2005 Announcement of Exchange’s 1000th Listing
01 February 2004 UK FSA grants CISX Designated Investment Exchange status within the meaning of the Financial Services and Markets Act 2000
14 October 2003 CISX approved as an Affiliate Member of IOSCO
19 December 2002 UK HMRC confirms the CISX as a Recognised Stock Exchange under Section 841 ICTA
07 September 2002 US SEC designates the CISX as a Designated Offshore Securities Market under Regulation S.
02 April 2001    Total number of securities admitted to Official List tops 200
01 July 2000     CISX officially recognised by the Australian Stock Exchange
01 July 2000     CISX share offer raises £1.5million
28 October 1998 CISX Launch
Never settle for the ordinary

Offering highly personalised exchange services, with a pragmatic approach & swift, expert response.

DISCOVER THE DIFFERENCE

Concept by Emma Ferbrache