The Future is Bright for Jersey Funds

Despite current challenges facing funds generally, the Jersey funds industry remains resilient, with a positive outlook for the near and long term future.


Simon Hopwood and Stephanie Edge
Maples and Calder

Jersey's total funds business is up 18.7 percent year on year, with total net assets standing at US$411.1 billion. Alternative investments funds (AIFs) including private equity, hedge and real estate funds represent over 70 percent of all Jersey funds. The number of Jersey-based fund promoters has nearly doubled in the last five years. There has also been a 14 percent annual increase in fund managers seeking authorisation in Jersey to market their funds within the EU.

This article looks at what has contributed to the growth in Jersey's funds business and why Jersey vehicles remain attractive for property funds.

Jersey Private Funds – One year on

The Jersey Financial Services Commission (JFSC) launched the Jersey private fund (JPF) regime on 18 April 2017, with the release of the Jersey Private Fund Guide, detailing the JPF's eligibility criteria.

The JPF has simplified Jersey's private funds space by consolidating and replacing various historic fund classifications with a single Jersey private fund product. As a result, the JPF is a more streamlined and flexible regime, with a light regulatory touch for certain professional or eligible investors (including those investing at least £250,000 (or equivalent)), who acknowledge an investment warning.

A fast-track 48-hour authorisation process applies to JPFs, which now features an online application facility. A Jersey designated service provider must confirm in the application that the JPF meets, and annually that it continues to meet, the eligibility criteria.

The JPF is essentially an investment fund pooling capital raised by it from 50 or fewer investors and invests on the basis of risk spreading. It can be structured as open or closed-ended, Jersey or non-Jersey domiciled fund and using any type of vehicle. In addition, there is no need for the promoter to be approved by the JFSC nor an auditor appointed.

As at 30 June 2018, the JFSC has granted authorisations to 128 JPFs. This high volume uptake is indicative of Jersey's innovative approach to supporting institutional and professional investors and the success of this product is set to continue, particularly for AIFs.

Jersey offers continuity in light of Brexit

With the Brexit deadline of 29 March 2019 fast approaching and a 'hard Brexit' looking a possibility, the funds industry is facing an important and challenging time analysing the potential impact that Brexit will have. In the short-to-medium term, it is unclear whether the UK will be able to agree arrangements that will enable the existing regime for UK managers to continue.

Regardless of the impact of Brexit, Jersey AIFs can be successfully marketed to EU investors without being subject to the full scope of the Alternative Investment Fund Managers EU Directive, by using the National Private Placement Regime (NPPR). This has for some time provided a route for non-EU or EU-based managers to market selectively to investors in certain EU member states, and this will continue to be the case after Brexit.

Jersey, therefore, is very well positioned to maintain its supportive role in assisting non-EU or EU-based managers to market funds to EU investors.

Overcoming the challenges facing Real Estate

In the 2017 Autumn Budget, the UK Government announced extending capital gains tax (CGT) to non-UK residents directly or indirectly owning UK property and published on 7 November 2018 detailed provisions as part of the Finance (No.3) Bill 2018.

From 6 April 2019, non-UK residents will be subject to CGT on gains arising from a sale of directly owned UK property or a substantial indirect interest (at least 25 percent) in a 'property-rich' company (at least 75 percent of gross asset value derived from UK property), with market value rebasing as at 5 April 2019.

Importantly, a non-UK resident collective investment vehicle (CIVs) may, if meeting certain criteria, elect for 'transparency' or 'exemption' from CGT, with CGT arising at investor level rather than CIV level, thus avoiding double taxation.

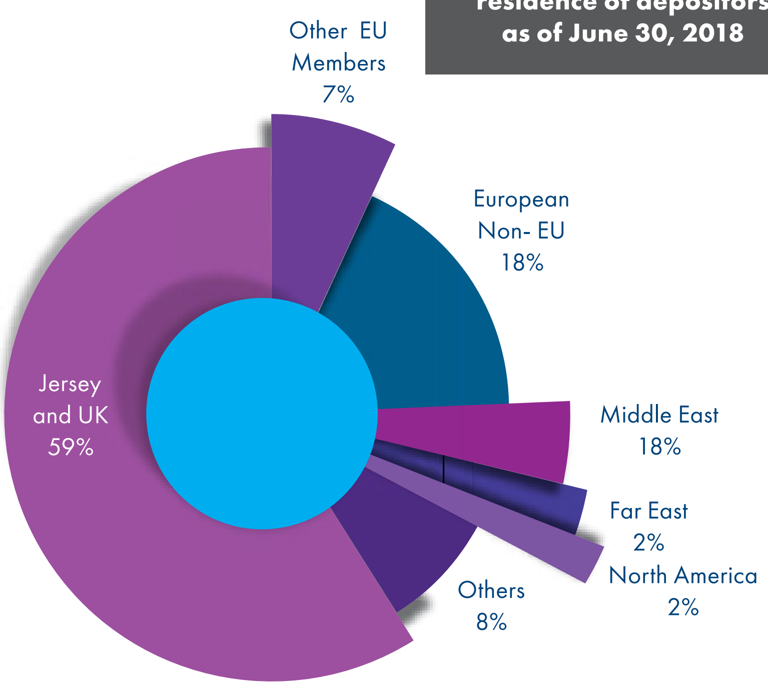
A CIV, which is income tax transparent and UK property-rich, may elect 'only once' to be treated as transparent for CGT, within 12 months from 6 April 2019 or, for a new CIV, from the property purchase date. Investors are responsible for filing tax returns and paying any CGT.

A widely-held CIV (i.e. with more than five investors, unless institutions) may elect for itself and entities within its structure, to be treated as exempt from CGT. A fund manager is responsible for annual filings with investors paying any CGT.

The 'elective' regimes are positive news for Jersey property funds and investment structures. Jersey vehicles should remain attractive for property investment, particularly unit trusts.

The future of Jersey's funds industry is bright, with continued growth of Jersey's funds business being contributed to by the uptake of the JPF product, Jersey offering EU or non-EU managers a viable route to market funds in the EU, and Jersey remaining attractive for property funds despite the extension of CGT to non-UK resident investors.

Banking Deposits by residence of depositors as of June 30, 2018



Source: Jersey Finance