



## Industry Professionals serving as non-executive directors to Alternative Funds

In this edition of IPAF's newsletter, Gary Clark tells us that there is more to Jersey than cows, potatoes and Bergerac.



I've been in Jersey for 29 years, which I hasten to add is more than half my life! During this time much has changed – not just life on the island, but Jersey as a business and fund jurisdiction has also continued to evolve. In the 1970s and 1980s Jersey's Fund industry had developed into a mature institutionally-managed retail funds jurisdiction, but since then the inexorable pressure from UCITs funds has been a strong catalyst for change. The industry has been forced to evolve to the current day where it has diversified its product offering across a variety of traditional and alternative asset classes, using a wide range of legal structures and fund products.

### **A regulator with teeth committed to international cooperation**

Jersey has a committed government and a strong but pragmatic and approachable regulator who together are committed to the very highest standards of corporate governance, professionalism and transparency. The Regulator has prioritised AML and CFT (Combating the Financing of Terrorism) for a very significant period of time and this has been actively enforced through the courts and through regulatory inspections. There have been criminal prosecutions of local practitioners for AML issues and some notable examples of successful international cooperation on high profile cases. Perhaps the highest profile case was of the late General Sani Abacha, where the island's cooperation enabled very significant assets that had been misappropriated by the General to be returned to Nigeria.

### **Proper NEDs, not nodding NEDs**

Within the island, practitioners would believe with justification that they are the very top end in terms of living and breathing a strong compliance culture around corporate governance. As an NED, I am directly regulated and hold a class G licence; the JFSC have visited me this year to discuss workload, insurance, industry issues, look at CPD and so on. If the JFSC were to feel that there were material deficiencies in these areas they could seriously curtail my activities as an NED.

### **Ahead of the game**

Jersey has consistently positioned itself at the high end of regulation, international co-operation and transparency and that is now proving to be a positive thing. Jersey was perhaps the best positioned of the International Financial Centres (IFC) to meet the challenges of AIFMD, tax transparency (US FATCA, UK FATCA and the Common Reporting Standard) and Base Erosion and Profit Sharing (BEPS), because culturally these initiatives are far from alien.

### Getting a passport?

ESMA has recently recommended to the European Parliament that Jersey should be part of the next wave of non EU countries whose managers can apply for a full AIFMD passport. Up until now, Jersey managers have marketed to EU investors using the private placement scheme. If ESMA's recommendations come into practice, managers based in Jersey will be able to choose what suits their fund and marketing strategy.

### Putting boots on the ground

The funds industry is underpinned by strong substance. This is enabled by the ability to bring businesses and their key employees to the island, allowing them to settle here. The amount of real fund management activity, driven by increasing substance from existing players and new players moving to the island to perform real investment management is a growing trend in both the hedge fund and PE communities. I have been personally involved in two situations where AIFMD has driven a beefing-up of substance around risk management functions to ensure that the local AIFM meets the requirements of the Directive. One instance relates to a self-managed listed fund and the other relates to an institutionally-managed retail fund range.

### Surrey on sea

Along with others, I have been active in persuading FMs to move to the island and it's really gratifying to see how their positive experiences have attracted similar businesses to the island. There is now a real and growing alternatives community. It isn't always an easy option for certain businesses, but it can be a very positive move and the Jersey authorities are keen to assist through organizations like Jersey Finance and Locate Jersey.

### Future challenges

There are clouds on the horizon, but then there always have been. And there is of course huge competition between the various international financial centres. Fair competition is good, and Jersey has always adapted and evolved to meet and often benefit from change. Often the criticisms we face (especially fiscally related) aren't always fair or balanced; however, if Jersey does receive the AIFMD passport, I expect the fund management industry to continue to flourish and grow.

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### About Gary Clark

Gary Clark is a Chartered Accountant and specialises in fund administration and valuation. He qualified as an accountant with Deloitte Haskins & Sells in 1989, having previously gained a BEng (Hons) from Nottingham University in Mining Engineering. He has over 20 years' experience of hedge fund administrative services, initially at the futures broker GNI Ltd (part of the Gerrard Group), where he became Managing Director of GNI Channel Islands. Gary established AIB Fund Administrators in Jersey, a specialist hedge fund administrator, which was subsequently acquired by Mourant and then by State Street. Gary was Managing Director and Head of Hedge Fund Services at State Street in the Channel Islands until he left in 2011 to focus on independent non-executive board appointments for hedge funds and other alternative asset classes. Gary served as Chairman of the Jersey Funds Association from 2004-2007 and was one of the practitioners most closely involved with opening up Jersey to hedge funds, including the introduction of both the Expert and Unregulated Fund regimes.

### About IPAF

IPAF provides Industry Professionals - independent, knowledgeable and experienced people - as non-executive directors to Alternative Funds. IPAF is run from London with a panel of 16 directors across 9 jurisdictions: Cayman, Luxembourg, Ireland, Switzerland, the Channel Islands, Malta, Bermuda, Barbados and the UK. All the IPAF directors are independent of each other and no additional fee is charged by IPAF to a fund that selects a member of its panel: the fund only pays the director's fees. For more information please telephone 0207 340 6316 or email [info@ipafgroup.com](mailto:info@ipafgroup.com).

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