



Guernsey, Dubai and Shariah-Compliant Fund Administration

Kevin Gilligan, Director of Louvre Fund Management Limited

Guernsey – a successful and stable infrastructure

The reasons for the success of the Guernsey fund industry are straightforward and firmly grounded in the close interaction, dialogue and co-operation between the Guernsey Financial Services Commission (GFSC), the legislature and the fund industry itself. To date, this co-operation has been spectacular, resulting in yet another year of record growth to £178.2bn of funds under management and administration - a year on year increase of 36.9%.

The co-operation has been spectacular, resulting in yet another year of record growth to £178.2bn of funds under management

Benefiting from forward-thinking legislation

The PCC, the ICC and the fast-track registered fund regime for closed-ended funds, have all paved the way to this success because they have provided the mechanisms for and kept pace with, or even one step ahead of, the requirements of fund promoters and therefore their ability to attract investors.

This pace shows no signs of slowing, because already in the pipeline for 2008 is a fast track registration process for open-ended funds



Kevin Gilligan

allowing them to be constituted as a company, unit trust, limited partnership or the increasingly popular PCC.

Furthermore, a new company law has just entered the statutes that will modernise the existing legislation and serve to reassure promoters and investors alike. Added to this, later in the year Guernsey will introduce a computerised company registry that will allow for the incorporation of a Guernsey company within hours and at a greatly reduced cost.

Regulatory support

Wrapped around this infrastructure – and making all this possible – is the support the fund industry

receives from its regulator (the GFSC) and the constructive manner with which the authorities have managed to relax the rules and regulations whilst crucially maintaining their robustness and efficacy.

Shariah-compliant funds and Guernsey

Taken together, what this provides is an excellent and very stable platform from which a promoter can launch a highly specialised fund, as well as a first class environment into which a promoter can confidently place such a fund for management and administration.

Without doubt Shariah-compliant funds are structures requiring the legal, management and administration skills of professionals who know and understand the limitations and requirements of Islamic investment and Islamic investors.

For example, the legal work to establish the fund is crucial to ensure the underlying structure complies with Islamic-based restrictions and laws. An example is the offer document which should clearly emphasise the prohibitions of investment classes. These include but are not limited to – investing in companies involved with gambling, weapons, alcohol and pornography or finance houses making a substantial amount of their profit from commercial interest.

Professional and knowledgeable administration

Once established there are strict administrative duties that include

working closely with the duly appointed Shariah supervisory board (it will oversee the suitability of investments and contracts) as well as maintaining an investment transparency in the reporting to investors, so that they too can be reassured that the fund as a whole remains Shariah-compliant.

Historically, Shariah-compliant funds have tended to be targeted towards property but, as the processes of establishing and administering Shariah-compliant funds become better understood – for example, obtaining the necessary consents from the religious scholars – so innovation is beginning to appear.

In reality, this expansion is also driven by the potential size of the market, but there does seem to be an increasing appetite among investors to move away from traditionally compliant investment products and for promoters to try and find ways of being more innovative with, for example, hedge funds, venture capital funds and equity-based investment funds.

The legal work is crucial to ensure the underlying structure complies with Islamic-based restrictions and laws

Guernsey and Dubai

Dubai is strategically placed to act as a conduit for the two way flow of investment between the East and the West and, in particular, the flow of monies from the booming economies of the Middle East and the investment (or even the re-investment) into the region.

Funds are crucial to this investment flow and the Dubai authorities have not only focused on the establishment of local funds to facilitate

this but, importantly, have also facilitated the entry of foreign-based investment funds, managers and administrators into the region. These activities are regulated by the Dubai Financial Services Authority ('DFSA') within the Dubai International Finance Centre ('DIFC') and the regulations allow 100% foreign ownership of companies established in Dubai.

This, together with a top quality regulatory environment and a modern technological infrastructure, has created the confidence for companies such as Louvre Fund Management Limited to establish their own bridgeheads in Dubai to serve the needs of their clients. Louvre Fund Advisors (Middle East) Limited is regulated by the DFSA and has been established to enhance the range of fund administration services already provided in Guernsey.

Synergies

The synergies are clear – on one side, fund promoters outside Dubai are keen to create investment funds to invest into Dubai and the surrounding region. A tax efficient jurisdiction such as Guernsey is an obvious place to locate the management and administration of these funds and the funds will want to be Shariah-compliant to attract Middle East investors as well.

On the other hand, fund promoters within Dubai will be looking for locations and legislation outside Dubai to structure attractive funds which may well be marketed and administered with local investors from within Dubai, but will also want to be able to reassure other western investors as well.

This synergy is clearly highlighted by Louvre Fund Management Limited which is currently establishing a Shariah-compliant, Guernsey Protected Cell Company for a Dubai-based client. The marketing, promotion, management and administration of such a structure will be provided by a combination of Guernsey and Dubai-based licensed firms.

It is clear that in recent years the hard work has been done and many hurdles cleared to enable the establishment of Shariah-compliant investment structures. Going forward, the creation of Shariah-compliant structures should be easier. Given the potential size of the market, the thriving economies and infrastructures going into Dubai and the Middle-East, coupled with the expertise, experience and support available in Guernsey, the immediate success of both fund industries seems assured. ■

Biography

Kevin Gilligan is a Director of Louvre Fund Management Limited and responsible for the day to day operation of the company and its clients. Kevin joined the Louvre Group 6 years ago bringing with him asset management expertise. He has been instrumental in the establishment and ongoing development of the fund administration business.

The Louvre Group

Established in Guernsey in 1976 the Louvre group has grown into a successful, privately owned international operation offering confidential, personal and professional offshore and onshore services to both private and corporate clients. The Louvre Group has developed into a strong multi-disciplinary professional business with its head office in Guernsey and other branches in London, Geneva, Liechtenstein, Dubai and Hong Kong. It also has associate offices in the British Virgin Islands, as well as affiliates in many other countries.

The Louvre Group provides clients with a diversified range of services with tailored solutions for their wealth and business management needs using structured financial arrangements and products, and the use of both onshore and offshore entities.