All Photos: Chris George

JERSEY'S ROUNDTABLE 2016

PARTICIPANTS

Chairman: John Willman, former UK Business Editor of the Financial Times.
Geoff Cook: Chief Executive of Jersey Finance.
John Harris: Director General of the Jersey Financial Services Commission (JFSC).
Ian Crosby: President of the Jersey Association of Trust Companies (JATCo) and Managing Director of Stonehage Fleming Trust Holdings (Jersey) Limited.
Ben Robins: Chairman of the Jersey Funds Association (JFA) and Partner of Mourant Ozannes.
Paul Declat: President of the Jersey Bankers Association (JBA) and Director of Offshore Personal Banking for Barclays in Jersey.
Louise Bracken-Smith: Managing Director of Fairway Group.
Zillah Howard: Partner of Bedell.

Below: (left to right) Ian Crosby, Zillah Howard, Paul Declat, Geoff Cook, Louise Bracken-Smith, Ben Robins, John Harris and John Willman.

John Willman: The global economy is still being buffeted by a variety of crosswinds and the flow of legislation on international financial regulation continues. So I'd like to start by asking each of you how Jersey's financial services industry fared in 2015?

Geoff Cook: I think that 2015 was actually a very strong year for Jersey. The growth that we started to see in 2013 after the long slowdown following the financial crisis has continued to gather pace. We've seen good growth in employment, which reflects increasing business confidence and an improving market environment, with particularly strong growth among fiduciary services providers and in corporate areas – trust funds, private clients, company formation and the like.

And banking is finally emerging from some very challenging times. There's been a kind of reset which involved dealing with a host of major international regulatory challenges, as well as with measures such as the ring-fencing for UK banks. The local industry has been gently slimming down and although this has not been dramatic, I would say that Jersey has benefitted from being a go-to centre for some big names consolidating their international operations.

We continued to burnish our brand in reputational terms, with two more evidence-based advocacy reports – one on Jersey's Value to Africa and the other on the role of international financial centres in facilitating foreign direct investment around the world. I think these reports have a positive impact on those who influence policy and regulation, such as international fora and global regulators. And our leadership role on transparency on reporting standards and beneficial ownership has been recognised by UK policymakers and the OECD.

John Harris: I agree that 2015 was a good year for the Island. The international regulatory environment continues to be complex, dense and demanding and I don't really see any particular let-up in that any time soon. Every time that you think there is going to be a regulatory pause, something else happens. A very good example is the way in which UK regulators have been looking to raise the accountability of people who run complex financial institutions with the new covered persons regime.

I've often described us as price-takers. We're not price-setters who initiate regulation that can be applied anywhere else. We are required to look at what regulation has arisen elsewhere and to adapt it to Jersey's circumstances in ways that are seen to match international standards without hobbling firms operating on the Island. That was true in 2015 and it will be true again in 2016 and beyond.

Ian Crosby: Operating in the fiduciary sector, I agree with Geoff that 2015 was a really good year. We've put a bit of blue water between ourselves and other centres, becoming a clear jurisdiction of choice. We're seen as innovative, safe and reputable, which is a great credit to our regulators who have led us towards that success. It has forced some change on us all to become far more multi-disciplinary than we used to be but we had to make those changes. Our sector is growing very nicely.

Ben Robins: Funds were certainly very busy in 2015, the busiest since before the financial crisis. Employment levels have risen and we have had to work hard to find the staff we need. Jersey funds are investing all around the world, attracting investors from the US and sovereign wealth funds as well as the UK and the rest of Europe. And our ability to market into Europe under the Alternative Investment Fund Managers Directive [AIFMD] is developing well, while preserving our freedom to operate outside the European Union.

Louise Bracken-Smith: I think there's a mood of optimism in the finance industry – certainly in funds, trusts and pensions. We have faced challenges in the last year, in particular from developments in UK legislation

in areas such as the treatment of non-domiciled individuals and the annual tax on enclosed dwellings (ATED). But interestingly, these have created more work as clients have restructured. We have tripled our size as a firm over the last three years and I think Jersey is well-placed to adapt and tailor its offering.

One example of that is pensions, where a working party on which we are represented has shown how the Government and industry can work together. The modernisation of income tax law has helped reposition Jersey in the international and multi-jurisdictional pension scheme market.

Paul Declat: The commercial agenda is challenging for the banking sector, with continuing low interest rates and the UK's ring-fencing regulations likely to impact on the upstreaming of funds gathered in Jersey. But we got through 2015 in better shape than many thought at the start of the year and we're all looking to diversify our income streams. I'd add to the challenges the technological revolution facing all banks industry-wide, which is fundamentally changing how clients engage with us. But of course that too can be an opportunity as well as a challenge – it's a full agenda.

Most of the banking groups have carried out fairly objective and dispassionate reviews of the centres they operate from and they've all said that Jersey is absolutely the place they need to be. Its reputation is one that enhances our brand.

Zillah Howard: In the private client sector, we work in an environment of increasing globalisation and sharpening competition, so we will never be lacking in challenges. But Jersey has a lot of very positive and strong factors to attract those clients who are increasingly our typical clients – people looking for robust structures of substance. And it is easier as a small jurisdiction to be nimble in shaping and modifying our legislation in an appropriate and measured way as we did quite recently on trust law in relation to mistake and Hastings/Bass relief.

John Willman: How does the panel think that Jersey is now seen by its international critics?

Geoff Cook: We saw two big breakthroughs in 2015, both in speeches by European policymakers. Pascal Saint-Amans, Head of OECD tax policy, described Jersey at our Private Client Conference in May as 'one of the best and first' in shaping the international tax agenda. And then Pierre Moscovici, the European Commissioner for Economic and Financial Affairs, praised Jersey's 'active engagement' in fighting tax evasion. These were very powerful endorsements by external regulators which validated what we have been saying.

That was followed in the summer by the decision of the European Securities and Markets Authority (ESMA) to recognise Jersey as a fund jurisdiction of sufficient quality to be one of the first non-European Union countries deemed ready to seek authorisation to market its funds throughout the EU under the AIFMD. I thought that was a major milestone.

John Harris: I believe there has been progress in the way that the international community sees Jersey – particularly among European institutions where we have seen signs of marked breakthroughs for the Island. For the first time since I became regulator here, we have been differentiated from what some see as our natural peer group of smaller IFCs, putting us in the same bracket as larger centres such as Singapore, Hong Kong, Switzerland and even the USA.

What those institutions have realised is that we live up to our commitments. When we say we wish to embrace and match international standards, we actually do it. Often it's a pain but it is necessary to do even better than other mainstream centres to get the tick in the box that allows us to continue to play in this game. The latest international evaluation of our anti-money laundering regime, for example, has once again demonstrated that we outperform competitors, as does our approach to sharing information with the international community and other forms of cooperation.

Ben Robins: Market access is fundamentally important for Jersey and the minimum standards required by tests and assessments conducted by international regulators and tax authorities are creeping into legislation.

The European funds directive is a good example. To obtain an AIFMD passport giving third-country managers access to markets throughout Europe, Jersey must be able to show that it is a cooperative centre from an anti-money laundering perspective and that it has a framework for the exchange of tax information.

Willingly adopting international transparency standards may mean we lose some business but it is business we don't want because it would undermine our long-term sustainability as an IFC.

People are realising that Jersey has a sustainable business model which meets international regulatory standards, so they can do business here knowing that they won't have to move on after a few years because access has suddenly been denied or an assessment has been negative.

Louise Bracken-Smith: With private clients, we do face questions about different jurisdictions, why they should base their structures here and how we benchmark ourselves against other jurisdictions. But it's easy to provide answers because of Jersey's incredible track record and the hundreds of years of expertise on the Island – we can demonstrate the breadth and depth of our expertise and experience.

Media attacks do lead to questions from the City of London and lawyers and that creates debate. But it also gives us the opportunity to draw on the great research that Jersey Finance has published which shows that Jersey is a huge contributor to the UK economy.

Ben Robins: The Jersey Finance report on Jersey's Value to Britain, prepared by Capital Economics, made a fantastic contribution in that respect. It was a very credible source of information for UK politicians, people in and around the City and the British media – I haven't seen any meaningful critique of its findings. While it acknowledged there might be some tax leakage, it demonstrated that it was considerably outweighed by inflows of investment into the UK.

John Willman: Another Jersey Finance report on Jersey's Value to Africa was published at the end of 2014. What has been its impact, Geoff?

Geoff Cook: It has been very well received in Africa and by Africans. We launched it in London which attracted a lot of African institutions and people doing business there. We also presented it to the House of Commons all-party Africa group. And then we staged market launches in South Africa, Kenya and Nigeria, using the British High Commissions in those centres. So it had a very positive impact, I think, on our reputation and our engagement with Africa.

Its strength was that it focused first and foremost on what Africa needs to be prosperous and successful, with the assessment of what Jersey could contribute as a by-product rather than a centrepiece. It identified an $11 trillion investment shortfall that must be filled if Africa is to achieve its potential and employ the 600 million young people who will need jobs over the next 20-25 years.

African countries saw Jersey as a jurisdiction interested in helping them to identify their challenges and then to devise solutions as a partner.

John Willman: Let's turn to banking, which has probably been the sector facing the biggest upheavals since the financial crisis. How does it look from inside the sector, Paul?

Paul Declat: I mentioned earlier that the banks have been facing some tough commercial challenges. The move of UK banks into a ring-fenced world is one of them and we have all been working to adapt to the likelihood that the interest rates we can offer our clients

will come under pressure once ring-fencing is in operation. Another challenge is the increased risk aversion among some banks following heavy criticism from regulators and hefty fines.

But there are also opportunities to restructure and diversify into new services for UK banks. In that respect, we welcome the 'Future of Banking' project launched by Jersey Finance in 2015 which will bring in external expertise that the individual banks would find hard to organise on their own.

Geoff Cook: The 'Future of Banking' project is designed to look at how Jersey can protect the core of what we have in the sector and at how we can capture what we call 'adjacent opportunities' to make sure the Island is seen to be a go-to jurisdiction as banking consolidates globally. We're seeking to be a beneficiary of that trend, rather than being damaged by it.

Our aim is to protect Jersey's core banking activities while looking for new opportunities. We have around £130 billion of deposits here but only a quarter to a third of that is lent from here. Most of the rest is upstreamed to parent banks, so the project will ask whether more of that value could be retained here, by lending to adjacent opportunities and creating greater diversity in our offering.

An example might be Jersey's asset managers who leverage their funds by borrowing money to amplify their returns. We ought to be able to fund more of such business locally – providing we preserve the inherent character of the jurisdiction which I would say is low-risk, conservative and cautious. Other interesting areas to explore are FinTech [financial technology], digitisation and newer forms of credit such as loan origination funds which take equity and convert it to debt.

Paul Declat: As a lifetime banker, I've never seen such change in so many areas and it is important that people

understand that. But with some high quality input from Jersey Finance's initiative here, the banks are ready to capitalise on any opportunities it identifies.

John Harris: Banking in Jersey has been the aggregator of the finance industry, banking the trust sector and the funds sector, which means they're inextricably linked. It would be very regrettable if the banking sector didn't continue to be able to service the wider financial services community in Jersey. But with an intelligent strategy intelligently deployed, there should be no particular reason why different types of banking model shouldn't take root.

However, there could be consequences for the way that we regulate banks here. For example, we might want to insulate the retail banking component serving individual customers from slightly riskier banking activities which could be allowed in the jurisdiction. We would need to develop a better regulatory approach than 'one size fits all'.

John Willman: Moving on to funds, what are the emerging trends, Ben?

Ben Robins: One that might surprise people is that we're now the sixth largest hedge fund hub in the world. Although there are not many hedge funds domiciled in Jersey relative to, say, the Cayman Islands, the servicing of them here is increasing all the time. And there's a very healthy trend of reasonably large hedge fund houses such as Blue Crest and Brevan Howard creating large Jersey offices from which they're managing their funds.

On other asset classes, real estate is incredibly active, much of it connected with investment in UK real estate, including the London developments which are filling the capital's skylines with cranes. There is also a lot of inward investment in infrastructure coming through Jersey for infrastructure projects such as Battersea power station and nuclear energy. And there's a huge amount of deal-flow in private equity with new fund promoters coming to Jersey.

John Willman: And where are the interesting hotspots in private wealth, Ian?

Ian Crosby: I think one very interesting change in my 25 years in the sector is the growth of interest among private clients in philanthropy. The organisation of family wealth these days almost always has a significant chunk set aside for philanthropic activities. Often it's to provide missions for younger family members, which is novel.

Bill Gates is an interesting example in saying that it is a responsibility of wealth to address society's big challenges and putting together some very ambitious initiatives to tackle malaria. In the old days, it was a case of passing wealth on to the children but now wealthy clients say that if there's enough for the children, they want to do something else with the rest of it. Philosophies change, and it's fantastic to see.

Zillah Howard: We are at a very exciting stage in Jersey's development as a centre for philanthropic wealth structuring with the introduction of a Charities Law and a clear Government commitment towards developing the Island as a centre of excellence. As Ian says, many wealthy people want to use a significant amount of their wealth for philanthropy and we are very well-placed to help them do that. We have legislation which is modern and flexible and allows trusts and foundations to be structured to pursue philanthropists' chosen goals, whether or not those goals are wholly charitable in a technical sense.

We can also point to Jersey's stability (economically, politically and geographically), which is so important when instability is a concern in other parts of the globe today; our robust and highly regarded regulatory regime; the quality of our judiciary and the extensive body of case law which provide certainty and predictability for our clients; and the breadth and depth of experience among our professional advisers. These are all very positive and compelling factors when compared to other jurisdictions.

But we are working in an increasingly competitive environment and other IFCs continue to change their legislation, looking across the waters and often emulating what is being done in Jersey. Sitting on the trusts, the foundations and the charities working groups as I do, I'm aware that we are always looking at possible amendments to our legislation. As Geoff has said, we need to be mindful of the need to be conservative and cautious in what we do, while identifying and responding to the need for change where appropriate. I think we're doing that and we can move where we need to do so in order to remain competitive.

John Harris: Jersey is ideally placed to be a family office centre, a centre for philanthropy. We have almost 300 foundations now and I think more than a third have philanthropic objectives. So the vehicles are here and the expertise is here. Rather than stewarding wealth only for the benefit of future generations, some of it is now being deployed into new asset classes such as social impact investment funds.

It's a trend that has come full circle because if you think back to Victorian times, wealthy benefactors used to do a lot for the public good because governments didn't have the wherewithal to do it at that time. Today, governments have less and less money to deploy, while wealthy private citizens have more. It's another funding source that deserves its place in the sun, and Jersey is part of making it happen.

Louise Bracken-Smith: As entrepreneurs in business move into philanthropy, they want to use their entrepreneurial skills to further their favourite causes, whether it's combatting malaria or something else. But as well as demonstrating broader responsibility towards the wider community in the third sector, we're seeing philanthropy increasingly used by many of the families that we advise as a learning place for the next generation to develop skills that can be applied to the family's business.

John Willman: Do firms advising private clients need new skills to advise on philanthropy?

Ian Crosby: There are a lot of people in our office who are now specialising in providing such advice. They look at the amount the causes have given to them, how they address their chosen cause and how much is spent on administration. It's another aspect of the service that private client advisors increasingly offer.

Geoff Cook: Just as there are experts advising investment fund managers and trustees on specialist areas, there are firms now that will help philanthropists make sure their funds have the impact they'd hoped for. Younger entrepreneurial wealth creators who have made their money themselves do not want to just hand over a cheque without having a clear idea about how it is spent. This is especially so if they want to use that activity to teach their children how to be responsible about wealth. That's been a real emerging trend.

Zillah Howard: Measuring the impact of philanthropic donations or investment is not always easy and that's another specialism that is growing in importance. The way you measure the impact of a donation or investment in relation to poor children in Africa might be very different from the way that you would measure impact in relation to malaria.

Philanthropic entrepreneurs won't just hand money over and not want to see what happens with that money.

John Willman: We started this roundtable discussion by mentioning the torrent of regulation washing over the international financial system. Has Jersey been able to absorb the latest developments on, for example, Common Reporting Standards [CRS] and automatic information exchange?

Geoff Cook: Our strategy throughout has been to show Jersey as a responsible part of the international community in advancing international standards and their early adoption. We have done that on automatic information exchange, by creating one of the most developed systems for capturing and sharing information anywhere in the world. Indeed, our beneficial ownership register has been praised by international regulators and Jersey already has a central register for oversight of companies.

Ian Crosby: A good example of how we work was the adoption of CRS, which we planned for meticulously. We made sure that firms were aware of the initiative and did a lot of training with workshops and seminars. That's part of the reason why we are a successful jurisdiction – we take these things seriously.

Ben Robins: The OECD recognised that Jersey was an early adopter on CRS and has used us as an example. It has encouraged others to catch up by saying that if Jersey can prosper as an international finance centre with complete transparency, why can't they – which is a question we like.

The latest development is the OECD's Base Erosion and

Profit-Shifting [BEPS] project. This is clearly targeted to a large extent at activities such as sweetheart tax deals for large multinationals and treaty shopping that simply don't happen in Jersey because we don't have the wide double tax treaty network that facilitates such deals. There is some uncertainty about sustaining tax neutrality for fund investment and whether some funds are really managed in Jersey or by outsiders. But I'm cautiously optimistic that as a jurisdiction of substance, BEPS shouldn't to be too disruptive for us.

John Harris: I think that Jersey has been good at recognising the fundamental nature of change since the financial crisis and trying to work hard with it. And on beneficial ownership, other jurisdictions have a long way to go to catch up with us. But although we're a market leader, there is political impetus behind greater disclosure for a variety of reasons. A forthcoming UK conference in May on corruption generally is likely to revisit the notion that everybody should know who owns what. So we will have to refresh and revise how we preserve our leadership position as this develops.

John Willman: I'd like to conclude by asking Geoff what is coming next with Jersey Finance's research agenda?

Geoff Cook: We've commissioned a report called Jersey's Value to Europe, which will calibrate Jersey's contribution to the European Union in terms of jobs and growth. It will also refresh the 'Value to Britain' work to bring it right up to date, focusing additionally on the value of the non-dom community to Great Britain in economic terms.

The report is probably two-thirds or three-quarters of the way to completion, and we believe that it will be very timely at a time when the European Union will be making announcements on its reaction to the OECD's BEPS initiative, its own common consolidated corporation tax base review and revisiting codes of conduct on business taxation. It's very important in that process that they realise that Jersey is a responsible contributor to their economic prosperity, which is what I believe the report will show.