

GIBRALTAR

As one of the major players in Gibraltar's highly regarded hedge fund industry, Credit Suisse spoke to *HFMWeek* about the unique benefits of the jurisdiction and its hopes for the industry in 2009

HFMWeek: What are Gibraltar's strengths as a funds jurisdiction?

Yan Delgado / Carlos M Martins (JD/CM): Gibraltar is a European onshore jurisdiction and is, as such, very well regulated. The financial regulator, the FSC, is an independent body that ensures all the international financial standards are adhered to.

In 2005, a new fund regulation was introduced to allow the creation of Experienced Investor Funds (EIFs). This regulation allows new funds to be created quickly, with all the key partners closely supervised by the local regulator (FSC), in accordance with EU and UK Standards. The result is that Gibraltar-based funds offer all the flexibility and advantages of typical offshore funds such as Cayman or Bahamas-based funds, but in the form of an onshore European Fund vehicle.

In order to create a fund in Gibraltar, two authorised local directors, a local administrator and an auditor are required. There is no need for an investment manager. In some cases there is no need for a custodian bank. If a custodian bank is required, the bank can be located outside Gibraltar in a suitable OECD jurisdiction. There are no restrictions in terms of the number of investors, nor are there restrictions regarding the type of investments.

Gibraltar's strength as a funds jurisdiction extends to its highly qualified and multi-lingual staff as well as its easy accessibility by air, land and sea. There are also no working labour permit restrictions in Gibraltar.

Gibraltar is politically stable and governs over its own legal and fiscal system based on English common law, ensuring legal and fiscal security. The local government actively supports the sustainable growth of the fund industry.

HFMWeek: To what extent are the challenges currently facing onshore prime brokers affecting those residing in Gibraltar? How resilient are Gibraltar-based funds proving to industry-wide redemptions?

JD/CM: Gibraltar-based funds can use prime brokerage services in and outside of Gibraltar, just like funds in any other jurisdiction. Gibraltar-based funds are exposed to the international financial markets and therefore face the same challenges as elsewhere.

There has been a general trend towards de-leveraging and moving into cash by most of the existing funds, with the aim of ensuring that all redemptions can be met. Gibraltar is not an exception. The reduced number of prime brokerage providers internationally as well as the ongoing de-leveraging being carried out by many major investment banks, has further encouraged this trend.

Gibraltar-based funds are not only active in the hedge fund space, but cover a broad range of investments sectors. A significant portion of funds are invested in: Equities, bonds, real estate, private equity, art and renewable energy. This diversification means that not all funds are impacted in the same way by the current market conditions. Of note is that the current economic environment has provided upside for some funds, allowing them to add value to their portfolios.

HFMWeek: Evaluating and monitoring operations has become increasingly important in the current financial climate. What are the key legal challenges and pitfalls for hedge funds in the modern funds environment?

JD/CM: Very close co-operation between all market participants in a ju-



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isdiction (custodians, legal advisors, fund directors, fund administrators and investment managers) and the respective regulator is of utmost importance. This is very much the case in Gibraltar, with the regulator setting the rules for the industry and monitoring their adherence very closely both directly and indirectly via the locally authorised parties of the fund structures.

Another key point is transparency. In Gibraltar, the laws and guidance notes issued in relation to funds incorporated in the jurisdiction are very clear, and all the participants understand their implementation. Additionally, these rules are enforced by ensuring that only duly qualified persons are permitted to take decisions, for which they are accountable.

The potential risks brought on by recent events in global markets include the possibility of over-regulation as well as, perhaps, losing sight of the long-term growth objectives of the in-

strong support for this development.

Due diligence will become an even more important consideration when choosing the appropriate business partners with whom we deal.

In this changing environment, it will be important for Gibraltar to be selective with regards to the type of fund clients granted access to the jurisdiction. In our view, the quality of clients is more important than quantity, and this philosophy is the key to securing and maintaining our excellent reputation.

HFMWeek: The current economic climate has seen the US and Europe place offshore domiciles under greater scrutiny. To what extent has this affected Gibraltar?

JD/CM: The pressure on international offshore centres does not apply to Gibraltar as we are not an offshore, but rather an onshore centre.

Funds wishing to establish themselves in Gibraltar or wishing to redomicile to Gibraltar, are looking for a sound European jurisdiction with all the EU credentials and a strong international reputation.

Gibraltar has evolved from a zero-tax to a competitive low-tax jurisdiction. Our status as a member of the EU with a sound tax and political framework will support the local fund industry going forward. Other emerging EU onshore fund jurisdictions such as Malta are 'living' proof of this development potential.

HFMWeek: What lessons have been learned from the credit crunch?

JD/CM: The credit crunch and its subsequent knock-on effects will likely bring more transparency to the hedge fund and fund markets. Market players with clear and transparent strategies are most likely to be successful. Overall, we foresee a return to basics.

Performance fees will be difficult to implement in the future and new regulation will likely limit the level of permitted leverage and delineate clear parameters for investment managers.

In terms of investors, they will be more selective in the way they invest in funds and hedge funds.

A healthy, smaller hedge fund industry should emerge from the crisis and pave the way to sustainable market growth in the fund industry. Gibraltar will likely be a key player in that European onshore funds market.



“A healthy, smaller hedge fund industry should emerge from the crisis and pave the way to sustainable market growth”

The ongoing de-leveraging by major investment banks might result in the considerable downsizing of existing funds, thus potentially reducing the overall assets under management in Gibraltar for a period of time. On the other hand, the current situation also opens enormous opportunities.

New funds investing in deep-value securities, distressed funds in all asset types, and commodities funds of all types are likely to be easier to launch at these low levels. Such levels are not likely to return in the near future and have been key in several recent and successful fund launches in Gibraltar.

HFMWeek: What are the main challenges facing the Gibraltar funds industry in 2009?

JD/CM: First and foremost, recent developments in the hedge fund market have resulted in a loss of trust in this industry. It will take time to restore that trust.

Clients will be more selective and critical when choosing how they want to invest their money and as a result, new funds could have difficulty raising money. We will probably see fewer and smaller funds being created.

The current economic environment will make it more difficult to generate positive returns. Funds with poor performance will more likely be confronted with the possibility of having to wind down.

HFMWeek: What are the USPs of Credit Suisse Gibraltar for funds?

JD/CM: Credit Suisse Gibraltar Limited is an excellent service provider and custodian for funds, offering a fully dedicated institutional desk with overall industry experience of more than 50 years.

Credit Suisse has had a private banking presence in Gibraltar for 21 years and offers clients a highly personalised service and solutions tailored to the individual needs of each client.

Since the introduction of the new regime for EIFs in July 2005, we have been the leading custodian bank in the jurisdiction and our market share in the fund industry continues to increase. ■