Brexit and the Channel Islands, a view from Guernsey and Jersey

The Channel Islands played no direct part in the recent UK Brexit referendum and have no responsibility for the outcome! If there had been a referendum the islands would overwhelmingly have voted "remain" because they already had an ideal relationship with the EU. That relationship is set out in an addendum to the United Kingdom's treaty of accession to what was the EEC back in 1972. The addendum is known as "Protocol 3". In summary, the Islands are within the customs union but with few other benefits, and, more importantly, burdens, such as freedom of movement of workers. It is the kind of relationship which the new Prime Minister would have given a great deal to secure for the UK before the referendum. The future negotiating sticking point is bound to be freedom of movement (one of the four core freedoms, the others being free movement of goods, provision of services and capital).

As to trade, it is the EU which needs the UK more than the UK needs the EU with a trade deficit in favour of the EU amounting to £24bn per annum. Meanwhile, the islands have always been third countries so far as financial services and the EU have been concerned; their trade in goods with the EU is negligible.

It follows that there is very little direct impact on the Islands, only the indirect impact of the effect on the United Kingdom and global markets and confidence. From our perspective it is "business as usual", something which appears to have been recognised already in equity markets, if not currency markets. While some transactions have been delayed, few have been abandoned.

Both Channel Island jurisdictions spent a considerable amount of time and effort preparing for the risk of a Brexit vote. Both governments had lengthy
policy papers ready for publication on the next working day, which themselves were the product of working closely together and with the Isle of Man, the third Crown Dependency. Both Channel Island governments will look to secure agreement with the EU replicating as closely as possible the existing relationship. Indeed the Islands and Protocol 3 represent both a model and a valuable precedent for a successful and workable relationship with the EU which the UK can point to. Indeed the French economy minister, M. Macron, threatened that the UK would undergo a process of ‘Guernseyfication’ if it voted "leave". The comment was unwittingly perceptive.

Very little will change, certainly in the short term. The effects we see have been produced by uncertainty and lack of confidence as opposed to any actual change. Strong leadership in the UK would do a great deal to counter these effects. At the time of writing it seems very likely indeed that the new PM will be Theresa May, who was herself a low-key ‘remainer’ during the referendum campaign. There is a deal to be done between UK and EU because each needs the other. It is to be hoped that the political turmoil of the last few weeks will die down and a clear course be set, restoring confidence.

Strong leadership from the Bank of England will also assist. A great deal of work had been done by the Bank in anticipation of Brexit, and Mark Carney commands the respect of the markets and has already taken steps to cut banks' capital requirements and therefore increase liquidity, while an interest rate cut also seems likely. Carney has stated unequivocally that: "The bank can be expected to take whatever action is needed to promote monetary and financial stability, and as a consequence, support the real economy".

At the same time, the Chancellor, George Osborne, has pledged to cut corporation tax to 15%, having already committed to a rate of 17% by 2020. This is quite a radical commitment. The Chancellor has been accused of
seeking to turn the UK into an offshore jurisdiction, which is to miss the point that, in a sense it already was, as a, if not the, leading international finance centre. Indeed the UK's economic success relative to the EU had everything to do with the extent to which it had already distanced itself from the EU and, in particular, the Eurozone.

We see opportunities for well-regulated, blue-chip offshore jurisdictions such as Jersey and Guernsey. In some respects their longer term futures are more assured with Brexit. It seemed unlikely that the EU would forever put up with anomalous territories on, or even within, its borders.

Certainly the UK will be released from existing and threatened EU regulation in the area of financial services, one of the latest initiatives being a proposal for a directive on rules against tax avoidance affecting the functioning of the EU internal market. As against which is the risk of banking operations and jobs relocating to Frankfurt, or even, and less likely, Paris. Again it comes down to the skills of the negotiators and the determination of the UK's future leaders to achieve a deal which secures access to markets without the kind of burdens which have made the EU so unpopular with large numbers of people in the United Kingdom and elsewhere in Europe. There is a deal to be done, but meanwhile, it's business as usual.

*By John Hunter, Business Development Director, Gordon Dawes, Advocate and Partner, and Richard Wakeham, Global Head of Legal & Structuring*