



# Building on Trust

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Worth the headache?

## **Foundations**

Why structure them  
in Guernsey?

## **Brexit**

What will be the  
consequences for  
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# Contents



**2**  
**Introduction**  
 Guernsey Finance's Dominic Wheatley looks at how Guernsey is positioning itself at the forefront of the global wealth management sector

**4**  
**Family (Office) Time**  
 Guernsey is ideally suited to headquarter a family office, explains Saffery Champness' Greta Pender



**8**  
**Brexit Looming**  
 What are the financial consequences of Brexit for Guernsey, asks Babbé's Bryan Little



**10**  
**Leading the Charge**  
 A look at who from Guernsey featured in the 2017 *eprivateclient* Top 35 under 35 and the 2018 *eprivateclient* 50 Most influential



**12**  
**US Ties**  
 Trust Corporation International's Andréa Daley Taylor and Kenneth Wrigley examine the hurdles that taking on US clients might produce

**15**  
**Making Moves**  
 A look at some of the biggest wealth management people moves of the past 12 months



**16**  
**Foundations**  
 NWH Global's James Crawford outlines the advantages to structuring a foundation on the island

**18**  
**Moving to the island**  
 Andrew Carey, head of Locate Guernsey, explains why it makes sense for wealthy individuals and their families to call Guernsey home

**20**  
**Make or Break**  
 A round-up of some of the biggest M&A stories on the island in the last year

**23**  
**Family Business**  
 Speaking to Guernsey Finance's Dominic Wheatley, Deputy Gavin St Pier, PwC's Nick Vermeulen and Nin Ritchie at Collas Crill look at some of the issues facing Guernsey in 2018

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# Standing up for transparency and privacy



Dominic Wheatley, chief executive of financial services' promotional body – Guernsey Finance – explains why the island is well positioned within the wealth management industry as a welcoming, transparent and well-regulated jurisdiction



**Dominic Wheatley**  
chief executive,  
Guernsey Finance

**H**eadlines at the end of last year were dominated by the revelations sourced from the so-called 'Paradise Papers'.

Although Guernsey was not particularly highlighted in the stories, we were robust in defence of our financial services sector and the role we play in the global industry.

The coverage attempted to portray that a lack of transparency exists in offshore finance centres. However, in the case ▶

of Guernsey that is simply not true. Early adoption of global initiatives including the Common Reporting Standard (CRS) evidences our longstanding commitment to global standards of transparency and information exchange, standards which have been endorsed by leading supranational bodies. We have helped to educate finance professionals in China on CRS. We have exceeded international standards on anti-money laundering.

Valuing privacy and client confidentiality, as we do in Guernsey, should not be conflated with secrecy. We are completely committed to making available verified and accurate data in a timely manner to appropriate tax and criminal investigative authorities. The establishment of our central register of beneficial ownership last year put Guernsey in line with the very highest standards in the world.

Those world-leading standards are criticised by those who demand full transparency. But that ignores the argument for privacy in financial affairs in the first place – and that argument is not predicated on wrongdoing and criminal activity, but a reasonable expectation of privacy, or even the risk of kidnap and ransom.

While the need for transparency is accepted, there also needs to be an accommodation of reasonable discretion in people's private affairs. We have, and will continue to demonstrate, that it is possible to balance transparency with appropriate privacy, and economic substance with competitiveness.

The island is one of the few places to regulate trust and corporate services providers and was among the first to do so back in 2000. This has ensured higher service standards and protection for clients, provided a mechanism to reinforce our anti-money laundering regime, and ensured that comprehensive information on the source of funds and the identities of ultimate beneficial

owners of the structures are known.

Guernsey's story today includes three compelling values.

We are clean, well-regulated and transparent. And this is not a reluctant response to external pressures, but our own initiative to be part of the mainstream of international finance.

We are a key source of innovation, delivering real solutions to real world issues in funds, insurance, private wealth and pensions.

And we have real substance and are delivering real solutions to real world problems. We are looking forward to continuing to deliver on these values in 2018. ▶

At the end of December 2016 Guernsey was home to 835 international insurance entities. The 835 international insurers comprise 242 companies, 65 PCCs, 470 PCC cells, 14 ICCs and 44 ICC cells

**Source: Guernsey Finance**

## Geographic Breakdown of Investments (Non-Guernsey Schemes), in %

Country	Percentage
Cayman Islands	15
USA	12
Russia	9
China	7
UK	7
Luxembourg, South Korea	4
Brazil, British Virgin Islands, India, South Africa, Other	3
Ireland, Mexico, Netherlands, Switzerland, Taiwan, Turkey	2
Australia, Canada, Columbia, Cyprus, France, Germany, Hong Kong, Hungary, Indonesia, Japan, Malaysia, Nigeria, Peru, Poland, Thailand	1

Source: Guernsey Financial Services Commission



DAVID

## EXPERIENCE APPLIED HONESTLY

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**Greta Pender**  
senior trust manager,  
Saffery Champness

Saffery Champness' Greta Pender highlights the advantages of having a family office located in Guernsey

**F**or more than 50 years, Guernsey family offices – both single and multi-family – and supporting providers have been providing solutions, performing co-ordinated services and coming up with strategies for a diverse range of wealthy families located across the globe.

### A top jurisdiction for AML compliance

The authorities in Guernsey ensure that providers fully respect the need for clients to keep their affairs confidential while also following leading international standards of tax transparency and exchange of information.

Guernsey is one of very few jurisdictions in the world to regulate trust providers and is on the Organisation for Economic Co-operation and Development's "white list". In 2016 MONEYVAL, the





European Financial-Action-Task-Force-style regional body, reported the island as “compliant or largely compliant” with 48 out of 49 of the FATF’s recommendations. The FATF is the world’s standard-setter in the international fight against money laundering and terrorist finance. This is the highest standard reached by any jurisdiction that MONEYVAL has assessed.

Many countries have changed their laws in order to co-operate with the US Foreign Account Tax Compliance Act 2010 or

FATCA, and to implement reporting via the global Common Reporting Standards. Following OECD pressure, registers of beneficial ownership have also been created. Guernsey has struck a balance between acquiescing to the requirement for a register of beneficial ownership to be set up, with the need for the respect for client privacy, by ensuring the island’s register is not publicly available.

Such developments require the family office and their service providers to have

a high level of relevant knowledge and awareness and, as fiduciaries, to give the best advice they can to the families in question, while dealing with complexities thrown up by banks, custodians and counterparties and handling the administration so that the client or family office does not have to.

These high regulatory standards ensure that the integrity, reputation and robustness of Guernsey is maintained and ensures it is a stable jurisdiction for family offices and their service providers.

### The rise of the non-standard asset

Guernsey practitioners are having to cope with the fact that the working environment, along with the clients themselves, is becoming increasingly complex.

A further factor for consideration is the relative sophistication and financial literacy of the second and third generations who have come to the fore of wealthy families.

Today’s family offices are, increasingly, including non-standard investments including hedge funds, private equity, property and family businesses in their portfolios. There is often an element of innovation and entrepreneurial investing to handle alongside the usual standard investments. This requires family offices to pay attention to the management of risks that are associated with these types of investments and to take into account the scrutiny of counterparties that have flowed from the credit crisis that came to the fore in 2008-9.

In addition, high net worth families may have assets such as yachts, aircraft or art and antiquities, which require the involvement of specialist counter-parties in terms of yacht and aircraft maintenance and operations, and collection management and curating for art, as well as further considerations such as insurance and storage. These can often be passion projects of the client and their family, and so fiduciaries need to understand the balance between investment assets and those for pleasure, as well as accommodating any

trends that the family may wish to explore such as impact or ethical investing and philanthropy.

By way of example, we work with a substantial Middle Eastern client with a dedicated family office in London and custody and banking arrangements primarily in Guernsey and Switzerland. All the client’s investment assets are managed by Saffery Champness and held in trust structures, comprising commercial and residential property, hotels, hedge funds, private equity, fixed-interest investments and various businesses, with a view to these enhancing and preserving the trust value for future generations. We also deal with clients’ luxury personal assets, including superyachts and aircraft, which are held in Special Purpose Vehicles rather than trust structures, due to the depreciating nature of the assets.

Guernsey providers have shown themselves to be very capable of reviewing, understanding and testing all the complex assets and counterparties involved in a family office, adding a great deal in the form of clarity, efficiency and cost-effectiveness.

### The uses of protected cell companies (PCCS)

At Saffery Champness, we pride ourselves on our high level of service. By thinking rather than processing, we have become a trusted adviser around the family table.

In this context the benefit of PCCs – structures (along with incorporated protected cell companies) pioneered in Guernsey, is that they allow for consolidated reporting. A family patriarch can receive one report that consolidates all assets and liabilities across the entire family cellular structure, while the assets and liabilities remain segregated and operate independently, thereby mitigating risks.

In addition, Guernsey offers a range of structures that family offices can use to hold assets of all types across the globe. These include corporate entities, trusts, foundations, limited partnerships and limited liability partnerships.

### Legal And Political Stability

As a jurisdiction, Guernsey has a readily accessible and highly skilled legal infrastructure. The Guernsey court system has a robust and independent judiciary whose deliberations rest on Common Law principles and its reputation of being at the forefront of the development of trust and company law sets it aside from other jurisdictions.

In addition, Guernsey offers political stability. With its own firmly established government, it is attractive in particular for families with a need for asset protection. Whilst Guernsey has its own government and is not part of the UK or EU, it

maintains close ties with the UK. Therefore post-Brexit, it is expected Guernsey will continue to have an intrinsic and strategic partnership with the UK.

When it comes to meeting the complex requirements of wealthy families, Guernsey has a proven track record. The regulators, legislators and financial practitioners work together closely to maintain and grow this solid reputation. The advantage of the flexibility and continuing refinement of the legislative and regulatory framework in Guernsey further assists in it being a highly reputable jurisdiction for family offices and their service providers.

### Total Funds Under Management

Date	Number of Schemes	Change in %	Net Asset Value of Schemes (In £ mn)	Change in %
30-Sep-16	806	-0.4	198,214	1.8
31-Dec-16	807	0.4	201,672	1.7
31-Mar-17	807	0	2082,80	3.3
30-Jun-17	810	0.4	211,148	1.4
30-Sep-17	805	-0.6	209,50	-0.6

Source: Guernsey Financial Services Commission

### Compliance with FATF Recommendations by Jurisdiction (MONEYVAL Report, 2016)

Jurisdiction	Compliant	Largely Compliant	Partially Compliant	Non-Compliant
Guernsey	28	20	1	0
Jersey	16	32	1	0
UK	24	12	10	3
BVI	18	15	15	1
United States	15	28	2	4
Cayman Islands	14	24	10	1
Isle of Man	12	24	13	0
Singapore	11	32	4	2
Hong Kong	10	20	15	4
Bermuda	9	10	16	14
China	8	16	16	9
UAE	3	17	18	11
Luxembourg	1	9	30	9

Source: Guernsey Finance

# BREXIT Looming

As Brexit negotiations continue, Babbé LLP assesses the forward outlook for Guernsey's legal and financial sectors



**Bryan Little**  
Associate  
Babbé LLP

**T**he consequences of the decision that the UK should leave the European Union (EU) are not yet fully understood but it is evident that the repercussions of Brexit will be felt in the Channel Islands.

To understand how Guernsey is likely to be affected by Brexit, one must understand its unique constitutional status. Along with Jersey and the Isle of Man, Guernsey is one of the UK's three Crown Dependencies. The Crown Dependencies are not part of the UK and are self-governing, with their own government, judiciary and tax regimes. However, they are not sovereign states for international purposes. The UK government is responsible for the Crown Dependencies' foreign political and economic affairs.

As part of the Treaty of Accession 1973, by which the UK joined what was then the EEC, Guernsey became part of the Customs Union, but no other aspect of the EU. This 'carve out' for the Crown Dependencies in the 1973 Treaty permitted the free movement of goods between the EU and Guernsey, but not the free movement of workers or capital.

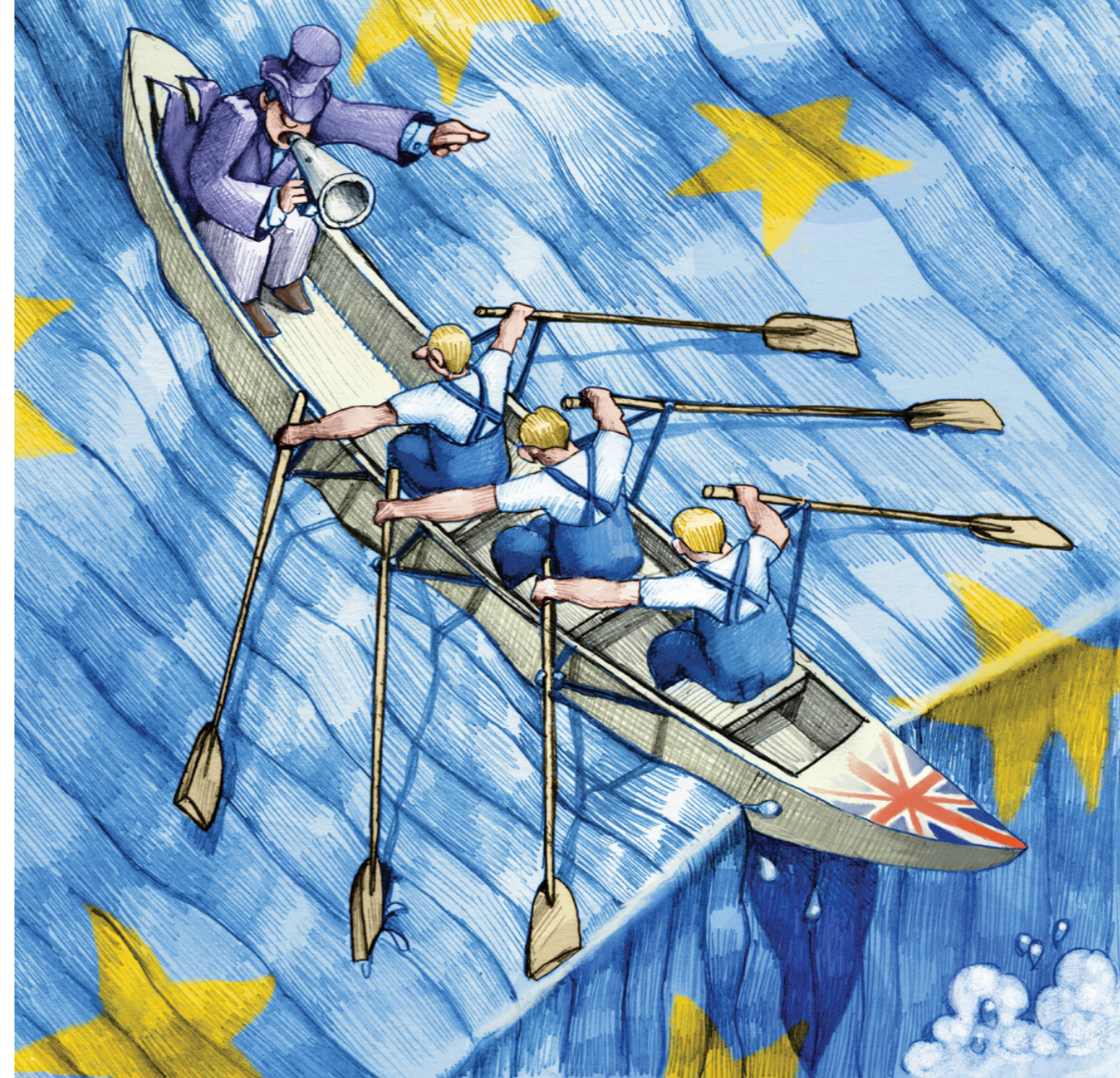
Thus, whereas the UK has a financial 'passport' allowing its firms to market financial

products to other EU member states, Guernsey has always been a 'third country' in this respect. In the decades of Guernsey's largely production economy, this was not an issue. More recently, however, Guernsey's finance-based economy has had to demonstrate compliance with stringent EU financial regulations in order to gain access to European investors. It has been doing this successfully for many years and this has great advantages for Guernsey looking forward post-Brexit.

The most important advantage is the status quo. Brexit will have no direct impact on Guernsey's asset managers, banks, fiduciaries, insurers, and professional services firms. It is 'business as usual' in Guernsey. With no expected changes (of great significance) to Guernsey's legal and regulatory frameworks as regards access to European markets, the island's financial services industry continues to go from strength to strength, bolstered by a stable base of investment through Guernsey-domiciled structures. For example, according to a survey conducted by EY across the finance sector in the Channel Islands, nearly half of respondents foresaw no change in fundraising through Channel Islands structures; nearly one quarter expected an increase; and only nine percent of those surveyed anticipated a decline. In fact, the total value of the funds business in Guernsey increased by £27.2 billion (12.3 percent) in the year ending 30 June 2016. These inflows are obviously due (at least in part) to Guernsey's relatively stable financial platform in relation to Europe.

But beyond merely providing a sound base for investors, we think that Guernsey has a real opportunity to contribute positively to Brexit negotiations. Guernsey has always been what the UK is about to become, namely, a 'third country' in relation to EU markets. Thus, Guernsey's financial sector today could very well resemble the shape of the UK financial sector post-Brexit.

According to the English Bar Council, the UK's role as a preeminent financial centre is at risk unless a replacement for its financial 'passport' is negotiated as soon as possible. Guernsey has come extremely close



to successfully negotiating a 'third country' passport in the past, in fact, it was only Brexit that temporarily stalled those negotiations. The experience gained by Guernsey in operating successfully as a 'third country' to Europe for decades, and in coming very close to successfully negotiating its own 'passport', could be invaluable to the UK during Brexit negotiations.

In addition to being an important resource for the UK during negotiations, Guernsey could see itself benefiting under a new UK/EU trade deal. The UK's negotiations with the EU will generate political momentum; and provided Guernsey continues to take positive action via the Guernsey International Business Association and the Guernsey Investment Funds Association, there is the possibility of piggybacking on the UK's new deal with Europe.

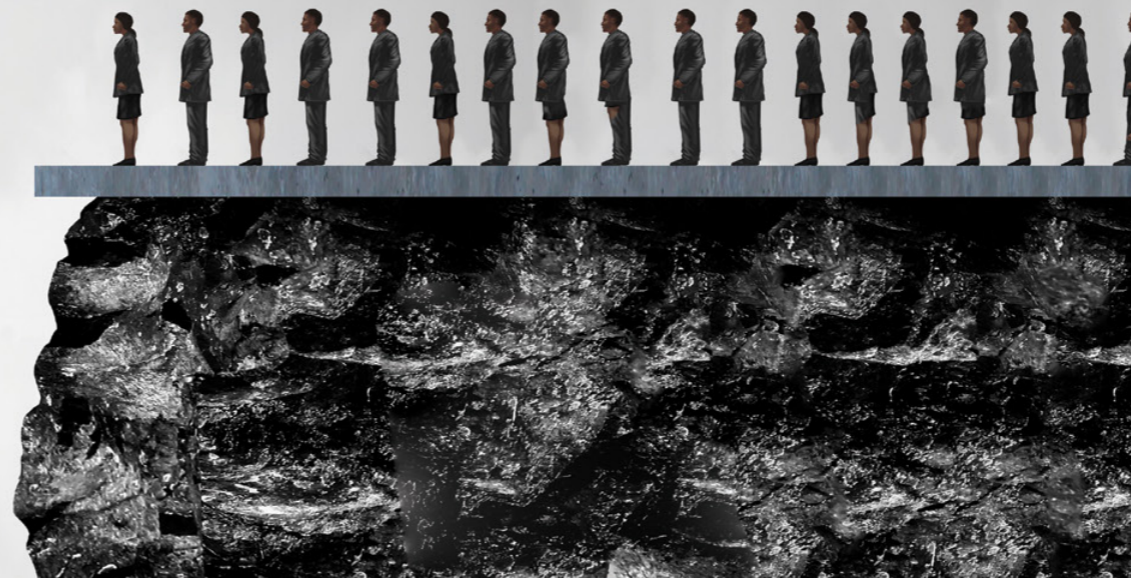
After all, the UK has a constitutional responsibility to advocate for Guernsey internationally. A 'harmonised' approach between Guernsey and the UK to European financial markets would provide increased stability and flexibility for UK and international asset managers when the need for a tax neutral structure arises.

When it comes to Guernsey's access to Europe following Brexit, it is clear that the keyword is 'stability'. However, it is important not to overlook Guernsey's relationship with its most important trading partner, in all sectors of its economy: the UK. Ensuring a stable relationship with the UK after Brexit is a key element of Guernsey's economic and political strategy. This is precisely why Guernsey's Chief Minister, Gavin St Pier, penned an open letter to the UK Prime Minister, Theresa May, seeking to secure Guernsey's access to the UK

markets and the Common Travel Area (CTA). In response, Prime Minister May reaffirmed Guernsey's special constitutional relationship with the UK, which she noted is separate from, predates and is unaffected by the UK's membership of the EU. This is welcome news for Guernsey. Maintaining a stable relationship with London, and the access that comes with it, is arguably the single most critical factor for Guernsey's economic health. Fortunately, again, it is 'business as usual'.

With the furor of Brexit and systemic changes on the horizon for much of the legal and financial industry in the UK, markers of stability such as we are seeing in Guernsey, combined with its developed legal and regulatory framework, make this small island a safe harbour for UK and international capital; and a jurisdiction well-positioned to make the most out of Brexit. ■

Top 35  
Under 35s  
50 Most  
Influentials



**e privateclient**

Top 35  
Under 35  
2017



**Chris Hards**  
senior associate  
Ogier

Chris advises on all aspects of offshore trusts and foundations, including creation, administration, legal opinions and restructuring, to clients including individuals, fiduciaries and financial institutions. Additionally, Chris provides advice on pensions matters and on matters relating to probate and estates. He also has extensive experience in transparency developments

including the Guernsey register of beneficial owners and the effects offshore of recent UK registration requirements. His offshore practice is supported by onshore experience in advising on tax law for non-resident non-domiciled individuals, onshore non-domiciled individuals and for offshore structures. He is a member of Ogier's cross-service line trusts advisory group.



**Nicola Mauger**  
manager, fiduciary service  
Butterfield Trust

Nicola was promoted to the role of manager at Butterfield Trust at the end of 2016 and looks after a team of five. She has a varied portfolio of private clients and provides a high level of service to the sector, managing both trusts and companies. Her responsibilities include managing a large property structure owning both commercial and residential property, and she has a large family office relationship investing in varied asset classes from private equity, family funds and shipping assets. Subsequently, Nicola has a good understanding of how different structures work and the needs emanating from each type of structure. A nominator described Nicola as "a diligent and highly professional individual".

**e privateclient**

50 Most  
Influential  
2018



**Paul Hodgson**  
managing director  
Butterfield Trust  
(Guernsey) Limited

Paul joined Butterfield Trust in Guernsey in 1998 following a decade at KPMG in both Australia and briefly in Hong Kong. He has progressed from client relationship manager to director at Butterfield Trust, leading to him becoming managing director in 2003. He regularly attends industry conferences to speak on wealth structuring and fiduciary services, and is a committee member of the Guernsey branch of STEP. Furthermore, Paul is a deputy chairman of the Guernsey Association of Trustees.

**FACTS**  
Guernsey has an AA+ credit rating from Standard & Poor's, representing the island's 'very strong' capacity to meet its financial commitments

**Source: Guernsey Finance**

# Born in the USA?

US clients – not worth the headache or inevitable in a global economy?  
Asks Trust Corporation International's  
Andréa Daley Taylor and Kenneth Wrigley



**Andréa Daley Taylor**  
director,  
Trust Corporation International



**Kenneth Wrigley**  
director,  
Trust Corporation International

**A**merica is the world's leading economy, with recent figures showing that 43 percent of the world's millionaires reside in the USA, by far the biggest concentration of wealth in the world. By comparison, just seven percent reside in the UK, six percent in Japan and five percent in China. Furthermore, the global economy grew by six percent during 2017 - the fastest growth period since 2012 - and, perhaps unsurprisingly, more than half of this growth was generated by the US.

While this wealth concentration will inevitably shift over time, there is no reason to expect that it will happen soon as the conditions that have, until now, contributed to the US's reputation as an investment hub and a "safe haven" for the high net worth community are as relevant now as they have ever been. Indeed, the US has an established and robust legal system that promotes and protects domestic wealth, it has centres of innovation that have long bred some of the world's wealthiest and are set to continue to do so. On top of that, the US "quality of life" consistently attracts the internationally mobile whose wealth was generated elsewhere.

In addition to this, various steps have been taken in the US to protect privacy rights, sending a clear message to the high net worth community that, while well-regulated, it also values privacy and confidentiality – something which is increasingly important to clients in the current climate of global transparency.

All things considered, the growth of the already considerable US client base is inevitable and its attraction for the Guernsey-based fiduciaries is an obvious one. So, why is there sometimes a reticence to take steps to access this market and exploit the opportunities that are potentially there for the taking?

The answer has to be that engaging with US-connected clients involves navigating the complex and ever-evolving world of US tax and regulatory legislation, a task not to be taken lightly and not to be taken at all without specialist advice. Is it really worth the headache?

To put this in context, the typical "touch" ►►



## Guernsey Economic Report

**Population:** 63,026 as at June 2016  
**GDP Growth:** £2.4bn in 2015 with a growth of 0.47% since 2014  
**Financial Services:** Accounted for 32% of GDP and 21% of employment in Guernsey  
**Inflation:** RPIX of 2.9% as at Q1 2017

Source: Jersey Government

point” for a Guernsey trustee is when a beneficiary, knowingly or otherwise, becomes a US citizen and, from then on, is subject to a plethora of tax and reporting obligations, all of which the “informed trustee” must understand.

Among other factors, there are the punitive throwback rules applying to undistributed trust income and the implications of investing through PFICs to consider. There is also an obligation to submit an annual Foreign Bank Account Report (FBAR) which means that all US persons with foreign bank accounts holding an aggregate value of \$10,000 at any time during the year must report on each account annually as well as provide details of worldwide income. All of these requirements must remain firmly on that trustee’s radar.

There’s clearly more need than ever for fiduciaries to possess specialist expertise in this area – the level of skill and awareness required to administer the client’s affairs and the general intellectual challenge associated with clients with a US nexus has increased and continues to do so.

Any trustee will need to appoint a US tax specialist and educate staff thoroughly on the regulatory and reporting frameworks and applicable timings. The trustee will also need to consider if the existing “in-house” financial reporting system is capable of providing the information required to ensure compliance with US reporting obligations, such as distinguishing between long and short term investment gains – all too often these systems are UK-tax focused.

The reality is that getting it wrong can be expensive. Indeed, failure to file a FBAR can

carry with it a civil penalty of \$10,000 per non-wilful violation, per annum. Ignorance is not necessarily a defence and a continued failure to educate oneself on the FBAR reporting requirements may be seen as evidence of “wilful blindness” resulting in an increased penalty, potentially to the greater of \$100,000 or 50 percent of the highest account balance during the period.

While many filing and reporting obligations lie with the US citizen they may, in turn, seek to hold their trustee responsible, perhaps for a lack of information flow between the trustee and the beneficiary or even for not alerting them to the possibility of their US citizenship, if US indicia has been recorded in the trustee’s records. For fear of making sweeping generalisations, the litigation risk appetite of the average US client is arguably greater than in some other cases, especially with such high tax penalties at stake. Offshore trustees may for this very reason be nervous about putting themselves in the line of fire by working with clients who may not be used to the style and approach of a more hands-on trustee. The latter may hold them to account, and not necessarily before the Guernsey courts – a potentially protracted and costly exercise.

Given this need for significant investment in terms of both education and time, it is understandable that a cost-benefit exercise will need to be undertaken by offshore fiduciaries – will this investment pay off or would it be simpler to exclude US tax payers from one’s client base altogether?

The latter stance may, however, be regarded as short-sighted because, in addition to the


disproportionate amount of wealth in the US alluded to above, there are noticeable and quite favourable differences in cultural attitudes to the concept of wealth generation and preservation. There is a general acceptance of, and commitment to, the requirement to plan one’s affairs and, given the complexity of the IRS code, most Americans require tax advice to understand and fulfil their personal tax obligations.

This presents opportunities for the clients and industry generally which are not restricted to the “super rich” – in fact, there are a number of accepted US estate planning methods for even very modest wealth which often involve the use of domestic trusts. Consequentially, as a nation there is a welcome familiarity with trusts and a true recognition of their value in structuring matters.

With this in mind, what can be done by offshore fiduciaries to mitigate the risks outlined above without restricting business opportunities with a US-nexus?

The essential components have to be firstly to ensure a sufficient level of appropriate in-house expertise, knowledge and practical experience on the matters that are likely to be relevant to one’s US-connected clients and, secondly, to develop a network and enlist the assistance of professional service providers to help in specialised areas. In close proximity to Guernsey, London has a well-resourced pool of highly-specialised and competent tax and legal advisers who are able to assist with the spectrum of issues that arise when interpreting the complexities of US legislation and regulation in an international context.

In conclusion, with an investment of time and resource in internal education and professional development, the implementation of appropriate infrastructure to facilitate US reporting and, finally, the establishment of a strong network of US tax and regulatory specialists, there is no reason why the progressive trustee should feel obliged to shy away from US-connected clients and the potential opportunities that accompany them.

After all, no pain, no gain as they say! 

### Ogier hires former eprivateclient 50 Most Influentials as partner in Guernsey

Offshore law firm Ogier has appointed Gavin Ferguson as a partner based in Guernsey. Mr Ferguson, who was a member of the 50 Most Influential in 2015, was previously managing partner of Appleby in Guernsey.

He is qualified to advise on both BVI and Guernsey law. He provides contentious and non-contentious fiduciary services to high net worth individuals, corporate clients and charities. He advises on all aspects of trust and foundation law and also advises on regulatory matters, general private client matters and has an interest in Sharia compliant structures.

Ogier provides advice on the British Virgin Islands, the Cayman Islands, Guernsey, Jersey and Luxembourg law through its network of offices that also includes Hong Kong, Shanghai and Tokyo.

### RBC Wealth Management adds directors to fiduciary services business in Guernsey

RBC Wealth Management has made two new director appointments in the firm’s Guernsey-based fiduciary services business.

Petrina Le Vallois and Sam Ozanne will report to Lisa Barnett, managing director of RBC Trustees (Guernsey) Limited, RBC Wealth Management - International.

Ms Le Vallois having previously worked in private banking, family office, regulatory positions and two independent Guernsey based fiduciary firms, will bring 35 years of industry experience to her new role. She joins RBC from the Guernsey Financial Services Commission and began her new position on 22 January 2018. Mrs Le Vallois will also join the board of RBC Trustees (Guernsey) Limited.

Mr Ozanne joined RBC as a senior associate in 2015, becoming an associate director in 2016. His experience involves serving clients with complex structures and holds several industry designations. Mr Ozanne assumes his new role on 27 March 2018.

RBC Wealth Management directly serves affluent, high net worth and ultra-high net worth clients globally with a full suite of banking, investment, trust and other wealth management solutions, from key operational hubs in Canada, the United States, the British Isles, and Asia.

10 May 2017

6 February 2018

7 February 2018

### Global trust company adds two to Guernsey board

Two members of the senior management team at trust and corporate services firm, NWH Global, have been appointed to its Guernsey board.

Helen Bougourd is head of client services and Adam Pickering is compliance manager in the Guernsey office of the group which is also located in the BVI, Hong Kong, Dubai, Mauritius and New Zealand.

Ms Bougourd has worked for a number of fiduciary businesses in Guernsey over the past 20 years. She rose to the position of client services director before being appointed to her current role at NWH Global, formerly Newhaven Trust, in 2016.

She holds the Institute of Directors Diploma in company direction, is a member of the Chartered Institute for Securities and Investment and an associate of the Chartered Institute of Secretaries and Administrators.

Mr Pickering is a professional member of the International Compliance Association (ICA) and holds the ICA diploma in governance, risk and compliance.

After beginning his career as an associate at a respected South African law firm, he relocated to Guernsey in 2014 and became legal assistant to the managing director of a trust company. He joined NWH Global in 2015 where he designed, implemented and now oversees compliance policy, procedures and controls.

These promotions follow that of Rob Bickley who became group financial controller and head of IT last month.

NWH Global is an independently owned trust company which assists personal and corporate clients with the establishment and administration of fiduciary structures.



**F**ive years since The Foundations (Guernsey) Law came into force foundations are now an established tool in the Guernsey private client practitioner's arsenal – as an alternative solution for protecting and preserving private family wealth. While only 88 Guernsey foundations have been registered at the time of writing, they are recognised as a valuable option especially when providing high value and highly complex structures for ultra high net worth businesses.

Foundations allow clients more direction of power over assets compared to traditional trust structures. They are typically used for wealth protection or asset management within bespoke, high value structures, inheritance and succession planning, the circumvention of forced heirship rules or for either charitable or non-charitable purposes.

The Guernsey Foundation is an “orphan” vehicle in that, unlike a trust where the trustees own the assets, no individual or legal entity owns a foundation. This difference lends itself to the structuring of funds, private securitisation, pension funds and the holding of capital, income and specific assets. For the trustee, a foundation is an alternative to a Private Trust Company.

It has the advantage of being a very flexible structure, while also benefitting from the robust legal and regulatory environment in Guernsey, which enables it to provide for bespoke estate planning mandates. A Guernsey Foundation has its own separate personality which is appealing to those clients who are familiar with civil law concepts.

The main attractions of Guernsey Foundations are that they can be used instead of purpose trusts for structuring purposes, they come with a certificate of registry which suits families with a Civil Law background and there is the option of establishing a Private Trust Foundation instead of a Private Trust Company.

The use of a Private Trust Foundation is often preferable to a Private Trust Company for the simple reason that a Private Trust Foundation does not require an “owner”.

A Private Trust Company will require at least one shareholder; often this will be a Purpose Trust which itself will require a trustee. Conversely, whilst a Private Trust Foundation, similarly to all Guernsey Foundations, will have a council, a founder and a guardian, it is a true orphan vehicle so no additional layer of ownership/control is present. This not only provides simplicity at the head of a structure, it also provides greater comfort for those used to civil law concepts.

While Guernsey is a common law jurisdiction, the law was drafted to reflect legal drafting in civil law jurisdictions which do not usually recognise the concept of a trust, but which are familiar with foundations. The Guernsey Foundations Law does not require a qualifying fiduciary member to sit on the Foundation Council and it does not need a Guardian as it is established for the benefit only of enfranchised beneficiaries; i.e. those entitled to certain information about the Foundation.

The industry has not experienced any major drawbacks to Guernsey Foundations, but it should be understood

that they are still relatively new.

Private wealth Guernsey Foundations are administered in the same way as a private wealth Trust. To administer the Foundation may require more thought simply because the administrator is not familiar with the new concept but, over time, once they become commonplace, there will be more administrators with relevant expertise. Guernsey Foundations may have more involvement from family members sitting as council members alongside a fiduciary which makes them more complex to administer than Guernsey Trusts, although this same feature may make foundations more attractive to some families.

One potential hurdle for clients with UK connections is that the UK tax authorities don't have extensive experience in taxing Common Law Foundations and have not yet classified all of them. While this is not really a drawback, Guernsey Foundations haven't had much exposure to common law courts to date and this may be perceived by some as a disadvantage.

When Guernsey Foundations came into effect there was an initial slow uptake as it was a new concept introduced into a challenging market. In recent years there has however been an upturn in activity with more Guernsey Foundations being incorporated. The Guernsey Foundation Law came into effect after the Jersey Foundation Law and so the Guernsey Law draftsmen have benefitted from taking into account the experiences of Jersey practitioners. For example the concept of enfranchised and disenfranchised beneficiaries in Guernsey Foundations was borne out of the Jersey experience and their inability to differentiate between beneficiaries' information rights and the need for a qualified member or guardian.

Unlike Trusts, Foundation law is specific to a particular jurisdiction. Unless any councillor or guardian is a Guernsey licensed fiduciary (regulated by the Guernsey Financial Services Commission), the foundation must have a local resident agent to maintain its records. A Guernsey Foundation must also have a registered office in Guernsey.

NWH Global's James Crawford explains why clients should choose to structure foundations in Guernsey over other jurisdictions



**James Crawford**  
managing director,  
Dubai, NWH Global

### Guernsey Banking Sector Data (2012-2017)

Date	Number of banks	Bank Deposits £m	Third Party Deposits £m	Annual change in third party deposits %	Total Deposits £m	Other liabilities £m e.g. capital, issues of debt	Total Liabilities £m
Jun-12	35	59,214	43,923	-12	103,137	28,033	131,170
Jun-13	32	44,528	45,163	3	89,691	27,160	116,851
Jun-14	30	36,878	40,606	-10	77,484	24,846	102,330
Jun-15	30	43,909	39,135	-4	83,044	24,363	107,407
Jun-16	29	43,682	43,532	11	87,214	25,811	113,025
Jun-17	24	47,028	45,525	5	92,553	28,179	120,732

Source: Guernsey Financial Services Commission



# Come on Over

There's never been a better time to relocate to Guernsey with the pros outweighing the cons, according to Locate Guernsey's Andrew Carey



**Andrew Carey**  
head,  
Locate Guernsey

**G**uernsey has become an even more attractive option for successful families and businesses considering relocating.

Newcomers to the island can now take advantage of a new lower tax cap of £50,000 per annum for a maximum of four years if they buy a property valued at more than £1.5 million.

This development was designed to stimulate sales in the island's open market – a high value property sector for those without existing connections to the island or an employment permit. Complementing the work of Locate Guernsey, it has sent out a signal that Guernsey welcomes new residents and estate agents report that it has pushed the jurisdiction further up the agenda for people considering a move offshore.

The open market offers choice and quality and the potential to relocate quickly and smoothly with the option to rent or purchase an island home.

With uncertainty surrounding Brexit, Guernsey – a British crown dependency which is part of the British Isles but not the UK – is an appealing option for some, its political stability and low tax jurisdiction status remaining an important part of the package. There is no Capital Gains Tax, Inheritance Tax, VAT nor sales tax. The distribution of profits arising from a non-Guernsey company

prior to the beneficiary's arrival in Guernsey is tax free if made by the end of the second full calendar year post-relocation.

Guernsey differentiates itself from some other locations in that there are no wealth tests metrics, such as minimum financial contributions. There is a tax contribution ceiling rather than a minimum amount to be remitted annually.

Income tax is charged to individuals at the flat rate of 20 percent and the maximum annual tax liability for a resident with non-Guernsey source income is £110,000, or £220,000 where there is both Guernsey and non-Guernsey (worldwide) sourced income. From 2018 newly arrived residents can benefit from a lower tax cap of £50,000 for their first four years living in the island. Most companies in Guernsey pay no corporate tax.

Recognising that entrepreneurs and investors are two prime groups likely to be interested in benefiting from all that Guernsey has to offer, the island has developed schemes specifically for those who don't have an EU passport, to incentivise their relocation.

One is for investors with at least £1 million in their name in a bank account and willing to invest no less than £750,000 to the benefit to

the Bailiwick of Guernsey (the collective term for Guernsey, Herm, Alderney and Sark). The "benefit" criterion is defined as £750,000 on deposit in a Guernsey bank or the purchase and retention of an open market property of at least that value (in addition to the property in which the investor lives) or the investment of the same amount in a Guernsey opportunity of the applicant's choosing.

Those opting for this scheme will live in a property in Guernsey's open market, initially for two years, after which they will have the option of applying for a further three years under the same conditions. After five years there may be an option to apply for indefinite leave to remain in Guernsey.

A similar scheme for entrepreneurs has been devised for those without an EU passport intending to take an active role in the running of a business in Guernsey. Applicants for the entrepreneurs' scheme must have £200,000 or more in their name in a bank account which they are prepared to invest in an existing Guernsey business or, alternatively, use to create a new Guernsey business.

The entrepreneur will need to demonstrate that they have a controlling, or at least equal, interest in the business and demonstrate the economic benefits that the business will yield for Guernsey. The initial period of residency and opportunities to extend that are similar to those available under the investors' scheme.

This sits well with Guernsey's heritage of entrepreneurialism and innovation. As a physically small jurisdiction the island has long had to find products, services and offerings that make it stand out and provide something different. For example, Guernsey is leading the way in innovation in the financial services industry as it continues to add strings to its bow.

In 2017 Northern Trust collaborated with IBM and others to launch the first-ever commercial deployment of blockchain technology for the private equity market – an award-winning scheme that is now being used for the management and administration of a private equity fund with \$20 billion

in assets under management.

Among other recent developments in financial services are the Private Investment Fund (PIF), which provides fund managers with greater flexibility and simplicity and the Manager-Led Product (MLP).

Private equity giants Jon Moulton and Guy Hands have made the island their home and, famously, Specsavers' founders Doug and Dame Mary Perkins "retired" to the island before establishing their business in 1984.

There's no requirement to register a business with government in order to be allowed permission to trade in the island. The island's business culture is based on a 'can do' approach and the process is remarkably straightforward so that those setting up a company in the island can do so quickly and with a minimum of fuss. The States of Guernsey government and the private sector both see enabling business to flourish as the key driver.

Guernsey has an AA credit rating, is part of the sterling zone, boasts a mature legal system and is a trusted location for the secure storage and processing of data. It has an exceptional professional services community, excellent connectivity and a pro-business government.

## International Insurers Gross Assets, Net Worth and Premiums in £bn, (Inflation Adjusted)

Date	Gross Assets (£bn)	Net Worth (£bn)	Premiums (£bn)
2010	24.55	9.71	4.65
2011	23.71	9.77	5.03
2012	23.6	9.84	4.89
2013	23.43	10.39	4.95
2014	23.66	11.57	4.94
2015	23.86	11.48	5.54

Source: Guernsey Financial Services Commission

The above are all compelling financial reasons for considering a relocation to Guernsey but that is only half of the story. Many of the island's incomers are attracted by the emphasis on a good work life balance. With short commutes, in a matter of minutes, sports and leisure opportunities, sandy beaches and stunning cliffs and idyllic countryside, yet still the ability to be part of a City-calibre business sector.

The island is also known for its safe and friendly environment. Crime rates are low, and with a maximum speed limit of 35mph, road accidents are rare. Even Hedge Veg – a tradition where locals sell their produce on the roadside for others to buy – clearly demonstrates what a trusting island Guernsey is.

The lifestyle benefits over and above a beautiful environment in which to live and work, include a wide range of attractive residential properties, high standards of health and education provision and a range of excellent quality restaurants and hotels.

There are direct daily air services to London and other regional airports, easy access to EU markets and ferry links to the UK and France.

# M&A Stories

## Trust company acquires Guernsey operation

Independent trust and corporate fiduciary service provider New Street Management Limited has acquired Liberation Management Limited in Guernsey.

The acquisition, which has received regulatory consent from the Guernsey Financial Services Commission, will see Liberation's Guernsey-based employees remain with the business and join the New Street Management team in the latter's Les Echelons offices, whilst Bruce Currie will join the board at New Street Management.

Liberation Management is an independent fiduciary group with offices in Guernsey, Luxembourg and the Netherlands. The Luxembourg and Dutch offices will continue as separate entities and will be unaffected by the New Street Management acquisition.

Simon Graham, managing director of New Street Management, commented: "This transaction is an important step forward in our company's exciting evolution. Our previous year-on-year growth has been organic but we are confident that the combined business will benefit from the synergies on offer between ourselves and Liberation Management and we firmly believe that this acquisition will benefit our clients and staff.

"Growth is necessary to meet the challenges of servicing our clients' complex structures throughout Europe, the Middle East, South America and the Far East, as well as being able to meet the increased regulatory and reporting requirements that face the financial services sector."

David Rowlinson, managing director of Liberation Management, added: "We started discussions with New Street Management earlier this year and it quickly became apparent that both sides felt this would be an excellent match. We are delighted that our staff and the management team will continue to work with our existing clients as part of the New Street Management team."

New Street Management, an owner-managed business, has grown steadily since its launch in 2014. This acquisition will increase its total number of employees to 30 and will consolidate the company's fiduciary services offering which includes the establishment, ongoing management and administration of companies, trusts, foundations and family office services.

7 July  
2017

14  
February  
2018

30 June  
2018

## Virtus Trust acquired by eprivateclient Top Trust Company

eprivateclient Top 25 Trust Company Equiom has acquired Virtus Trust Group, a Guernsey headquartered trust and corporate services provider with a diverse international client base and a presence in the Cayman Islands, New Zealand, UK and the USA, where they have a US public trustee licence in the state of South Dakota.

Founded in 2005, Virtus offers private wealth management services such as succession planning, trust and foundation services as well as investment related solutions.

Virtus co-founder, Roddy Balfour, commented: "The market has been aware for some time that Virtus has felt the need for a larger strategic partner to expand our client offering in terms of services and geography. In that regard, Equiom is the perfect fit and in terms of client service continuity, our entire staff will be amalgamating with Equiom's Guernsey operations.

"Taking Virtus from a standing start to its present substantial clientele has been very exciting and we look forward to the next chapter with equal anticipation given Equiom's dynamic history, outlook and plans."

Equiom's chief executive and eprivateclient 50 Most Influential, Sheila Dean, added: "The acquisition of Virtus is a fantastic addition to Equiom. In addition to increasing our foothold in Guernsey, we will now be able to deliver structures for our clients in three brand new jurisdictions: Cayman, New Zealand and the US.

"As ever, I'd like to thank our equity partners LDC and our legal advisers Gowling WLG for their valued input and support throughout this acquisition project."

## Maitland launches Guernsey private client offering

Global advisory and fund administration firm Maitland will now be offering private client fiduciary services in Guernsey having obtained its full fiduciary license.

The new offering, announced today, will allow Maitland to provide a range of private client fiduciary services in Guernsey alongside its existing fund administration and corporate services and means that Maitland Guernsey's services now span all three of the firm's client segments - corporate, institutional and private.

The new licence sees former partner of Maitland Advisory LLP (the group's London law firm), Iris Harvey, take on a new role as director of private client services for Guernsey. Ms Harvey has over 15 years' experience in the structuring of family wealth and acting for multinational families with cross-border investments.

Steve Georgala, chief executive of Maitland, said: "Following last years' acquisition of our Guernsey fund administration business, we are pleased to have been granted our full fiduciary license in Guernsey. Expanding our business beyond fund administration and introducing a private client offering in the region, is another significant step in our ambitious global growth strategy."

"Guernsey is a popular and well-regarded jurisdiction with a very good reputation amongst our clients," added Ms Harvey. "Being able to deliver private clients services in the region is another significant string to our bow and I look forward to establishing this new offering."

Maitland is a global advisory, administration and family office firm providing seamless multi-jurisdictional legal, tax, fiduciary, investment and fund administration services to corporate, institutional and private clients. Founded in Luxembourg in 1976, it has 17 offices in 12 jurisdictions, 1,200 employees and in excess of \$250 billion in assets under administration.

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family business



**Nin Ritchie,**  
senior associate  
at Collas Crill,  
highlights **security**,  
particularly in relation  
to forthcoming EU  
GDPR regulations.

## Island Views

Guernsey's finance industry's sophisticated service offer is founded on the attributes of **security, smartness, stability** and **substance**. Dominic Wheatley, chief executive of Guernsey Finance, asked some key individuals in the sector to discuss what they feel is important in distinguishing the island's proposition today.



**Dominic Wheatley**  
chief executive,  
Guernsey Finance

"Many organisations in Guernsey have been operating in a compliant way for many years. For more than a decade, the island has been one of only 11 non-EU jurisdictions whose data protection regimes are considered to have adequacy with that of the EU Commission.

But the need to work towards compliance with GDPR now presents firms with a unique opportunity to take stock of the data they hold and have a good look at how it flows, where it is stored, who has access to it and how it can be managed more effectively.

This might particularly be an issue for firms which have experienced rapid growth, often through acquisition, in recent years. GDPR might inspire them to consider whether and how to centralise systems and resources.

Recent case law and regulatory developments have identified four key points to be considered.

Organisations might think about imposing appropriate checks and balances in line with principles of the GDPR to streamline their data handling.

Legal precedent has shown that Guernsey trustees should ensure that information relating to their deliberations remains in Guernsey, to avoid the danger that the information may be disclosable under another jurisdiction's data protection legislation.

The Common Reporting Standard (CRS) creates another data protection minefield. Each organisation now must streamline its processes to comply with CRS while also adhering to the principles of GDPR.

And whatever you hold, it needs to be managed in an 'intelligent' way, with streamlined systems capturing personal data which is only used for the purposes for which it is being processed." ▶▶



**Nick Vermeulen**, partner at PwC, focuses on **smart**, and looks at Guernsey's prospects with blockchain after strong developments in 2017.

"Bitcoin has been in the news in recent months but blockchain is more of a big issue in Guernsey, where the island has been home to two global blockchain firsts in the past nine months.

Northern Trust launched the first commercial deployment of blockchain technology for the private equity market and Dom Re IC,

a Guernsey-domiciled insurance-linked securities reinsurance transformer, issued the first notes ever to have been digitised on a private blockchain.

Guernsey has demonstrated that it continues to be adaptive and can bring innovative solutions to its global client base. We have historically prided ourselves on being nimble with the ability to connect the necessary players to make it easy to do business in Guernsey. These will be the attributes that similar blockchain consortiums are expecting, and we have demonstrated a strong connection and enthusiasm for such projects from regulator, government and industry.

Such opportunities, if grasped properly, can ensure that the key markets we operate in, such as private equity and infrastructure for large

pension investors, remain in the island. Going forward, the hope would be to see such vehicles recording investor details and the funds' underlying investments on a platform that makes them tradeable in electronic form. This should add liquidity to the secondary market for private equity, which can only be good for one of our cornerstone industries.

Blockchain solutions could even be utilised to reinvigorate markets such as open-ended funds or even allow us to enter completely new markets such as trade finance.

We owe it to future generations to seize the opportunities that present themselves. Our challenge is to take the hype surrounding blockchain and make it reality within our industries – as a minimum. Disrupt or be disrupted."



**Deputy Gavin St Pier**, President of the States of Guernsey's Policy & Resources Committee, has played a leading role in the island's political efforts with the EU over the past year. He highlights the **substance** behind the island's finance industry and the much sought-after **stability**.

More than 150 licensed fiduciaries in Guernsey. In addition, there are many licensed individuals who can act as trustees or directors. Guernsey's branch of the Society of Trust and Estate Practitioners (STEP) has more than 700 members - one of the largest regional memberships in the world

**Source: Guernsey Finance**

"Guernsey was confident that a strategy of engagement and our long-held commitment to meet international standards would take us through the EU Code of Conduct's 'screening process' of third countries.

The island has had review after review in terms of international standards and on all occasions, we have passed with flying colours.

On economic substance, Guernsey has committed itself to the OECD's Base Erosion and Profit Shifting (BEPS) action plan, has put in place country-by-country reporting, and in June was a signatory to the BEPS multilateral instrument. Our financial services sector is made up of real people, making real decisions in real time.

We have been asked to engage further with the EU

in relation to economic substance. We have confirmed Guernsey's ongoing commitment to the screening process and resolving any issues identified, with changes to be made by December 2018 to offer certainty for business.

Over the past 15 months we have been very active in Brussels, meeting the EU Commissioners and their officials, members of the European Parliament, and representatives from Member States.

We are by no means reluctant followers of this agenda, but conscientious and active participants.

Our message remains a clear one – Guernsey is a co-operative jurisdiction and has real economic substance. We therefore have every reason to confidently believe that this will continue to be recognised by the international community."



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