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relocate to Jersey?**

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of private equity**

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what next?**



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Geoff Cook
chief executive,
Jersey Finance



The increasing focus on regulation and transparency within the private wealth industry has served to strengthen Jersey's role as a jurisdiction of choice for investors and their advisers.

The leak of the Panama Papers in April not only placed the wealth management industry on the front pages of national and international media, but also brought to the fore the public demand for greater regulation of the collection and verification of information on the beneficial ownership of companies.

Amid the exaggerations and misinterpretations that have sadly been a feature of the public debate conducted in much of the mainstream media since the leak of the Mossack Fonesca documents, Jersey has been able to point to its own beneficial ownership model: Jersey's central register of beneficial ownership, established in 1989, is far ahead of many competitor international finance centres and onshore locations, and has been independently endorsed.

Jersey's register sits within a wider regulatory regime, supervised by the Jersey Financial Services Commission, and the structure has proved to be a solid, reliable element of the Jersey offering. Jersey can call upon the decades of expertise available within its core



network of qualified trust professionals and other regulated private client practitioners – corporate service providers (CSPs) – who are themselves part of the largest finance industry workforce of any of the British Crown Dependencies or Overseas Territories.

Unlike conventional registers, Jersey's Companies Registry actively verifies the identity of beneficial owners at the time of first registration. The registry then coordinates with the island's CSPs to ensure that the beneficial ownership information is kept up to date. It is an important distinction from other models, adding a further robustness to the quality of the data.

Jersey's system meets, and even exceeds, international standards in combatting financial crime.

In May 2016, Jersey was given a glowing report by the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (or Moneyval). Among the conclusions, which placed Jersey unequivocally in the top tier of jurisdictions globally for transparency and countering financial crime, Moneyval stated that: "Jersey's combination of a central register of the ultimate beneficial owner with a high level of vetting/evaluation not found elsewhere and regulation of CSPs of a standard found in few other jurisdictions has been widely recognised by international organisations and individual jurisdictions as placing Jersey in a leading position in meeting the standard of beneficial ownership transparency."

With the independent Moneyval endorsement, Jersey is well placed to demonstrate that its model is proven as effective. The publically-accessible registry which is being introduced in the UK this summer does not come with any evidence of its effectiveness. Despite the assertion made by the UK and other western governments and NGOs, that a public registry would be the most effective way of combatting financial crime, it

Jersey's system meets, and even exceeds, international standards in combatting financial crime

is Jersey's contention that our system is far more effective. While Jersey allows client confidentiality, rather than a public registry, that confidentiality is conditional upon the island's competent and regulated intermediaries validating all beneficial ownership information.

Research commissioned by Jersey Finance and produced by Professor Jason Sharman from the Centre for Governance and Public Policy at Griffith University in Australia, has challenged the notion that a public registry is the best solution to solving financial crime. His study highlighted the weaknesses of a centralised registry and concluded that Jersey's tried and tested regime, with both a central registry and licensed CSPs, was a more effective model.

Enhancements

While Jersey has considerable expertise and an excellent regulatory structure, the market remains hugely competitive. To keep Jersey at the forefront of wealth management solutions, there is a regular assessment of the island's regulatory regime by the trade bodies of industry practitioners, in consultation with the Jersey authorities. Thus, for example, while the 1984 Trusts (Jersey) Law is only occasionally amended – a testament to the strength of the law as originally drafted – there are a number of amendments being proposed. Based on an appreciation of trends in the global private client space, these proposals explore, amongst other topics, the question of beneficiaries' rights

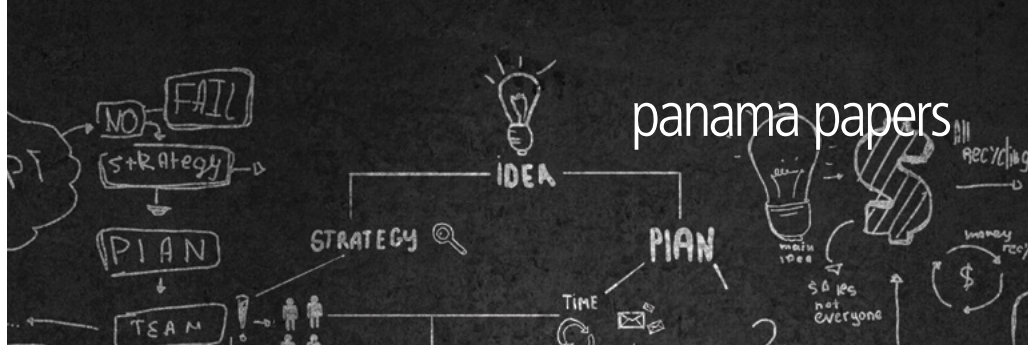
to information and the availability and appropriateness of mechanisms designed to bring about the variation of trusts.

Jersey's private client industry also responds directly to market demands and has developed to meet the growing trend for socially responsible wealth management strategies. Both Jersey's trust and foundation structures have been applied specifically for philanthropic and charitable purposes, and Jersey's new Charities (Jersey) Law has created a robust framework to further support such philanthropic enterprises. It is an example of a development that Jersey has been able to respond to because of the industry's expertise and robustness.

Current wealth management trends present further opportunities for those international finance centres which can successfully blend strong, independently-endorsed regulation with an innovative approach to investment structures.

Jersey's adherence to the highest international standards, which frequently surpass the status of competitor jurisdictions, provide reassurance to investors; the island's commitment to innovation ensures that its appeal continues to broaden in the key markets, and to globally-mobile ultra high net worth individuals and their families in particular. It's an approach which has kept Jersey at the cutting edge of the evolving wealth management industry for many years, and will for a long time to come. 





What is the future for offshore post-Panama?

First Names Group's Mark Pesco examines the impact of the Panama Papers on Jersey and questions whether the revelations may actually have a major silver lining for the island



Mark Pesco
chief executive,
First Names Group

In early April 2016, the International Consortium of Investigative Journalists (ICIJ) revealed that it had its hands on 11.5 million documents from Panamanian law firm Mossack Fonseca. This vast cache revealed the financial transactions of over 14,000 clients and 200,000 entities, from what was one of the largest providers of offshore companies in the world.

Naturally when these so-called 'Panama Papers' leaked, they immediately dominated the headlines, with broadsheets and tabloids around the world revelling in the juicy details – the links to politicians and



billionaires on the Forbes Rich List, government-backed companies, alleged financiers of terrorism and arms dealers, plus ties to over 500 banks worldwide, including HSBC and UBS. It was the most staggering data leak since Edward Snowden lifted the lid on NSA surveillance, and led to the resignation of Iceland's Prime Minister, revealed a suspected billion-dollar money laundering ring involving close associates of Vladimir Putin, and forced David Cameron to defend the stake he had in his late father's offshore investment fund, amid calls for him to resign.

While the public has a clear right to know that murky networks do exist in certain corners of the globalised financial world, the slew of column inches had an unfortunate side-effect. The majority of media outlets simply lumped all international finance centres (IFCs) together under the banner of 'tax haven' – reinforcing the image in the public's mind that anyone putting their money offshore is doing so to get one over on the tax man (or to hide the identities of the ultimate owners to disguise other duplicitous dealings), and that the sole purpose of IFCs is to facilitate such nefarious goings-on.

But for Jersey and its fellow Crown Dependencies, this couldn't be further from the truth. No jurisdiction can ever guarantee it will never be used by a corrupt few determined to play the system, but Jersey is a highly-regulated jurisdiction that remains among the most transparent in the world, a status that's been acknowledged in independent assessments by some of the world's leading bodies, including the OECD and, more recently, Moneyval (the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism).

The Moneyval report on Jersey,

Jersey is a highly-regulated jurisdiction that remains among the most transparent in the world

published in May, gave the island a particularly positive rating, highlighting its "mature and sophisticated regime for tackling money laundering and the financing of terrorism", and ranking Jersey at the top of the global table. In fact, in placing significantly higher than either the UK or the US, Jersey showed that IFCs can be far more transparent than even 'onshore' centres. The island has, for example, held beneficial ownership details via a central registry since 1999. Legitimate tax planning is one thing, but given the strength of Jersey's anti-corruption laws, regulations and security checks, and the very active role taken by the Jersey Financial Services Commission in supervising practitioners, it's very difficult for anyone wanting to launder money, finance terror or evade tax to do so in Jersey.

The island's success has been further boosted by the quality and experience of its practitioners – whether that's lawyers, accountants or bankers – and the excellent work done by Jersey Finance and members of Jersey's government in promoting how the island sits at the forefront of the transparency agenda. So while it

may be difficult for the man on the street to see the true nature of top-notch jurisdictions like Jersey, potential new clients and partners, not least those it meets in new markets like Africa or the CIS, will be fully aware that Jersey sits in that top tier.

But the Panama Papers have revealed something else: just how hard it is to maintain the distinction between privacy and secrecy. The two are often confused. Privacy is clearly one of the benefits of offshore structures, and many clients have legitimate reasons to seek it – perhaps they're from an unstable jurisdiction where there's a high risk to being rich, with the threat of kidnapping, for example, so security becomes paramount. They will be paying tax on their assets and declaring it to relevant authorities, they just wish to guarantee those assets remain safe, and that's very different from secrecy, which implies something else altogether.

Yet with the Panama Papers, such distinctions are at risk of becoming moot. The news has placed IFCs firmly back on the political agenda, and governments around the world have been placed under great pressure to react to what was a massive and




hugely significant data leak. One question that has been raised is whether that political response will lead to more legislation that could have a major impact on Jersey's future as an IFC. This seems unlikely. Since 2008, the UK Government has already introduced a significant number of stringent tax measures on individuals, including the Annual Tax on Enveloped Dwellings (residential property held in non-UK corporate entities), changes to the non-dom regime (with further enhancement to this planned for 2017), the introduction of a General Anti-Avoidance Rule and Disclosure of Tax Avoidance Schemes obligations, together with significantly increased penalties for tax evaders.

There is, however, one key change due in the next few years that may be hastened by the leak: the reporting of assets held offshore to various tax authorities. Less well-regulated jurisdictions may soon find themselves being subjected to a blacklisting or sanction under tougher new rules like the Common Reporting Standard (CRS), which comes into force in 2017. But this, again, should actually be a benefit to Jersey – it was an early adopter to this standard too. Meanwhile we may see the new offence of 'Corporate Enabler' introduced more quickly, where a company can be liable for failing to prevent their representatives from facilitating tax evasion by their clients. But as these rules get tighter, any IFC and corporate service provider that operates a clearly-defined tax risk framework will surely benefit from more referral of quality business from intermediaries in the UK and farther afield.

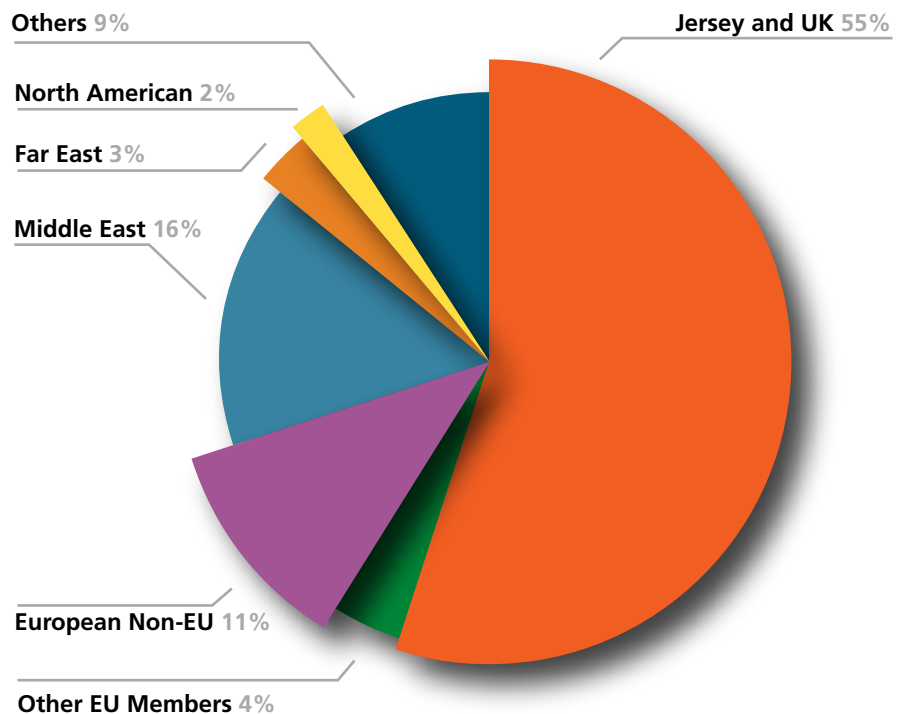
There is one other potential source of competitive advantage: data security. In the wake of the Panama leak, many clients, advisers and regulators have wondered whether companies now

face the risk of cyber security breaches and the theft of their data. This is hardly surprising – the press reports all suggested that the disclosure came either through hacking or from a leak from within Mossack Fonseca itself. And now that everyone has witnessed the impact of the storm that followed, those corporate service providers that can demonstrate a cutting edge in information security or cyber security could well gain an advantage over their rivals.

Despite the portrayal of IFCs as 'tax havens' that has dominated the fallout of the Panama Papers, the demand for

Jersey's wealth management expertise will only continue, as clients and advisers are pushed towards the IFCs with the best reputations. Jersey is an early adopter of the CRS, and it has quality practitioners and industry support. Plus, with the regulation and licensing of service providers, the island is absolutely committed to the highest standards of regulation, compliance and co-operation that make it so successful. Jersey is always evolving and attracting new business, and as such it can only benefit from the flight to quality that's sure to follow the publication of the papers. 

Banking deposits held in Jersey by residence of depositors



Source: Jersey Finance



The continuing evolution of Jersey's trusts law

What will the impact of proposed amendments to Jersey's 1984 Trusts Law be for both clients and practitioners, asks Bedell Cristin's Nancy Chien



Nancy Chien
partner,
Bedell Cristin

Jersey prides itself in being a strong and well-regulated trusts jurisdiction. The Trusts (Jersey) Law 1984 ("Trusts Law") has been the backbone of Jersey's success as one of the leading private wealth jurisdictions of choice. The robustness of the Trusts Law and the quality of Jersey's judiciary have put Jersey in a favourable position compared to other offshore centres. Indeed, if imitation is the greatest form of flattery, the Trusts Law has been used as the precedent for trust legislation in other offshore centres.

Since the inception of the Trusts Law, it has undergone six rounds of amendments to ensure that it continues

to provide certainty, usability and the flexibility that families and trustees continue to require and expect.

Recently, the Jersey government consulted on a seventh round of amendments to the Trusts Law. As with the previous amendments, the impetus has been to ensure that Jersey trusts continue to be attractive holding structures for private client wealth from around the world.

The consultation focused on twelve areas, which are set out below. The consultation period closed on 4 July 2016 and the outcome of the consultation will be available later in 2016.



Areas for consultation

1. The need for a beneficiary at all times during the existence of a trust

It is proposed that the Trusts Law will clarify that there is no need for the existence of a beneficiary at all times throughout the existence of the trust. For example, the amendment will clarify that a settlor can create a trust which is for the benefit of his grandchildren, even though he does not have any grandchildren at the time the trust is created.

2. The rights of beneficiaries to information

It is the wish of some settlors that a beneficiary's right to information should be restricted. For example, a settlor may wish to prevent a young beneficiary from learning of the trust fund until he has matured and established his own career. The consultation sought views on, amongst other options, whether it would be desirable for settlors to be able, by the terms of the trust deed, to restrict beneficiaries' rights to seek information – perhaps by assigning the rights of a beneficiary to a third party or other fiduciary (such as an Enforcer or a Protector), thereby ensuring the accountability of trustees whilst preserving the confidentiality of the trust documents.

3. Changes to the reservation of power provisions under the Trusts Law

Settlor reserved power trusts are becoming increasingly popular. The changes proposed in relation to the provisions on settlor reserved powers will enable such trusts to be used with greater certainty.

4. Should it be possible for an arbitration clause to be included in the trust deed so as to bind a beneficiary to the outcome of an arbitration?

The consultation sought views on

whether settlors should have the right to prescribe in the trust deed an arbitration clause to resolve disputes which binds beneficiaries, trustees, protectors and other power holders. While such a provision could enhance the privacy of the parties, there are various other practical and legal considerations which will need to be weighed up before deciding whether such proposal is desirable for Jersey.

5. Clarification of the circumstances in which a trustee can contract with itself in another capacity

This proposed amendment clarifies when a trustee can contract with itself in another capacity, including but not limited to the trustee's ability to contract with itself in its personal capacity, subject to the duties on conflicts of interest.

6. Confirmation of the appointment of a corporate trustee post-merger

It is proposed that the Trusts Law be amended to confirm that where a corporate trustee merges with another corporate body, the latter will continue as the trustee without further action.

7. Extension of a retiring trustee's right of indemnity to its officers and employees

The Trusts Law allows a former trustee to enforce an indemnity in his own right in certain circumstances, even though the former trustee is not a party to the indemnity. It is proposed that this right of direct enforcement should be extended to a trustee's officers and employees.

8. Extension of a trustee's power to accumulate and distribute income

It is proposed that the Trusts Law be amended to provide that where the trust deed is silent on the subject matter, the default position in relation to undistributed income is for it to be accumulated as undistributed income, rather than capital.

9. Presumption of lifetime effect

It is proposed that the Trusts Law confirms that a trust which contains extensive settlor reserved powers will take immediate effect upon the property being vested in the trustee, unless the trust is specified to be a will.


10. Power of the court to vary the trust without express consent of all of the adult beneficiaries.

The consultation sought views on whether it would be desirable for the court to have the power to vary a trust without the consent of all of the adult beneficiaries, as it may be impractical or impossible to obtain the consent of all the adult beneficiaries. Further, in some cases, adult beneficiaries may be reluctant to provide express consent (potentially due to adverse tax consequences if they do so), even though a variation of the trust might be for their benefit. The current legal position is that the court only has the ability to provide consent to a variation of trust on behalf of minors, unborn and incapacitated adult beneficiaries.

11. Consideration of Jersey's forced heirship law and how it interacts with the Trusts Law

Jersey's forced heirship rules in relation to moveable property are preserved as an exception to the firewall provisions within the Trusts Law for those domiciled in the island. The consultation paper considers whether it would be appropriate to remove this exception, thereby allowing Jersey domiciled settlors the same freedom as others in the use of trusts.

12. Miscellaneous amendments

The consultation closed on 4 July 2016. While it is unlikely that all of the proposed changes will be adopted, we expect that all of the responses will be given full consideration and a course of action recommended which will see the Trusts Law continuing to thrive and develop. 





The numbers speak for themselves. Last year saw 22 high net worth individuals relocate to Jersey, and 34 new trading licences awarded to firms moving to the island across a range of sectors from mining to fintech to corporate services.

Each one of those individuals and firms had plenty of locations to choose from; all of them chose to come here.

The traditional arguments made for coming to our 45 square miles – from the point of view either of a family or a business – used to revolve around unspoilt beaches, great restaurants, golf courses and the 20 percent top rate of tax.

The fact that you can be at home or on the beach within minutes of leaving work, the absence of capital gains or inheritance taxes, and an enviable work-life balance are still key drivers both for inward investment and decisions by high net worth individuals, but today, the reasons that the relocation shortlist is so often whittled down to Jersey alone go much further than tax and lifestyle.

Jersey's travel and transport links enable residents to get to some parts of the UK quicker than they could from London, the fourth-highest rate of fibre-optic broadband connections on the planet underpins an emerging digital sector, and top-class education and health services and very low crime rates make Jersey an attractive community environment.

In addition to that comes the exceptionally high quality of professional services, including some of the world's leading banks, financial institutions and law firms,

Room and a View

Ogier's Jonathan Hughes explains why Jersey is a great place to relocate for wealth clients and their families

Jonathan Hughes

partner,
Ogier



offering the same quality of advice and professionalism that you would expect from the top London institutions.

Whatever the mix is, it works.

Relocating businesses have created 1,303 jobs in the island since 2008, and the number of new inquiries to Locate Jersey – the agency tasked with attracting inward investment and high net worth individuals – topped 260 last year. That influx of investment, talent and skills helped bolster strong economic performance – the most recent GDP figures saw growth of four percent over the previous 12 months, well above the comparable UK and EU rates.

The underlying message is that Jersey isn't, and hasn't been for many years, an offshore retirement community. Entrepreneurs and hedge fund managers make up an increasing proportion of the new arrivals.

But the process of relocation is not without its complexities.

Aside from the residency application process itself, there's also the process of finding a home (for new residents) and premises (for new firms), navigating through the island's property transaction process, and potentially the Planning and commissioning processes too.

To navigate through that unfamiliar maze, incoming residents and firms instruct local law firms to provide a responsive, professional and discreet service that reflects clients' individual needs. Lawyers engaged in this kind of work are well-placed to introduce clients to local accountants, bankers, trust and investment specialists who can provide expert wealth structuring advice.

A huge and often decisive factor in decisions by high net worth individuals in particular is finding the perfect home. The local legal sector have long-established connections with professionals in the island's property sector, and provide a range of services



Facts

▶ Jersey has 872 regulated trust company business licences held by 187 trust company service providers as well as 273 registered foundations (as of March 2016)


Source: Jersey Finance

to both domestic and international clients relating to the purchase and ownership of Jersey property assets, guiding them through every step of the process.

Many clients also spend substantial sums on developing and renovating Jersey properties, and legal teams assist and advise on the negotiation and appointment of designers, architects and other professionals – not to mention offering guidance through a Planning system that can be particularly complex where older properties are concerned.

But the work of legal firms in this area is not restricted to high net worth individuals. Ogier has worked with companies in the financial services and natural resources sectors to help them to establish presences and move key individuals to the island, as well as firms in the drilling and retail sectors. That work has involved some of the largest hedge fund managers in the

world, as well as FTSE 100-listed mining and oil companies – all of which needed advice on corporate restructuring, licence application processes and regulatory and compliance obligations. Our team has also advised on key practical questions about the island's employment law, recruitment and finding suitable new premises from which clients can operate.

The growing trend of high net worth individuals and businesses relocating to Jersey is a win-win. New islanders and new firms benefit from Jersey's work-life balance, from its low-tax status, from the high standard of health and education services, and from the travel, digital and professional services infrastructure. The island itself benefits not just from the inward investment, but also from innovation and economic activity driven by new people, new businesses and new ideas. 

The growing trend of high net worth individuals and businesses relocating to Jersey is a win-win





Jersey's

Fiduciary Market

Elia's Matthew Christensen examines the private equity investment that is taking place in Jersey's fiduciary sector and argues how it is an evolution not a revolution

Matthew Christensen
associate director,
Elia



There has been significant change within Jersey's fiduciary market during recent years, driven by numerous factors, and the pace of change shows little evidence of slowing. One of the most significant changes has been ownership and external capital investment into the market, primarily private equity-based investment.

Why Private Equity?

There are several factors driving this investment and it is not simply the "one-way street" that some observers perceive it to be. It is a merging of investment criteria and business needs. The fiduciary market is attractive for private equity investment for a number of reasons:

- ▶ The recurring and reliable nature of fiduciary service revenue
- ▶ The local and global consolidation options available
- ▶ The robustness of Jersey's regulatory and international reputation

Similarly, local fiduciary businesses have actively sought additional capital to meet new challenges:

- ▶ Globalisation creating wide-sweeping changes to the economic landscape and client base
- ▶ Growing technological requirements and advances
- ▶ Increased regulatory and reporting requirements
- ▶ Implementing effective and efficient succession planning

Increased capital and better service

As a jurisdiction, it is essential that Jersey has a varied service provider market, allowing the client to select a provider that appropriately meets their needs. First and foremost, Jersey requires an industry that continues to place the needs of the client at the heart of their business model - private equity investment has allowed specific businesses to achieve this, particularly those with a more international client base. The raft of international regulatory requirements (FATCA, CRS, etc.), coupled with Jersey's regulatory regime, has had a significant impact on the operational structures of

fiduciary businesses. In-order that client service levels are not impacted, with client facing staff remaining solely focused on client work, businesses need to invest in increased operational staff numbers and new technology. If this is considered alongside international expansion ambitions and succession planning, then the entry of private equity to the market is both expected and necessary.

There can, however, be negative connotations attached to private equity investment, primarily because, by its very nature, private equity investment needs to be considered alongside its exit strategy. This creates an inter-play between a relatively short-term investment horizon and a long-term relationship led business. To focus solely on this though ignores the obvious benefits and the necessity of the investment alongside the evolution of the market. Failure to take to these steps jeopardises client service levels and narrows the market that Jersey-based businesses can operate in. Indeed, fuelling business growth has allowed Jersey businesses to remain the headquartered

centre for international businesses, helping stimulate market growth and market reputation.

The MBO route for law firm affiliated fiduciary businesses should be viewed as a logical evolution of the business model; they are two fundamentally different operating models that, whilst complementary, diverge on their capital investment requirements. The successful fiduciary businesses reach a point in their life-cycles when, particularly as a result of the increased operational costs, they require increased investment. The entry of private equity has allowed management to partner with an investor that is interested in quickly overcoming any hurdles to ensure growth.

Succession planning


With the leadership of many businesses reaching retirement age and the market at a mature stage, it has become prohibitively expensive for the next generation to acquire and invest in these businesses. Succession planning has therefore become a key operational concern. The options available

to businesses in this regard are limited, and identifying an effective succession planning model is essential in maintaining client service levels and business continuity. Placing significant debt within the business is unattractive and creates uncertainty internally - private equity is an attractive alternative. It allows one generation to exit the business, and the next generation is incentivised to grow it with the support and expertise of private equity; this growth cannot be achieved by neglecting existing clients. Indeed, increased service levels, borne out of technology investment and increased regulatory reporting capacity, is essential - businesses recognise that the best referrer of new business is existing clients. This robust approach to the succession planning issue is good for clients, existing and future, and for the continuity of this local industry.

Maintaining independence

For the smaller, niche, players in the market independent ownership allows them to remain a market differentiator but does result in growth being more restricted and investment being more phased; it is unlikely that overseas investment and technology investment can be done simultaneously. This will restrict their target markets but will allow them to focus on specific markets and sectors, developing expertise that aids the development of the industry and ensures a full service provision is available in Jersey.

Overcoming misconceptions

There are many misconceptions on the role that private equity plays within the industry (it should be noted that private equity investment within the fiduciary market has not been isolated to Jersey). Private equity has helped this industry move forward locally and internationally. - providing a diversified market place, essential for effective competition, choice and innovation. With all businesses, whatever their ownership model, continually looking to meet their clients' evolving needs this is good news for the development of this client-focused industry. 

Facts

GVA of finance sub-sectors in real terms from 2010 to 2015 in constant 2013 values

	2010	2011	2012	2013	2014	2015
Banking (£ million)	910	920	810	810	930	880
Fund management (£ million)	130	110	100	90	90	90
Trust & company (£ million)	360	380	400	360	390	400
Legal (£ million)	170	180	180	200	210	220
Accountancy, mixed income and other (£ million)	100	100	110	100	80	90
All finance (£ million)	1,690	1,690	1,600	1,550	1,690	1,680

Source:
States
of Jersey
Statistics
Unit



Time

For A More Progressive Discussion On Beneficial Ownership

Ashley Cox – managing director of Zedra –
argues that it is now time for a more progressive
discussion on beneficial ownership



Ashley Cox
managing director,
Zedra

When George Osborne announced in this Spring's Budget the formation of a public register of beneficial ownership, one could have been forgiven for thinking that such registers were a new idea. The truth of the matter, though, is that this practice has been in place, in some jurisdictions, for almost 20 years. Jersey is one of the jurisdictions that has a private register of beneficial ownership. The island has been consistently ahead of the curve in the transparency and disclosure of beneficial ownership information, recognising the myriad reasons that this data could be called upon, either in order to fulfil international tax obligations, exercise proper regulatory oversight or, in some cases, to uphold the law. And this experience has provided insight into both the benefits and challenges of such legislation.



The unprecedented level and nature of the data leak in Panama earlier this year has once again brought the issue of corporate transparency into focus. This focus on appropriate transparency is to be welcomed, not least as the rapid pace of change in the regulatory landscape has heightened further the importance of quick and easy access to current, accurate and relevant information. With that, though, comes the question of management: how can this information be most effectively administered and securely stored, while maintaining the right controls and protections on individuals' privacy?

Private registers have worked, but as intergovernmental cooperation has increased, the need for speed in access and reliability of information has taken on a new urgency. The automatic exchange of information provisions agreed between certain states looks set to continue to change the way that individual and corporate data is shared and transferred. And set against a backdrop of growing proactivity on the issue among cross-border bodies, the direction of travel is clear: transparency is here to stay, and calls for cooperation will only continue.

There is a need, though, for some clarity. Clarity on future information demands, protocols for usage and precedents set for times of dispute. Numerous mechanisms have come into force internationally, but neither the Financial Action Task Force (FATF) nor the European Union's Fourth Anti Money Laundering Directive, for example, provide the level of detail needed to ensure that only appropriate information is collected, stored and used. So in addition to an analysis of how fit for purpose they are as a mechanism in this age of rapid information transfer, it would also be apposite to assess, objectively, how they interact with current data protection regulations. This way, personal privacy is not mistaken for more questionable secrecy considerations.

This is a pertinent point. The OECD's recent regulatory drive, and its Global

The need for speed in access and reliability of information has taken on a new urgency


Forum on Transparency and Exchange of Information for Tax Purposes, have contributed to a more steadfast approach to beneficial ownership as a means of ensuring that the burden of taxation is shared appropriately. Demands that all countries should fall in line, though, have resulted in a mixed response at best, with commitment from some states counterbalanced by a concern that unchecked data exchange and accuracy concerns could inadvertently mean the winding back of an individual's right to privacy.

For industry, though, this also highlights where we need to do more, both to protect clients' right to privacy, but also to ensure that international regulations are upheld. Greater and more thorough due diligence can minimise the likelihood of client data being requisitioned and the resulting disruption that could be caused. And it is not a one-way street. We are well positioned, and have a responsibility, to work with our regulators to ensure that our business is conducted with the appropriate levels of transparency and governance. It is something we at Zedra take very seriously, a view that I know is shared by the community in Jersey.

The reality is that there is no silver bullet that will solve overnight the conundrum of how beneficial ownership information

can be best managed. We are, however, in the unusual circumstances where new regulations being proposed – and imposed – are often less stringent than those that are already in place here in Jersey.

Ultimately, transparency will be best sustained by maintaining an appropriate, flexible, responsive and robust disclosure framework, which handles data securely, sensitively and appropriately, but respects the need for privacy. More regulation, for regulation's sake, risks trying to apply a 'one size fits all' measure to a complex issue, and this methodology will not address transparency needs for the long term. A pragmatic and objective discussion on the most appropriate form of regulation, though, will help us to make some meaningful progress.

Jersey can be proud, though, to have been at the vanguard of this issue. No system is without flaws, and a structure without the right safeguards for data protection and accuracy does pose some inherent challenges. By consistently promoting good reporting practices, though, the process can be intrinsically de-risked and the foundations for information exchange themselves can be made more transparent. The issue is here to stay and it is within our power to find a solution that supports all of our needs. 

In the Family



Why is Jersey an attractive location for setting up a family office asks Hawksford's Michael Powell

Family offices are a useful tool for high net worth families to co-ordinate their financial advisory team and protect and preserve their wealth. Jersey has consolidated its position as one of the most reputable locations for private clients to set up their family office.

Definitions of a family office differ greatly but for the purpose of this article it is suggested that a family office comprises the provision of a structure(s) which can successfully take on, manage, administer and, where appropriate, enhance the value of a family's assets. It can also distribute funds, often working with internationally based family members who have diverse requirements in the provision of what is often called a concierge service.

Jersey has a long and respected history of administering the structures within

a family office and, as a sophisticated and highly regarded international finance centre, the island has the solid infrastructure in place to support the management of family offices.

The armoury of products and services available in Jersey include private trust companies, foundations and bespoke trusts. When these are combined with an overall flexibility of approach, familiarity and willingness to work with other jurisdictions, as well as protectorship and the historic use of increasing investment management committees, Jersey is certainly a potent force within the family office sector.

Jersey's regulatory framework and robust court systems have evolved to support and deal with issues that arise in the course of administering a family's affairs where there is a connection to Jersey. Whilst few parties want to



Michael Powell

director,
Hawksford



consider this possibility, access to a judicial system familiar with issues derived from family wealth confers a sense of security as to the outcome of a process. The Council of Europe's Moneyval report on Jersey, published in May 2016, championed the island's institutional, legislative and regulatory framework, and placed Jersey significantly ahead of other jurisdictions that have been assessed.

Its strategic location, between the time zones of the Americas and Asian markets also makes Jersey a preferred location for basing a family office. Close proximity to London and excellent communication links and infrastructure

also help to consolidate why Jersey is a premier location for administering the wealth of UHNWs.

As families become increasingly international, the requirement for consolidated administration, advisory and tax reporting, which are all necessary components of an effective family office, becomes even more apparent. Excellent but pragmatic levels of governance are mandatory if structures are to survive beyond the third generation, so clients need to engage the services of trusted experts to ensure the effectiveness of their existing structures.


Using Jersey as a base for a family

office enables clients to take advantage of its highly skilled and specialist workforce. All of the skillsets required by a successful family office – legal, investment, wealth management, tax, corporate governance, including (NED!) relevant skilled succession planning - are available in Jersey. In addition Jersey advisers naturally work with international advisers to provide services to families spread out across the world.

The far-reaching footprint of many companies in Jersey means that a seamless international service is very much a reality for clients.

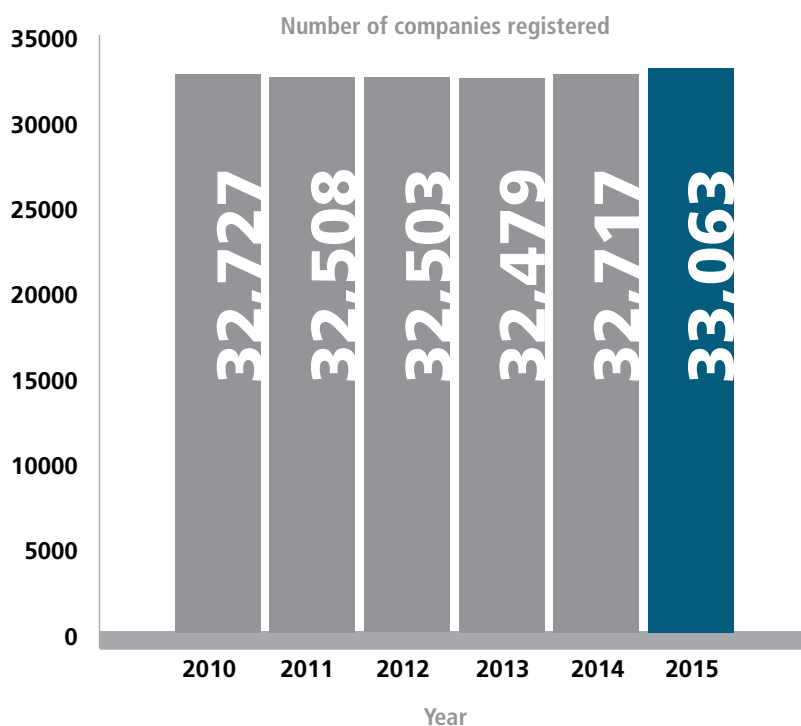
Regulation will continue to evolve, and will only become more prevalent with Jersey at the forefront of the most requested jurisdictions. Jersey has always been an early adopter of regulatory change and remains committed to maintaining its reputation as a compliant jurisdiction, which will in turn be to the benefit of its clients. When it comes to preserving their wealth, families increasingly must accept and embrace this regulation. Jersey has always been technologically advanced but The Panama Papers remind us that complacency is never justified.

Looking ahead it is likely that the services required by family offices will become increasingly complex and specialist. I am seeing the emergence of a new generation of clients who are increasingly entrepreneurial and require an even higher percentage of the services traditionally provided to a family office. Jersey clearly has a huge advantage in being able to offer or facilitate all such services that could reasonably be required to service the family office.

With all of its obvious advantages, Jersey aspires to become the best in the world at helping UHNW families to set up and manage their family offices as part of the wealth protection for future generations, facilitating the process of pro-active and constructive use of wealth. 

Facts

Source:
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