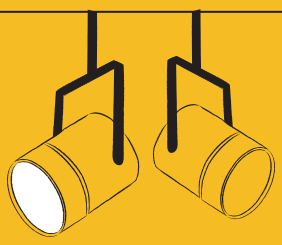
Spotlight

Jersey Foundations



Jersey foundations are often used as an alternative to trusts in private wealth and corporate structures – they can be thought of as being a hybrid between a company and a trust that can provide a flexible, private and lasting solution for asset protection and succession planning.

Jersey foundations were introduced in 2009 to complement the Island's trusts regime, and are an increasingly frequently used part of the wealth structuring and governance toolkit.

Like a company, a foundation has a separate legal personality that can contract with third parties and hold assets in its own name; like a trust, it has no shareholders and can be established by a founder (like a trust's settlor) to benefit beneficiaries, purposes (charitable and/ or non-charitable) or a mixture of both.

In our experience, foundations are most commonly favoured by clients from civil law jurisdictions (where trusts are not widely used) or by those more comfortable with the "feel" of corporate vehicles, and are often used to hold high-risk assets or as a single family office vehicle – capable of, by way of example, directly holding family assets, acting as trustee of family trusts, facilitating the involvement of the next generation in a family's decision-making process and acting as a final arbitrator in the case of family disputes.

KEY FEATURES

A foundation must have a Charter, a public document that contains very limited and short details about the foundation

The substantive details about office-holders, objects and decision-making are contained in the Regulations

The Founder is the person who establishes the foundation (much like a settlor in a trust)

Decisions are taken by a Council, who act like directors of a company – one of the Council members must be regulated under Jersey's financial services legislation

A Guardian must be appointed, to ensure that the council carries out its functions so as to achieve the foundation's objects or purposes

USES OF FOUNDATIONS

As an alternative to trusts for succession planning, allowing a founder to retain direct or indirect control over assets

For charitable or philanthropic purposes (including as a body registered under Jersey's charity law)

Depreciating or volatile assets can be problematic for trustees to hold due to their fiduciary duties – foundations are often a better solution

Foundations (as "orphan" or "ownerless" vehicles) are often used to hold SPV companies where they need to be held "off balance sheet" or with separate ownership from other parts of a structure

As an alternative to PTCs, "private trust foundations" can act as trustee of connected trusts under Jersey's PTC regime, or as a corporate protector or enforcer of a trust (or hold the shares in a SPV company incorporated to act as protector or enforcer or a trust)

Key contacts



NANCY CHIEN
Partner | Jersey | BVI
nancy.chien@bedellcristin.com
+44 (0)1534 814792



SEVYN KALSI
Partner | Jersey
sevyn.kalsi@bedellcristin.com
+44 (0)1534 814789



KIRSTEN BRASS
Counsel | London | Jersey
kirsten.brass@bedellcristin.com
+44 (0)208 054 3224

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