

Establishing a Family Office in Jersey

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What is a Family Office?

Whilst by no means the sole definition, a very useful one is provided by the Family Office Council, a membership group for single family offices, which defines a single family office (and our focus here is on those and not multi-family offices) as a private organisation that manages the investments for a single wealthy family. The assets are the family's own wealth, often accumulated over many family generations.

In addition to investment management some family offices provide personal services such as managing household staff and making travel arrangements. Other services typically handled by the traditional family office include property management, day-to-day accounting and payroll activities, and management of legal and tax affairs. Family offices often provide family management services, which includes family governance, financial and investment education, philanthropy coordination, and succession planning.

In our experience, every single family office is different and reflects the needs and interests of the family that it serves. In each case the matters for which a family office will be responsible and the mechanism for governance of a family office should be considered carefully at the outset.

Designing a Family Office

Having determined what range of services the family office will provide, the next issue is how will it provide them? By way of example, will it employ its own full time staff to do everything, or will it outsource everything to third party specialists, or some combination of these? Will it involve a regulated trust company service provider to host and administer the structure or will it establish a standalone family office with real presence in Jersey?

In our experience, most family offices make a pragmatic compromise on this issue and employ

its own staff in critical roles and outsource for those matters where in-house expertise is either not available or not efficient.

Where the intention is for a regulated trust company service provider in Jersey to act as host for the family office structure and there is no intention for the family office to employ its own staff or establish a real presence in Jersey, then the structure will generally be exempt from the registration requirements under the Financial Services (Jersey) Law 1998 on the basis that the service provided will be regulated. In most cases family office structures administered by regulated trust company service provider will involve the establishment of a private trust company or a foundation where the board or council (as the case may be) is comprised of a combination of family members, regulated professionals and other appropriately qualified advisors.

Where the intention is the establishment of a family office with a real presence in Jersey, to engage employees in the island and/or relocate family members or personnel to Jersey certain regulatory and licensing requirements will need to be considered and met.

The remainder of this briefing will focus on the establishment of an independent family office with a real presence in Jersey.

The structure

A family office may take an almost unlimited range of legal forms – from a conventional company limited by shares to a protected cell company to a limited partnership to a limited liability partnership to a unit trust to some other form of trust to a foundation or to some combination of these.

There are multiple factors which might impact upon the choice of legal structure, but some of the principal ones we see include – the purpose of the family office (if the family office is directed at only specific purposes, certain structures may not be suitable, for example, where the family want to be able to make investment decisions, a fully discretionary trust may not be the appropriate investment vehicle, but a trust where the investment powers are reserved to a family investment committee might be), simplicity (as a general rule it is usually best to adopt the simplest possible structure consistent with achieving the desired purpose), tax (the on-shore tax position of family members may restrict what structures may be available, especially where family governance will involve family members in decision making), regulation (the structure and activities of the family office and its key individuals may need to be regulated for financial services business and/or under the anti-money laundering regime or may benefit from an exemption from regulation).

Establishing a real presence in Jersey

Like any other undertaking which has a real presence in Jersey, a family office will need to

consider whether a business licence is required for its operations, prior to it setting up in Jersey. Where there is a real presence in Jersey, and the family office is employing staff in Jersey then under most circumstances, a business licence will be required prior to the set-up of the family office. The licence permits the family office to conduct its operations here in Jersey and also to employ and engage people within the business. It is worthy of note that a business licence may be required even if you are not going to employ people directly or if you are engaging consultants or secondees.

Employing Staff

As part of the consideration of your business licence application (see Establishing a real presence in Jersey), the family office will also need to consider what, if any applications should be made for permissions to employ or engage people who have not been continuously resident in the Island for more than 5 years. If the family office wishes to engage people with specialist prior knowledge of the family, for instance, then certain applications will need to be made for those people to be employed and to be housed within the Island. If the employee is considered to be an 'essential' employee (where the requisite skill set cannot be readily found in Jersey) an application for 'licensed' status may be made and this permits the family office to recruit the necessary professionals from outside the Island. This status also confers the ability for that person to buy and rent property in the Island for as long as they remain employed by the family office.

Jersey has its own employment and discrimination legislation which is different in some key respects from that of the UK and EU. It will, therefore, be necessary to ensure that all employment contracts, handbooks and policies and procedures comply with Jersey law. Very often, this can be achieved by taking existing documentation and adapting that to ensure compliance with Jersey law.

Jersey employers also need to consider other appropriate matters such as appropriate insurances, registrations with income tax, social security and under the Island's data protection laws. They may also wish to consider payroll service providers.

Premises

There are a number of options available for family offices looking to rent or buy commercial premises in the Island from serviced offices through to high quality commercial property. The Island is well serviced by a number of excellent commercial agents and we can make the necessary introductions. The property laws in Jersey are substantially different to those in the UK and other jurisdictions and so appropriate advice should be taken before entering into any commitment relating to property. The family office should not enter into any lease or occupy any property without having a business licence where one is required (see above).

Relocation

For any high net worth individual looking to relocate to Jersey, early consideration should be given to whether an application for High Value Residency is to be made. This grants approval for residency based upon the likely contribution to Jersey tax revenues and other factors such as the overall benefits to Jersey of granting the application. Such applications require specialist tax advice and detailed tax planning and we are delighted to make the introductions on request.

Those relocating to Jersey may also need help personally with residential property matters and generally 'settling in'. It is common for individuals to have questions about tax, residential property matters, their personal residential status and how they obtain and lose those rights over time and restrictions on property ownership in Jersey. They also often have questions about more personal things like schools for their children, the medical system and the like. We are here to help with all of those matters!

Financial Services Regulation

While family offices often fall outside financial services regulation (because by definition they are not providing services to the public and they do not provide financial services by way of business) the extent to which the activities of the family office and its key individuals might need to be regulated does still need to be considered in relation to both the Financial Services (Jersey) Law 1998 and the anti-money laundering regime in Jersey. As a result, family offices may also need to adopt internal policies and procedures in relation to matters such as AML, risk and regulatory compliance. We can assist with the preparation of such policies and procedures manuals.

Family Charter

Structures for the management of complex family wealth require clear objectives which are fully understood by the family, the family office and their advisors. A family charter or constitution can assist by providing a written framework setting out guiding objectives in relation to the structures involved, including the family office, any family businesses and other family interests, such as family trusts or family philanthropy. A family charter can set out the processes for taking decisions and involving family members, such as a family forum, thereby aiding the efficient governance of the family's affairs. It can also anticipate potential issues, such as introducing the next generation to the structure and responsibilities of wealth or protocols for dealing with conflicts or disputes between family members, and prevent damage to both family harmony and family wealth.

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