



Trust Essentials – February 2020

Newsletters – 31/03/2020

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As the needs of private clients become increasingly complex, our lead article from [Anthony Partridge](#) highlights the importance of getting the fundamentals right - from taking time to fully understand a client's background, to working effectively with onshore counsel.

Read our lead article here: [Back to basics: getting the fundamentals right in Cayman trusts](#)

Anthony's article is a follow up from his panel discussion at the successful STEP Cayman conference last month, where the recurring topics of discussion included anti-Bartlett clauses and trust litigation on divorce - themes which are also covered in our briefings below.

We were delighted to see a [double "Law Firm of the Year" win for Ogier at the Citywealth IFC Awards](#) last month for our Hong Kong and Jersey teams, where our [Global Head of Dispute Resolution and Trusts Disputes Rachael Reynolds was also named Litigator of the Year](#) - a strong start to 2020, and hot on the heels of being named the [Legal 500 UK Offshore Law Firm of the Year](#).

As always don't hesitate to get in touch with your regular Ogier contact or any member of the [Trusts Advisory Group](#) for further information.

| Should a trustee resist attempts by a creditor to obtain disclosure about a beneficiary's assets?

Should a trustee resist attempts to obtain disclosure about a beneficiary's assets by their creditor?

If a trustee finds that one of its beneficiaries has been the subject of a court judgment for the payment of a sum of money, should the trustee have to tell the holder of the judgment about

the assets of the beneficiary so that the creditor can go after those assets to satisfy the judgment?

Read the article here: [Should a trustee resist attempts to obtain disclosure about a beneficiary's assets by their creditor?](#)

Anti-Bartlett clauses – normal service resumed...

Those in the private wealth and trusts industry will be well aware of 'Anti-Bartlett clauses' in trust deeds. Such clauses are drafted to exclude the duty of a trustee to supervise or intervene in the business affairs of companies in which the trust holds shares.

Read the article here: [Anti-Bartlett clauses - normal service resumed...](#)

Avoiding rags to riches in three generations: family governance in the Middle East

How can clients and their advisers ensure that family businesses can survive and prosper in the region?

Family owned businesses are the engine room of the GCC economies. According to the PwC Business Survey 2016, they provide 60 percent of GDP and employ over 80 percent of the workforce. Many have grown rapidly taking advantage of simple decision making processes, light touch regulation, and little external competition.

Read the article here: [Avoiding rags to riches in three generations: family governance in the Middle East](#)

The rise in Will disputes in Jersey

Recent research highlights the increasing likelihood of people being willing to dispute a Will and go to Court if they are not happy with the division of their relative's estate, and this is definitely an increasing area of work in Jersey.

Read the article here: [The rise in Will disputes in Jersey](#)

The Loan Charge – finally some good news for tax payers

Any trust company or corporate service provider offering employee incentive solutions will have spent the last few years heavily involved in dealing with the "Loan Charge" that was introduced

by the UK Finance Act 2016. This was brought into legislation as an anti-avoidance measure to tackle what were seen as "disguised remuneration schemes".

Read the article here: [The Loan Charge - finally some good news for tax payers](#)

Avoiding trust litigation in divorce proceedings

When considering a trust structure for the express purpose of asset protection within family succession planning, the prospect of divorce is never far from the mind of the settlor or the draftsman. Divorce is itself a costly undertaking and never more so than when consideration must be given to offshore trust assets and the role of a trustee. Combined with the additional possibility of a successful claim against trust property, the cost has the potential to wipe out the anticipated benefit to future generations.

Read the article here: [Avoiding trust litigation in divorce proceedings](#)

Firewall and Forum clauses – what protection is available when foreign courts seek to intervene

Trustees can all too easily find themselves caught up in litigation in another jurisdiction given the increasingly international nature of offshore trusts. The firewall regime and forum for administration clauses within deeds, when robustly applied and upheld by the Courts, are the key to ensuring questions concerning a trust are dealt with by the courts of its home jurisdiction.

Read the article here: [Firewall and Forum clauses – what protection is available when foreign courts seek to intervene](#)

Jersey's Royal Court declares trustee's exercise of power void

A mistake or a failure to take into account relevant considerations? The Royal Court is asked to consider its jurisdiction to declare voidable the exercise of a power on both grounds.

Read the article here: [Jersey's Royal Court declares trustee's exercise of power void](#)

The latest trends in philanthropy

Our global Private Wealth team regularly advises clients on charitable giving and philanthropy. In this interview, [Henry Wickham](#) from our Jersey team, [Anthony Partridge](#) from our Cayman team and [Gavin Ferguson](#) from our Guernsey team, provide insights into the trends they're seeing in

private client philanthropy, and how their different jurisdictions enable it.

Read the article here: [The latest trends in philanthropy](#)

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

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