



# At A Glance Asset Protection Trusts in Jersey

The demand for so-called "Asset Protection" trusts has continued in recent years. Whether this is in the context of a new trust being established or existing trusts being re-structured and re-organised, asset protection considerations are often a key concern for clients.

As a starting point to such considerations and discussions with clients, it is important to be clear as to both what is meant by "asset protection" and how this fits within the context of Jersey law.

## 5 things to know about Asset Protection



### What is an "Asset Protection Trust"?

The term "Asset Protection Trust" has developed as an informal description of a trust whose primary purpose is to safeguard trust assets



### What are they protecting against?

These are usually protecting against claims made against either the settlor or beneficiaries of a trust



### Who might be making such claims?

Potential claims may arise from a variety of different sources including creditors under a contractual claim, forced heirship claims, insolvency or bankruptcy claims, or from divorce or community property rules



### Why the recent interest?

The global political risk landscape remains particularly unsettled in various regions throughout the world and this has contributed significantly to the continued demand for the protection of trust assets



### What can be done?

The steps taken in relation to asset protection will depend upon the specific concerns relevant to the client and a wide variety of mechanisms may be available from very simple structuring solutions to bespoke drafting

## 5 things to know about Jersey and Asset Protection



### Jersey and Asset Protection

The key question is often to what extent a Jersey trust, once established, will protect assets from future creditor claims



### Asset Protection Legislation

Express asset protection legislation has not been passed in Jersey as such provisions have not been considered necessary or desirable in light of Jersey's modern and robust trust and insolvency legislation



### Asset Protection and Trust (Jersey) Law: General Rule

The general position is that once assets are settled on to trust, they will only be available to the creditors of the settlor if (i) some procedure exists to enable the transfer into trust to be set aside or (ii) the settlor is entitled to receive a benefit or call for distributions from the trust



### Exceptions to the General Rule

The general rule may not apply if: (i) the settlor retains a power of revocation; (ii) the arrangement by which the trust was settled was not valid, or where the trust is a sham, or the settlor lacked capacity; or (iii) the trust has been settled with the intention of defeating a known creditor



### Firewall Provisions

The Trusts (Jersey) Law does contain robust firewall provisions to ensure that questions concerning a Jersey trust are governed by Jersey law



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