

A decade of building on strong foundations: the tenth anniversary of the Foundations (Jersey) Law

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The birth and growth of the Jersey foundation is a clear example of how the Island's legislature, financial services industry and regulator have worked together to broaden the Island's appeal to an international market.

This year marks the tenth anniversary since the enactment of the Foundations (Jersey) Law 2009, which was the first of its kind for offshore jurisdictions when it came into being, but which has since been followed in Guernsey, the Isle of Man and to some extent in the Cayman Islands.

Today, there are almost 400 foundations currently registered in Jersey serving a wide variety of purposes – from the philanthropic and charitable uses that many were originally expected to perform, to serving as Private Trust Companies, or in place of traditional trusts. According to Jersey Finance, at the start of last year, the number of foundations registered in Jersey outstripped the total of those in Guernsey and the Isle of Man, by around a quarter.

Clients in Europe, who are less familiar with the traditional Jersey trusts model, were initially the most enthusiastic users but the message about the benefits of Jersey foundations has spread to a wider international audience.

The Jersey foundation was intended as an alternative to the Island's trusts, not as a competitor to them – there are some key differences: foundations are registered and must have a charter filed and available to the public, they are legal entities that can contract in their own name (as opposed to through a trustee), and can be an orphan asset.

Beyond the charitable, they have been used for holding individual assets or as a long-term structure for a family business (a trustee's duties mean that a trust structure is not always appropriate), for holding the shares in a private trust company, or in a succession planning structure that requires the foundation's council to obtain the consent of the founder (acting as guardian) before exercising its powers.

The fact that nearly 400 foundations have been registered shows that the move has been a success, and the fact that similar legislation has been introduced in Guernsey, the Isle of Man and Cayman confirms that those jurisdictions see the potential benefits of the approach.

As the Island continues to push into new markets and explore new opportunities, the foundation law is a good example of how innovation can set Jersey apart – and how industry, legislature and regulators can work together to deliver benefits for everyone.

This article first appeared in Connect Jersey.

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