

## A matter of good governance

Julian Hayden, Director at Hawksford International explains why Jersey's strict adherence to strong corporate governance principles gives the Island a competitive edge.

Jersey has been extremely successful in the international finance marketplace for a number of decades but the finance industry we see in the island today is very different to the one we in which we operated twenty years ago.

There's no doubt that greater regulation has transformed the sector but in spite of some grumbings and fears, the government's sensible and consultative approach to its introduction has created a platform for Jersey that gives it a clear competitive edge over other jurisdictions.

In an era of transparency clients welcome the security and stability of good governance and effective regulation, especially where it comes with a light touch as shown by in the recent growth of Private Trust Companies.

Most business communities react negatively to new regulation of any kind because it is perceived to be restrictive and an obstacle to success. The flip side to this, however, is that targeted regulation can place an industry on a firmer footing for dealing with changes in the wider world.

Jersey's regulatory improvements have cascaded down to create a cultural change within the sector that means the Island is now viewed by clients around the world as a safe jurisdiction in which to do business. We regularly see clients who want to know that their wealth is being administered in a robust manner that complies with the rule of law.

It is also essential that structures are administered such that management and control are not only offshore, but demonstrably so. Top quality decision-making and record keeping are vital. See for example the Laerstate case and HMRC's current attitude to the management of EBTs.

### Sticking to our principles

Regulation has created an environment in which Jersey-based professionals who sit on the boards of companies or who act as trustees, have the confidence to make strong decisions that are in the interest of clients or beneficiaries even when the client sometimes may not see quite why a particular course of action is the right one. Clients are attracted to a well regulated environment and the implementation of these rules is



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carried out in the boardroom.

Strong corporate governance starts with the director being fully briefed and up to date on all the affairs of the company in question. It also means proper control and record-keeping, which in itself is not difficult but it is amazing how many jurisdictions are let down because their corporate culture does not include adherence to proper administrative practices.

Many client trust and company structures now include family businesses, so requiring a blend of skills as trustees and directors with a good commercial understanding. They also need an ability to gather and assimilate information and to make informed decisions. Often quick decisions are needed, such as to capitalise on a new opportunity. This is only possible with a real knowledge of the client, the family or business background and a well-developed process for decision making.

Jersey's adherence to the principles of appropriate regulation and strong corporate governance have helped it stay ahead of the game and attract the right type of business to the Island.

At Hawksford we are seeing a lot of current activity in employee benefits. Companies that recruit a wide-range of nationalities into the workforce or who have a number of ex-pats on the payroll need to offer attractive packages to attract the best staff. They have to be competitive in an international market place. Often these staff members work in the UK temporarily and will not want a UK pension. They are happy to pay into a plan that is tax deferred.

The professional management qualities that can be found here mean that Jersey is able to offer more than just its tax neutral status. Good corporate governance is key. Reputable companies operating an employee benefit trust on behalf of their staff need to feel assured that decisions made abroad are made on a fully informed basis and with a good understanding of the background and all relevant factors.

What is interesting is that in many ways other jurisdictions could in theory offer these services but it is Jersey that quite rightly has an outstanding reputation for delivering effective solutions. Nor is it in the interest of clients or the Island to flout the spirit of legislation as for example seems to have happened with QROPs in Singapore.

## Well set for the future

This reputation for working within the rules goes beyond the client and all the way to HMRC. They scrutinise structures such as EBTs and EFRBs to check that they are genuine stand-alone structures being run in an



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appropriate manner.

Jersey is also readily accessible which again makes it easier for to hold meetings here and so have excellent communications with clients and their advisers.

There is no doubt that some business is being placed here because of the upcoming tax rises in the UK. This is perfectly acceptable provided we remain within the mainstream area of transparent tax planning rather than arranging structures that operate at the edge of the law. It would be foolish to jeopardise the reputation we have worked so hard to build no matter how tempting the new business may appear.

One area in which the Island may well be able to develop in the future is that of international pension planning. With our reputation, and by continuing to work within the rules, there is no reason why we could not become a leader in this field as well, subject to appropriate developments in the local tax pension rules.

General sentiment among the larger advisers is that they want to work with reliable jurisdictions which maintain the right regulatory balance. Their advice to clients is that they should work with jurisdictions where there is a clear rule of law and with companies that can create flexible structures that maintain family input whilst ensuring that this is balanced with the need to operate within the rules.

Jersey is well-placed to meet these needs and its reputation is helping to win new business. Foundations are already proving popular and are likely to be used more and more as a tool for wealth management. The common feature of Foundations, trusts, EBTs, Private Trust Companies and other structures is the need for good governance. "Family office" work is now largely a matter of "family governance" with flexible arrangements for family involvement or representation, handling complex assets across jurisdictions and with generational changes, whilst providing the governance structure to avoid family discord.

These services continue to develop as do opportunities in international pensions and tax neutral savings plans. Jersey continues to show that it is open for business, and a safe place in which to do business, with innovative ideas and services, excellent infrastructure and a depth of expertise, all grounded in good management.



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