



fiduchi

Inspiring. Independent. Trusted.

Managed Trust Company
Establishing one in Jersey

Corporate Services

BACKGROUND

Jersey has founded its excellent reputation as a respected international financial centre on the successful implementation of a wide range of financial services for both individual and corporate investors, developed in tandem with a high level of respected AML legislation and financial regulation. The standard of this regulation, and the high standard of the practices of the Jersey financial services providers, has been recognised internationally on several occasions by supranational institutions such as the FATF, the OECD and, most recently, MOENYVAL. Accordingly, operating a regulated trust company business from Jersey can add significant value to international financial services firms in areas such as easier access to credit markets and in marketing their services to an increasingly sophisticated market.

The provision of trustee services in Jersey is a fully regulated activity and regulated firms must adhere to very strict standards and procedures. As a result, the establishment of a Jersey Trust Company from the ground up can be a complex and protracted process with a wide range of aspects to consider including registration, compliance matters, staffing, premises, systems and insurance to name but a few. Consequently, many firms who may wish to offer their clients access to Jersey-regulated trust business do not see actually operating a full business in Jersey as a viable option. This means these firms must either introduce their clients to a Jersey service provider (and often, in so doing, are unable to continue to be involved with their client base), or they simply do not offer their clients the option of a Jersey regulated trust.

Fortunately, the regulatory system in Jersey allows for international firms of good repute to set up so-called Managed Trust Companies ("MTCs"), where these firms are able to incorporate a regulated Jersey trust company that is managed by an existing Jersey Trust Company Business ("JTCB") such as Fiduchi – permitting the MTC to offer services to its international clients via use of the JTCB's existing approved procedures and infrastructure.



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Commercial viability

The use of a MTC allows non-resident firms to leverage an established JTCC's systems, staff and processes. This represents a clear cost saving over setting up a full business, but a MTC arrangement is still an expensive undertaking. The JTCC will need to be fully reimbursed for the work it undertakes on each underlying client, whilst the overseas provider will naturally expect to be compensated for the work it puts into the client relationship. This means that the client base to be outsourced to Jersey must be either sufficiently large in number or in fee generation in order to make the overall combined relationship worthwhile.

Ownership

Jersey MTCs are usually set up by professional financial service firms, such as banks or other financial intermediaries in an overseas jurisdiction (the "OTCB"). The Jersey MTC is usually owned by a subsidiary company within one of these OTCB professional groups. In order to obtain consent to incorporate a Jersey MTC, a potential corporate shareholder will need to provide several years' worth of audited financial statements and information concerning its own directors and ultimate personal shareholders – each of whom will be required to pass a 'fit and proper' test to ensure that they are of good repute. There is no need for a Jersey resident shareholder.

Establishment and registration

As touched on above, consent to form a MTC is required from the Jersey authorities before incorporation can take place. The Finance and Economics Committee of the States of Jersey considers all applications to establish MTCs. The application process is designed to safeguard the reputation of Jersey and to ensure the protection of the assets of any clients that are eventually brought under the MTC. Once incorporated, the MTC is subject to the full regulatory oversight of the Jersey Financial Services Commissions ("JFSC").

Fiduchi has a good working relationship with the relevant government departments and can assist with the application to ensure that the authorities' questions are either anticipated or dealt with satisfactorily – resulting in a smooth application process.

Operations

All MTCs must be managed by an established JTCCB such as Fiduchi. Under the regulatory framework, the JTCCB is fully and solely responsible for the operating environment of any MTC it manages and the JFSC is keen to see that this is the case in practice. It is accepted that the OTCCB may want to have a presence on the board of the MTC, but the JFSC requires that the 'mind and management' of the MTC is within the Island. This means that the JFSC will generally expect to see at least two Jersey resident directors (usually directors of the JTCCB) on the MTC board and that they will have particular responsibility for the management of the MTC business.

The MTC board is responsible for corporate governance and is required to meet regularly and prepare full minutes of meetings. The JFSC will expect to see the MTC board taking its responsibilities seriously and that full span of control is in place within Jersey at all times.

The JTCCB must maintain all appropriate records of the MTC's underlying client trusts and companies. In most cases, it is expected that the management of the underlying trusts and companies will be undertaken in Jersey, with the JTCCB appointing directors and trustees to look after the clients' affairs.

Compliance

Setting up a MTC allows the OTCCB to utilise the established infrastructure of systems and controls already being used by the JTCCB. The JFSC will expect the MTC to share the same compliance function as the JTCCB and for the key compliance persons (e.g. the Compliance Officer and the Money Laundering Reporting Officer) to be provided by the JTCCB.

The JFSC expects the MTC to share the same policies and procedures as the JTCCB, albeit that these can of course be tailored to take into consideration the local needs of the OTCCB.

A MTC is subject to the same regulatory oversight as the JTCCB and, therefore, subject to periodic reviews and site visits from the JFSC. To assist with this, the MTC must operate solely from the premises of the JTCCB.



Annual audit and financial issues

The MTC will be subject to annual independent audit of its financial statements and its procedures, but there is no requirement to file the accounts publicly.

The JFSC sets certain financial resource requirements for trust company businesses and a MTC must be able to meet its financial resource requirements independently of the JTCB. However, it is accepted that, as the JTCB is undertaking management and control functions, professional indemnity insurance may also be provided by the JTCB.

The local legislation, which we can provide, sets out the financial resource requirements applicable to the MTC, but essentially the MTC must review its financial position at least quarterly and ensure that it retains a net asset position of >£25k at all times. Furthermore, the MTC must maintain a minimum surplus of adjusted net liquid assets in the ratio of 110% in accordance with a set calculation for adjusted assets/expenditure. Part of the services of Fiduchi in managing the MTC is to ensure that the MTC adheres to this 'ANLA' calculation.

Client base – risk aspects

The JFSC will wish to understand the make-up of the MTC's client base. In particular, they will want to know if the client portfolio is composed of high-risk clients such as PEPs or clients from high-risk jurisdictions. It is important that the OTCB understands and accepts that the vetting process for accepting new clients and the regime for monitoring the activities of those clients may be of a more detailed nature than the OTCB is required to undertake in its own jurisdiction.

Where the portfolio is likely to be of a higher risk, there may be a requirement for the JTCB to designate additional compliance resource to the MTC. This will naturally have an impact on costs.

About

Fiduchi

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Fiduchi is an independent, director-owned trust company which provides private wealth, corporate and yacht services for international families, entrepreneurs and small and mid-cap companies. Fiduchi also provides services to local trading companies and to some multinational groups and state-owned enterprises.

Fiduchi is regulated by the Jersey Financial Services Commission and provides trustees services through its professional trust company Fiduchi Trustees Limited. Further information can be obtained from our website www.Fiduchi.com

We pride ourselves on our motivated team of specialists dedicated to providing a fully integrated offshore administration service offering. We have a wide variety of experience and skills in offshore services and have advised, implemented and administered many offshore trusts and companies for clients all over the world.

Our team includes qualified accountants, trust specialists, company secretaries, bankers and other relevant professionals. We have the technical expertise and knowledge to provide a comprehensive service for multi-national groups, privately owned businesses, individuals and families.

We are an associated company of Baker Tilly Channel Islands and we work closely with other Baker Tilly offices throughout the world to apply the range of professional skills necessary to provide creative and practical advice and solutions to individual problems.

Our trust and company specialists provide an extensive range of professional services and are able to help in such areas as:

- Formation of trusts, their administration and the provision of trustees
- Formation and administration of companies and the provision of directors
- Accounting and bookkeeping services
- Liquidation and restructuring services

If you would like to know more about Fiduchi or if you want to discuss further how to establish a Jersey Foundation, please contact one of our team below.

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Fiduchi Limited is regulated by the Jersey Financial Services Commission.