

# Key Facts Foundations

On 17 July 2009 the Foundations (Jersey) Law 2009 (“the Law”) came into force. The Foundations (Continuance) (Jersey) Regulations 2009 (“the Regulations”) allows Jersey companies to continue in Jersey as foundations, and certain other “recognised entities” to migrate to Jersey and continue as foundations.

A Jersey foundation combines many aspects of both a trust and a body corporate, and will have many uses for offshore planning, as well as being of particular interest and appealing to planners from civil law jurisdictions already familiar with foundations, and who may be looking for international variations on that theme.

## Target Profile for Migration

Migration is suitable for any “recognised entity”, as defined in the Regulations. This definition means a body corporate incorporated or established outside Jersey which falls within a class of bodies corporate designated by the Minister.

The list of bodies corporate designated by the Minister as “recognised entities” currently include foundations in:

- Panama
- Liechtenstein
- Bahamas
- Liechtenstein Anstalts and Stiftungs
- St Kitts Foundations, Nevis Multiform Foundations
- Malta Private Foundations

The application for a “recognised entity” (referred to in the following as “the Migrant”) to migrate to Jersey must be made to the Jersey Financial Services Commission (“JFSC”) by a “qualified person” (a person registered with the Jersey Financial Services Commission to carry on trust company business – Trident Trust Company Ltd in Jersey is so registered).

## Pre-Application Matters

Prior to an application being made to the JFSC, the following requires to be carried out:

- A notice of intention to migrate (“the Notice”) must be published with copies sent to all creditors of the Migrant having a claim in excess of £5,000.00, as well as to the Registrar of Companies (“the Registrar”).
- The Notice must contain the following:
  - A statement that the Migrant is to continue as a foundation
  - Specify the current jurisdiction in which the Migrant is established, the type of entity which the Migrant comprises
  - A statement as to the solvency upon incorporation in Jersey as a foundation
  - A statement that any person aggrieved by its incorporation as a foundation may apply to the Royal Court in Jersey within 28 days of publication of the Notice to restrain the proposed

# Key Facts

## Foundations

incorporation as a foundation. (The Royal Court would only grant the restraining order if the interests of the applicant were unfairly prejudiced by the incorporation).

- Where the Notice does not confirm solvency after incorporation as a foundation, an application to the JFSC cannot be made until the Royal Court orders that there would be prejudice to the interests of creditors by reason of the application.

### The Application

The qualified person will lodge the application together with a copy of the charter of the Migrant following its incorporation as a foundation and various supporting documents. The qualified person must also lodge a certificate confirming a number of matters including:

- The name of the qualified person named as the qualified member of the Migrant
- The regulations of the proposed Migrant
- The address in Jersey of the qualified member
- That a guardian has been selected for the Migrant
- That the laws under which the Migrant was established ("the Foreign Law") allows the application to migrate
- That all or any authorisations required under the foreign law or the constitution of the Migrant have been obtained
- That the Migrant will cease to be subject to the foreign law following migration
- That the interests of creditors will not be unfairly prejudiced by incorporation as a foundation in Jersey

### Incorporation

The JFSC may decline the application if it perceives that there is any risk to the integrity and reputation of Jersey in financial and commercial matters or if the objects of the Migrant appear to be unlawful. An applicant who has been declined may appeal to the Royal Court.

If the application is successful, the JFSC confirms to the Registrar that it may incorporate the Migrant as a Jersey foundation. The Registrar will then register the name, the business address of the qualified member, the jurisdiction under which the Migrant was previously established or incorporated, and will issue a registration number. The Registrar will also inform the relevant authorities of the foreign jurisdiction that the Migrant has been duly incorporated as a foundation in Jersey.

### The Future

Once the Migrant has been incorporated as a foundation in Jersey, its existence is subject to:

- Continuance thereafter of the property and rights to which it was entitled immediately before incorporation as a foundation in Jersey.
- The foundation remains subject to any criminal or civil liabilities and to any contracts, debts and other obligations to which the Migrant was subject prior to its incorporation as a foundation in Jersey.
- All and any legal actions or proceedings which were pending by or against the Migrant prior to its incorporation as a foundation in Jersey may be continued by or against it following incorporation as a foundation in Jersey.

# Offices

## The Americas/Caribbean

### Bahamas

Trident Corporate Services  
(Bahamas) Ltd  
T: +1 242 322 6154  
bahamas@tridenttrust.com

### Barbados

Trident Corporate Services  
(Barbados) Ltd  
T: +1 246 621 0760  
barbados@tridenttrust.com

### British Virgin Islands

Trident Trust Company (BVI) Ltd  
T: +1 284 494 2434  
bvi@tridenttrust.com

### Cayman Islands

Trident Trust Company  
(Cayman) Ltd  
T: +1 345 949 0880  
cayman@tridenttrust.com

### Nevis

Morning Star Holdings Ltd  
T: +1 869 469 1817  
nevis@tridenttrust.com

### Meridian Trust Company Ltd

T: +1 869 469 1333  
nevis@tridenttrust.com

### Panama

Trident Trust (Panama) S.A.  
T: +507 302 7494  
panama@tridenttrust.com

### United States

#### Atlanta

Trident Corporate Services, Inc  
T: +1 404 233 5275  
usa@tridenttrust.com

#### Miami

Trident Fund Services  
T: +1 305 405 9006  
miami@tridenttrust.com

### New York

Trident Corporate Services, Inc  
T: +1 212 840 8280  
nyc@tridenttrust.com

### Sioux Falls

Trident Trust Company  
(South Dakota) Inc  
T: +1 605 679 4355  
sd@tridenttrust.com

### US Virgin Islands

Trident Trust Company (VI) Ltd  
T: +1 340 774 7322  
usvi@tridenttrust.com

## Asia

### Hong Kong

Trident Corporate Services (Asia) Ltd  
and Trident Trust Company (HK) Ltd  
T: +852 2805 2000  
hongkong@tridenttrust.com

### New Zealand

Trident Trust Company (NZ) Ltd  
T: +64 9 300 6067  
nz@tridenttrust.com

### Singapore

Trident Trust Company  
(Singapore) Pte Ltd  
T: +65 6653 1800  
singapore@tridenttrust.com

## EMEA

### Cyprus

Trident Trust Company (Cyprus) Ltd  
T: +357 258 20 650  
cyprus@tridenttrust.com

### Trident Fiduciaries (Middle East) Ltd

T: +357 253 53 520  
fiduciariesme@tridenttrust.com

### Dubai

Trident Trust Company (UAE) Ltd  
DMCC Branch  
T: +971 4 423 9988  
dubai@tridenttrust.com

### Guernsey

Trident Trust Company  
(Guernsey) Ltd  
T: +44 1481 727571  
guernsey@tridenttrust.com

### Isle of Man

Trident Trust Company (IOM) Ltd  
T: +44 1624 646700  
iom@tridenttrust.com

### Jersey

Trident Trust Company Ltd  
T: +44 1534 733401  
jersey@tridenttrust.com

### Luxembourg

Trident Trust Company  
(Luxembourg) S.A.  
T: +352 26 30 28 48  
luxembourg@tridenttrust.com

### Malta

Trident Trust Company (Malta) Ltd  
T: +356 21 434 525  
malta@tridenttrust.com

### Mauritius

Trident Trust Company  
(Mauritius) Ltd  
T: +230 210 9770  
mauritius@tridenttrust.com

### Seychelles

Trident Trust Company  
(Seychelles) Ltd  
T: +248 4 422 000  
seychelles@tridenttrust.com

### Switzerland

Trident Corporate Services AG  
T: +41 44 396 1080  
switzerland@tridenttrust.com

### United Kingdom

Trident Trust Company (UK) Ltd  
T: +44 20 7935 1503  
uk@tridenttrust.com

### Trident Company

Services (UK) Ltd  
T: +44 20 7487 0460  
corpservices@tridenttrust.com