



**Standard  
Bank**

# FACT SHEET: JERSEY FOUNDATIONS

International Fiduciary Services

## INTRODUCTION

**A Jersey foundation combines attractive features from both a trust and a company, and is in essence an incorporated body with no shareholders.**

Used both for private purposes and philanthropic or charitable purposes, a Jersey foundation offers a flexible vehicle for a variety of uses.

## WHAT IS A FOUNDATION

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A Jersey foundation is an incorporated body, regulated by the Foundations (Jersey) Law 2009. In its most basic form, the foundation appears to be a hybrid between a trust and a company. Like a trust, a foundation does not have shareholders and the assets are held for the benefit of beneficiaries or for a specified purpose. However, in contrast to a trust, but like a company, a foundation has legal personality, which means it can transact in its own name, sue and be sued in its own name, and can hold assets in its own name.

A foundation must specify the objects for which it was established. The objects may be charitable, non-charitable, or both. Furthermore, the objects may be to benefit a person or a class of persons, to carry out a specified purpose, or to do both.



## OFFICES AND ROLES

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### THE FOUNDER

A foundation is established at the behest of the founder. The founder would typically endow the foundation with assets, but, unlike a trust, a Jersey foundation can come into existence without assets.

### THE COUNCIL

The foundation's assets are administered and its objects carried out by its council, which is similar to a company's board of directors. The council can have one or more members, however, there must be one Jersey-based member that is regulated under the Financial Services (Jersey) Law 1998, known as the "qualified member". Its role is to ensure that the foundation is administered in line with Jersey law. While the council members are required to act honestly and in good faith with a view to the best interests of the foundation, and exercise the care, diligence and skill that reasonably prudent persons would exercise in comparable circumstances, these duties are owed only to the foundation itself, and not to any of the persons standing to benefit under the foundation.

### THE GUARDIAN

Every Jersey foundation must have a guardian, who will be responsible for ensuring that the council carries out its functions. Typically, the guardian would be a separate person from the council members, but the founder or the qualified member may also be the guardian. In addition to its oversight role, the guardian may be given the power to approve or reject any specified actions by the council.

## PRACTICAL APPLICATIONS OF A JERSEY FOUNDATION

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### PHILANTHROPY AND CHARITABLE CAUSES

A Jersey foundation is an excellent vehicle for philanthropy or charitable purposes. As the law does not limit the objects of a foundation to charitable causes, there is substantial flexibility in setting up the foundation for any cause, regardless of whether it is technically charitable. Family members can be involved on an ongoing basis by being members of the council or forming part of a committee supporting and reporting to the council.

### ESTATE AND SUCCESSION PLANNING

Foundations are often used for estate and succession planning, due to their flexibility as they can adapt to the uncertainties of the future. One of the attractive benefits of a foundation is the opportunity to have the founder and / or family members sit on the council, or to act as the foundation's guardian. For this reason, a foundation is often used rather than a traditional trust to hold the shares in a private trust company.

### ASSET AND WEALTH PRESERVATION

A foundation can be created for the express object of holding certain assets, such as a family business. This can allow the asset to be retained for future generations, regardless of family changes and avoiding fragmentation of an asset amongst a large number of second and third generation beneficiaries.



## PRIVACY, CONFIDENTIALITY, AND ANONYMITY

Although the charter and abridged regulations are public documents, it only contains limited information, and the identity of the founder and the beneficiaries can remain private. This may be attractive to some families who may prefer more transparency than that of a traditional trust.

## CONSTITUTIONAL DOCUMENTS

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The constitutional documents of a foundation are its charter and regulations. The charter, together with an abridged copy of the regulations, must be filed with the Jersey Financial Services Commission, and they are available for public inspection at a modest fee.

### **The information that will be publicly available in either the charter or the abridged regulations includes:**

- The foundation's name and objects;
- The initial endowment, if there is one, and whether further endowments may be made;
- Details of what is to happen to any foundation assets remaining after its winding up (although this can be achieved by reference to provisions in the regulations);
- If the foundation automatically terminates upon a fixed date or occurrence of a particular event, the details of such automatic termination;
- If a right is conferred upon a person to wind up and dissolve the foundation, this must be specified;
- Provisions relating to the appointment, retirement, removal and remuneration (if any) of council members;
- Details of the decision-making process of the council;
- Whether any council decisions require third party approval; and
- The functions of the council and the extent to which these can be delegated or exercised in conjunction with any third party.

It is important to note, though, that it is only the identity of the qualified member that will be made public.

## LEGAL FRAMEWORK

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Jersey is not part of the United Kingdom but is a self-governing Crown Dependency. Situated in the channel between England and France, the island has its own financial, legal, and judicial systems.

The rights and duties of the persons involved in a Jersey foundation can be enforced by the Royal Court of Jersey, if necessary. Founders can be assured by the quality of the legal system in Jersey as well as the high level of regulation in the financial sector in Jersey by the Jersey Financial Services Commission. Jersey has an impressive financial centre, ensuring a variety of support services (such as legal) are available.



## FOUNDATIONS AND STANDARD BANK

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We have been involved in the setting up and administration of two exciting and high-profile philanthropic foundations.

The first is The African Women Impact Fund (AWIF), an initiative of the UN Economic Commission for Africa (UNECA) and its partners (UN Women, the Office of the Special Envoy on Women, Peace and Security of the African Union Commission, and the African Women Leadership Network) established in collaboration with the Standard Bank Group and MiDA Advisors with the aim of creating a sustainable investment platform to grow the number of women asset managers on the African continent. You can read more about the foundation [here](#).

The second is for The MycoHAB initiative, which involves a partnership between Standard Bank, the Massachusetts Institute of Technology (MIT), and architectural firm redhouse studio from Cleveland, Ohio. MycoHAB aims to grow a sustainable economic and social ecosystem, using mushroom mycelium technology from NASA's Mars NIAC programme to build affordable houses, and create food security and agricultural jobs. A Mauritius foundation was used for this purpose.

## WHY JERSEY?

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### JUDICIAL, LEGAL, AND REGULATORY CERTAINTY

Jersey has legal autonomy with a long record of judicial, legal, and regulatory stability, with close ties to the EU and the UK. The legal sector in Jersey is robust with legal professionals who are experienced in advising in relation to foundations, as well as liability arising from fraud, wilful misconduct, and gross negligence.

### REDUCED POLITICAL AND INSTABILITY RISK

Jersey provides reduced political and instability risk and is often used to safeguard assets from potentially unstable or uncertain environments.

### GOVERNANCE

Jersey is widely acknowledged as being capable with an excellent service ethos. The depth and strength of Jersey's financial centre result in high standards of governance.

### FLEXIBILITY

The foundations law in Jersey is very flexible.

### MODERN TRANSPARENT JURISDICTION

Jersey has a world-class tax transparency framework and is committed to combatting financial crime and tax abuse. Jersey complies with various global transparency and reporting standards.



## STRAIGHTFORWARD TAX TREATMENT

A foundation will generally be taxed at 0% in Jersey and by concession, usually non-Jersey residents receiving an income distribution from a Jersey Foundation will not be taxed in Jersey. Tax may be payable by a Jersey resident individual who receives income from the foundation.

It is always important to consider the tax implications for the founder and the beneficiaries before establishing a foundation, and independent legal and tax advice should always be sought. Foundations can be complicated if the founder is resident in a common law jurisdiction.

## FOREIGN LAW PROTECTION

Any question that arises in respect of a Jersey foundation or the endowment of a foundation will be determined in accordance with Jersey law without reference to the law of any other jurisdiction.

## SUMMARY

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Foundations offer various benefits and can serve a variety of purposes. As a jurisdiction, Jersey offers an attractive proposition with its flexible foundations law, stability, strong regulation, and established financial sector.

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