

# Jersey for Islamic Finance



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Jersey has been providing services to clients of Muslim faith, particularly those resident in the Gulf region and East African countries, for many years. Unlike various other western countries, such as the UK and France, Jersey has not had to amend its laws to allow for particular aspects of Shariah-compliant financial products, thereby ensuring that conventional and Shariah-compliant products are governed, regulated and administered on the same basis.

Jersey offers Islamic investors a flexible legal system, robust regulatory regime and tax neutral environment that positions the Island as a leading provider of Islamic financial services, particularly in terms of the following:

1. Islamic asset administration and fund domiciliation
2. Special purpose vehicles (SPVs) and Sukuk structures
3. Islamic private wealth management



## Islamic asset management and structured products domiciliation

Jersey's funds sector is a leader in Islamic asset management. The jurisdiction is a preferred domicile for developed asset classes, such as real estate, private equity, commodity and equity, for Islamic fund mandates.

Funds in Jersey are regulated depending on the type of investors they have and whether they are closed or open-ended funds. Sophisticated or institutional investors are subject to a lighter-touch regulatory framework, provided that the offer document clearly outlines the risks involved in the fund.

### Establishing Shariah-compliant fund-like structures

Establishing a Shariah-compliant fund-like structure in Jersey is a very flexible process and can be done using any of the legal structures available for the establishment of investment funds, including a limited company, protected/incorporated cell company, unit trust, or limited partnership. All funds in Jersey, including Shariah-compliant funds, are taxed at 0%.

### Shariah supervisory boards (SSBs)

The necessity to appoint a Shariah supervisory board (SSB) to provide guidance regarding Shariah law and compliance is a process which Jersey is highly experienced in. A number of Shariah-compliant funds have been established in Jersey, from set up and administration to audit. Jersey's local professionals are experienced in the specific requirements of the SSB, including the preparations leading up to issue of the fatwa and the requirement for ongoing advice on the monitoring of the Shariah compliance of the structure. In Jersey, there are legal, administrative and accounting experts who understand and embrace the role of the SSB and can tailor the structuring of a fund in line with complex requirements.

## Special purpose vehicles (SPVs) and Sukuk structures

Jersey's finance industry has an established reputation for corporate structuring, and especially special purpose vehicles (SPVs) used for a variety of purposes, including the acquisition of real estate assets in the UK, Europe and the USA. Historically GCC obligors (bond issuers) would use a subsidiary company as an SPV. However, Shariah scholars have deemed this unacceptable and require that SPVs should be independent, enabling Jersey entities to be used successfully to facilitate Sukuk structures.

Jersey-based SPVs have been used in connection with a wide variety of Shariah-compliant Islamic capital markets transactions. These have included structures established for the purpose of making off-balance sheet investments and securitising assets.

### A variety of legal vehicles are available including:

- A Jersey incorporated company which issues Sukuk
- A limited partnership issuing partnership interests
- A trust, such as the well-known Jersey property unit trust (JPUT)

### Corporate SPVs

Jersey companies are governed by the provisions of the Companies (Jersey) Law 1991 as amended (the Companies Law). A Jersey company, often used in a Shariah-compliant transaction, can be incorporated in less than 24 hours, providing all required information is supplied.

### Regulatory provisions

Regulation/supervision of Sukuk issues and other Islamic products is provided by the Jersey Financial Services Commission (JFSC). The JFSC is familiar with Islamic products and they are processed in the same manner as other securities, as Jersey's laws are broad enough to permit the issue of all types of Islamic instruments.

### Private trust companies (PTCs)

A private trust company (PTC) acts as trustee of the family trust (or trusts) and the directors of the PTC could include members of the family and/or their close advisors, together with professional trustees. The PTC will often be advised by a family council or similar body. PTCs are increasingly being used by high net worth private clients, who prefer to establish their own PTC to act as the trustee of their family trusts, rather than transferring assets to a professional trustee company.

### International Savings Plans (ISPs)

International Savings Plans (ISPs) are an innovative savings plan product for multinational employers. Launched on 1 January 2019, ISPs enable large multinational companies to set up savings plans in Jersey for non-residents.

These plans differ from traditional pensions offered to employees. They are more flexible as they allow pay-outs to employees before the normal minimum pension age, either on termination of employment or on the occurrence of a major life-changing event, such as redundancy, ill health or divorce.



## Islamic private wealth management – Awaqf, Jersey trusts and foundations

Jersey has a long-established history in structuring trusts for global investors due to its tax neutrality, straightforward and flexible legal system, high level of investor protection and appropriate client privacy.

Due to the similarity of Awaqf and trusts, combined with Jersey's leading reputation for trust expertise, Jersey trusts appeal for wealth and succession planning to multiple family groups and charitable/philanthropic institutions from the GCC region.

The Jersey Foundation, introduced in 2009, offers high net worth individuals an attractive alternative to trusts for holding

wealth with a structure designed to meet their needs, while allowing a greater degree of control than is possible with trusts. Jersey foundations are often used for charitable and philanthropic purposes because they can be tailored to suit individual requirements.

In addition, from May 2018, foundations which comply with the statutory charity test in the Charities Law can seek to be registered as a Jersey Charity and can elect whether to be registered on either the general or the restricted section of the Charities Register.

### The benefits of setting up a Jersey trust or foundation include:

- Shariah-compliant – while a trust may be extremely flexible, it is possible to restrict the trust to ensure that it complies with Shariah law.
- Protection of assets – assets are 'ring fenced' helping to protect them from creditors or seizure by politically unstable regimes. Article 9(4) of Trusts (Jersey) Law 1984, as amended, protects and strengthens the position of Jersey law trusts from attack from other jurisdictions by declaring that foreign law does not apply.
- Family business – holding the family business through a trust or foundation may allow for the whole family to continue to benefit by preventing fragmentation of the business upon the death of the patriarch.
- Tax mitigation – with the right planning, a trust can assist with the reduction or deferment of tax liabilities.
- Succession planning – the Jersey trust is a key tool for family offices and can be used to address generational change concerns facing multiple family groups.

**“The JFSC is committed to ensuring that all financial services offered by Jersey firms comply with the highest international regulatory standards. We can apply our experience and knowledge and offer the appropriate regulatory oversight to Shariah-compliant products also, as part of our commitment to high standards.”**

John Harris, Director General of the Jersey Financial Services Commission (2006 – 2018)

Disclaimer: This factsheet is only intended to provide a general overview of the subject matter. It does not constitute, and should not be treated as, legal advice.

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