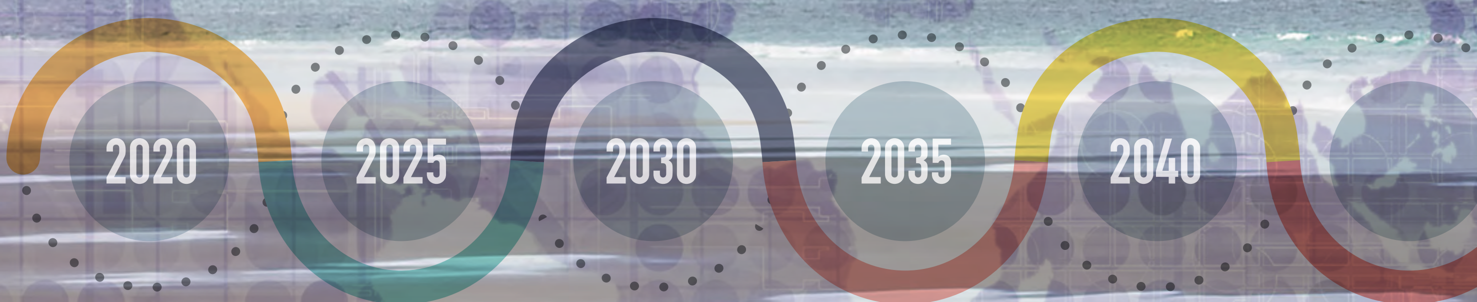
Jersey Finance
Delivering Insight • Driving Innovation

TRUST Jersey

2023-24



Flux capacity

How HNWIs are adapting their wealth management strategies amid intersecting global crises

CHOICE OF JURISDICTION
THE TRENDS INFLUENCING FAMILIES' DECISIONS ON WHERE TO HOLD ASSETS

SUSTAINABLE FINANCE
HOW ESG INVESTING ALIGNS WITH TRUSTEES' FIDUCIARY DUTIES

TRUSTS AND DATA STEWARDSHIP
DIGITAL JERSEY'S PROJECT PIONEERING THE USE OF TRUSTS TO HOLD DATA

LANDYTECH

The Future of Trust Bookkeeping & Monitoring

Put your bookkeeping on autopilot

No more manual data entry. A one-stop location for all your portfolio data needs, with standardised data from all your managers and custodians.

Digitalised investment monitoring

With near-real-time data all on one platform, take your monitoring to the next level with a complete view across investments, cash and private assets.

Family office services, at scale

Act as a seamless extension of your clients' private office team with leading data management and consolidated reporting services.

www.landytech.com

CONTENTS

SPONSORED BY JERSEY FINANCE
jerseyfinance.je

PUBLISHED BY THINK
20 Mortimer Street, London W1T 3JW
t +44 (0)20 3771 7200
www.thinkpublishing.co.uk

Managing Editor Mike Hine
Art Director George Walker
Group Commercial Manager Tony Hopkins
t +44 (0)20 3771 7251
e tony.hopkins@thinkpublishing.co.uk

Strategies for a world in transition

Welcome to the Jersey supplement to the *STEP Journal*, now in its sixth year.

This year, the articles in the supplement were written while mindful of the familiar backdrop of global turmoil, unpredictable markets and rapid change, all factors that continue to have a telling impact across the financial services industry.

For the wealth management community, the volatile geopolitical environment ensures there remains a significant emphasis on compliance and good governance, while there are always greater regulatory demands to build into our thinking.

I'm delighted at how well Jersey has responded and positioned itself to support the private wealth sector. Adopting best practice in financial regulation has long been fundamental to how we operate as a jurisdiction and we have been swift in implementing international standards, securing endorsements from bodies such as the OECD and the IMF.

However, it is equally evident that if international finance centres are to remain competitive, stability and security must become watchwords to be embraced and nurtured over the long term.

Flagship

This is one of the themes that we delve into in this year's supplement, which I am delighted is being launched once again at our flagship Private Wealth Conference in London, an annual event that now regularly attracts more than 400 delegates, mostly from the UK.

In fact, our lead feature examines the strategies that are necessary for the professional private wealth community to manage the current challenges thrown up at a time of complex, interconnecting crises in a world very much in transition.

The overriding themes of both our conference and this supplement are how high-net-worth individuals across the globe can protect their wealth, plan for long-term growth and ensure a successful transfer of their legacy, and the strategies that need to be implemented, through the lens of the current complex geopolitical situation.

We also consider where the industry might be in ten years' time; cross-border structures and the choice of jurisdictions; the impact of geopolitical risk on investment strategies and the client-advisor relationship; and how the industry integrates sustainable finance into fiduciary duties. Finally, we touch on data stewardship, an innovative area for the global trust industry in which Jersey has taken significant strides this year.

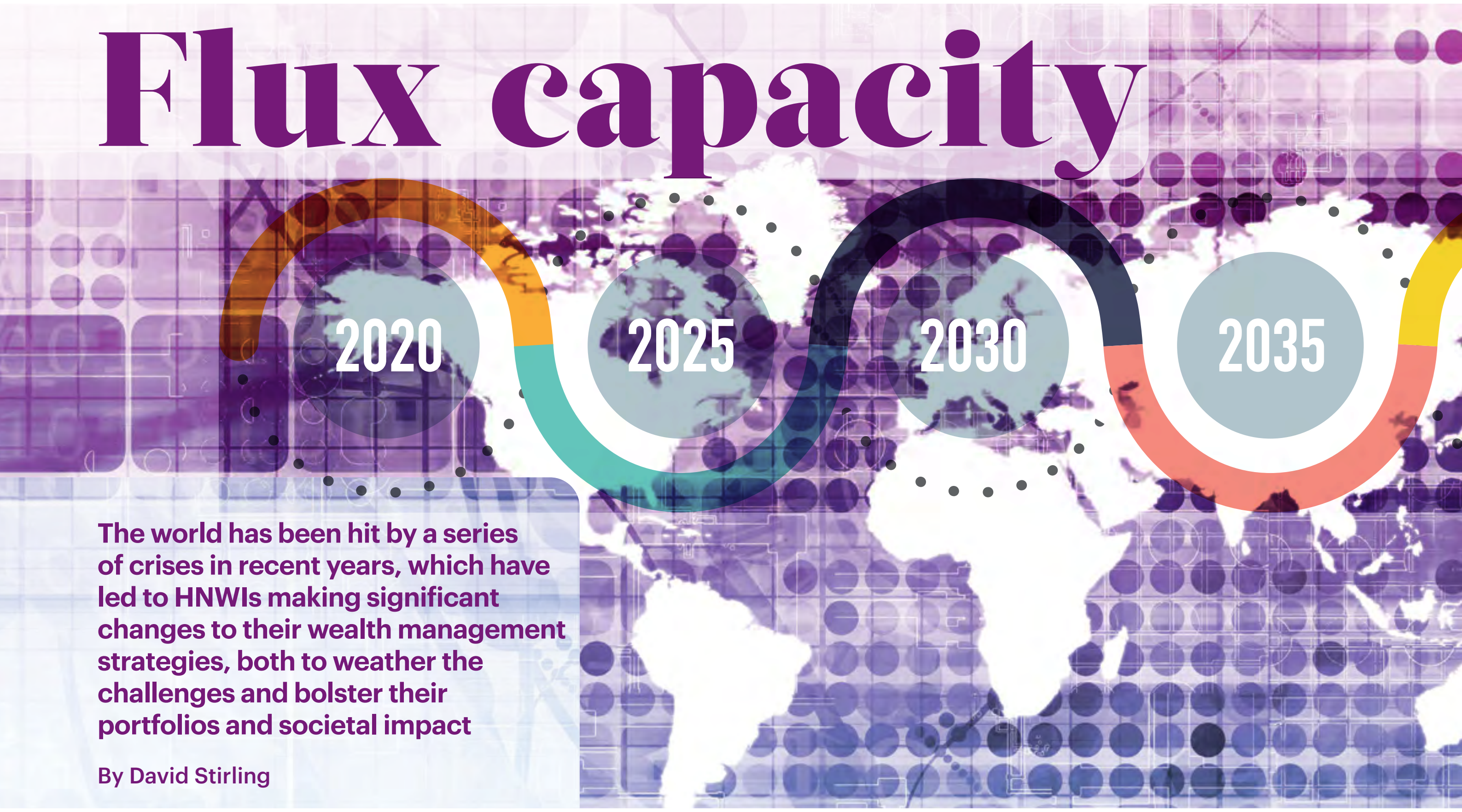
Forward thinking

The finance industry in Jersey continues to remain competitive and forward thinking, embracing the mainstream environmental, social and governance agenda and digital enhancements as part of an innovative culture, while deploying an expert workforce with a deep understanding of the trusts and estates market and cross-border issues. Meanwhile, we remain true to our regulatory commitments and our high standards of governance as we pursue a globally focused outlook.

A very big thank you to STEP and to everyone who contributed to this special supplement. ✖

Joe Moynihan is CEO at Jersey Finance

Flux capacity



The world has been hit by a series of crises in recent years, which have led to HNWIs making significant changes to their wealth management strategies, both to weather the challenges and bolster their portfolios and societal impact

By David Stirling

The world has not been short of dramatic episodes in the past few years, including the COVID-19 pandemic, the Russian invasion of Ukraine and the increase in extreme weather as the climate emergency intensifies.

This intersection of crises has led to huge economic uncertainty, with high inflation and interest rates causing a cost-of-living crisis; political instability in traditionally stable nations, such as the UK; and a heightening of social fissures across fault lines from migration, class and race to the pace of the net-zero transition.

The impacts are being felt in every stratum of society, and high-net-worth individuals (HNWIs) are no exception. According to Capgemini's most recent *World Wealth Report*, the number of HNWIs globally dropped by 3.3 per cent to 21.7 million in 2022, with the value of their wealth falling by 3.6 per cent to USD83 trillion. Both declines were the steepest in a decade.

Paradigm shift

'There are clear challenges, with the Ukraine crisis heightening concerns around political and economic stability. There is a lot of scepticism, which goes beyond government to big business and capitalism in general,' says Paul Douglas, Managing Director at Accuro.

'What hasn't helped is the wealth gap between rich and poor, which has widened in the wake of the COVID-19 pandemic. Now there is a need to raise capital to pay for those years of government support, and the wealthy have become the focus of society to meet those funding gaps. Leaders have put the spotlight on wealthy families and asked them how they are contributing to society. So, it's not just an economic challenge for HNWIs, but a reputational one.'

Paul Douglas, Managing Director at Accuro

This has led to the forging of closer relationships between HNWIs and their advisors.

'The experience of the COVID-19 pandemic is something I will never forget,' says Steve Gully, Director at Alex Picot Trust Company in Jersey. 'All investment asset classes started rapidly selling off, causing panic in the financial markets. From a fiduciary aspect that obviously created a real headache for us and our clients. But it also created a real acceleration for them to get their financial affairs in order. Nobody knew how bad this pandemic was going to be, and if there was a transaction that might have been scheduled for a few months down the line, they wanted it done now.' That intensity, he adds, has eased, but the engagement with and accessibility of clients has remained much higher than pre-pandemic, helped by apps like Zoom.

'Clients are working with us much more frequently to review, tweak and tailor their structures,' Gully says.

Much more engaged

Henry Kierulf, Managing Director at Zedra, adds that clients have also become much more transparent with advisors.

Shutterstock

'They feel that they have to be if they are going to protect their family assets now and into the future,' he says. 'Before COVID-19, some HNWIs would talk to us about wealth protection but then little would happen. Now, it is more of a priority to do something, as opposed to nothing. They are much more engaged about their investments, what their assets are, including property and business, where they are, and how they want them passed on.

'It is super important that you know the full picture. Everybody is a global family now with assets across borders, and if they are unstructured that is a risk given such geopolitical uncertainties.'

When it comes to protecting wealth, HNWIs have become increasingly engaged in succession planning. This may seem an obvious step, but a number of HNWIs don't consider it a priority. A survey from wealth and asset manager Lombard Odier last year found that only a quarter of HNWIs in the Middle East had put a full estate plan in place for their private assets.

'Pre-pandemic, perhaps you were still working in the family business, still active and therefore thinking of succession wasn't that timely or relevant,' says Gully. 'But when a pandemic hits, you start to really think about what would happen to you, your family and your wealth if you got ill or died.'

As such, he says, HNWIs have started to take a much closer look at overarching wealth preservation structures such as wills, trusts and foundations.

'When it comes to trusts this includes ensuring you have the right person acting as protector of the trust and that there are succession plans in place for them,' Gully explains.

Rising demand

There has also been more demand for the creation of private trust companies set up by families to house and provide bespoke trustee services for either a specific trust or group of trusts. This includes having a board with a range of trusted advisors and independent experts from lawyers to bankers and perhaps specialists in sectors such as private equity. There is also often space to involve the next generation in decision making.

Demand has also risen for family offices (FOs), with separating a family's business wealth from its personal wealth a key driver in times of economic volatility. FOs also offer a formalised structure to plan and manage wealth and ensure assets go where clients want them to go.

Another area of growth is in the drawing up of family constitutions, which can help set out a code of conduct for family members to follow and a clear picture of how to manage and deal with any conflict or disagreements. A family constitution codifies the family's values, vision, purpose, governance structures and, if there is a family business, how profits are distributed and exits are managed. Again, it can be a useful way of professionalising the process and engaging with the next generation of the family.

'We're seeing more families bringing their 30- or 40-year-old children to the table,' Kierulf says. 'We rarely saw that before, but now with more awareness of their own mortality, HNWIs want their children to know that things have evolved. There is a move away from the patriarchal structure with one ultimate owner controlling everything. Power is now being diversified, such as investment decision making. They want the next generation to have experience in dealing with these issues around wealth.'

This, he believes, has partly driven an increased interest in philanthropy through private foundation structures and a bigger focus on sustainable and impact investing.

Indeed, research by EY in 2022 found that 44 per cent of FOs intended to make investments based on their potential positive societal and/or environmental impact in the next 12 months.

'Before, it was a question of just making the most money, but with the influence of the next generation there is a greater focus on social impact investing and environmental, social and governance investing,' says Kierulf. 'It is increasingly top of mind.'

That's down to not only changing values in a world where the wealth gap is widening and the threat of climate change intensifies, but also investment performance as sustainable investing returns improve.

Changing investment trends

Other investment strategy trends include an increase in the use of private investment funds in Jersey, incorporating funds with 50 or fewer investors, and hybrid funds that combine assets such as hedge »

'THE REPUTATION AND LEGISLATIVE FRAMEWORK OF JERSEY HAVE MADE IT MORE DESIRABLE. JERSEY IS AT THE CUTTING EDGE OF WHAT GOOD SHOULD LOOK LIKE'

Henry Kierulf, Managing Director at Zedra

funds, private equity, real estate and infrastructure.

'We have come out of such a massive bull run where people were very focused on investing in equities for both capital enhancement and income,' says Jennifer Le Chevalier, Director, Private Wealth, at IQ-EQ. 'HNWIs and FOs have a very long-term investment horizon and are willing to tolerate volatility and market cycles, but this feels different for them. High levels of inflation, higher interest rates and general uncertainty mean more difficult markets going forward.'

As a result, families are shifting to illiquid assets and safer jurisdictions and 'taking the money off the table' when investments have performed well. They continue to mitigate risk, diversifying strategically across alternative and different asset classes, and are showing a greater focus on succession planning and generational transfer. This focus has led to more strategic gifting and planning, such as money for their grandchildren's education.

'We are seeing families developing strict thresholds when it comes to asset allocation in their equity portfolios. But they are also looking at alternative assets, such as short-dated bonds, which are less sensitive to interest rates, and infrastructure, which can protect against inflation if index linked. Private equity is still strong, but we see more interest on the venture capital side than mature private equity given concerns among some families over debt levels. In short, it is about diversification and mitigating risk.'

It has also led to professionalising the investment process, Le Chevalier argues, with some FO trustees looking to outsource and/or include a Chief Investment Officer model to include specialist non-executive directors. 'This helps with strategic and tactical asset allocation decisions and pays more attention to family goals. We are seeing significant interest in impact investing when setting the strategy,' she says.

Douglas has seen more club investment type deals where large families coinvest together, usually in the private equity sector. 'They look for markets that they know and have experience of. Perhaps they created

'PRIVATE EQUITY IS STILL STRONG, BUT WE SEE MORE INTEREST ON THE VENTURE CAPITAL SIDE THAN MATURE PRIVATE EQUITY GIVEN CONCERNS OVER DEBT LEVELS'

Jennifer Le Chevalier, Director, Private Wealth, at IQ-EQ

their wealth there and knowing that their assets are back there gives them comfort,' he explains. 'They are also looking at low-risk assets, such as fixed income, which can be a nice hedge to higher-risk investments at the other end of the scale.'

Jurisdictional arbitrage

Another wealth protection trend has been a bigger amount of chopping and changing of advisors, service providers and trustees.

Steve Gully, Director at Alex Picot Trust Company

'If clients haven't been quite happy with their current relationship but never had the time or desire previously to do anything about it, they have now,' Gully says. 'Perhaps they felt that the advisors haven't handled the current crises well enough, and they see better opportunities elsewhere.'

HNWIs, he adds, are also increasingly moving jurisdictions – partly driven by the vast number of sanctions imposed on Russian individuals, businesses and organisations following Russia's invasion of Ukraine. There are fears that now such serious sanctions have been implemented, they could set a precedent for action against other nations in the future, such as China if it carries out threats to invade Taiwan or undemocratic regime changes in emerging market territories.

Increased mobility and more tax liabilities with a global footprint, such as those under the US *Foreign Account Tax Compliance Act*, as well as transparency rules and enhanced money-laundering checks, have also helped focus minds around location.

'There is a bit of jurisdictional arbitrage going on. If someone is concerned about being caught up in sanctions regulations following the Russian invasion, they will look at a jurisdiction like Jersey with its strong regulatory and compliance structures, good trust and company law, as well as history and heritage,' says Gully.

Kierulf adds: 'Anyone looking at where their assets are and questioning whether they should be in a stronger jurisdiction, then Jersey has benefited. Everybody wants to be compliant. It is not just the best price; now, when you look for a jurisdiction, it is about getting the best quality as well. The reputation and legislative framework of Jersey have made it more desirable. Jersey is at the cutting edge of what good should look like.'

He argues that clients' mindsets have changed around compliance and regulation. 'They look at it much more positively,' he says. 'It is no longer cumbersome; it is something that is there to protect them and their assets.'

Le Chevalier agrees and says this also extends to attitudes to tax structuring, but with some qualification.

'There is a real drive among HNWIs to pay their fair share of tax given concerns over wealth gaps and the desire to give back to society,' she says. 'But there is still appetite for structures to protect legacy and family wealth given social and economic threats. Inheritance tax remains contentious.'

Douglas, however, says there has been a clear shift in the responsible stewardship of wealth.

'Contributing to society is something we are hearing from clients which we just didn't hear before,' he says. 'Some families are alive to this and some are not. But the recent crises have been a clear game changer in showing HNWIs how fallible they are and the need for better management, planning, purpose and the injection of youthful spirit and ideas from the next generation.

'It is actually quite an exhilarating position for them and us as advisors to be in.' ✖

David Stirling is a freelance business journalist

Shutterstock

What will the private client industry look like in ten years?

Two expert practitioners give their predictions on the direction of travel and change-readiness of the industry

Since the start of this decade, the business landscape has been hit by increasing turmoil, change and disruption created by a series of unexpected events. These range from the COVID-19 pandemic and related lockdowns to war in Europe and economic upheaval affecting supply chains, costs and prices.

Alongside these factors has been the rapid advance of technology, perhaps faster than many expected, with its implications for international investment practices. If none of this was anticipated at the start of 2020, how then is it possible to predict where the wealth management industry might be in the next ten years?

No easy task, but are there pointers in today's private client environment that suggest where the industry may be heading, what clients might require and how the industry will respond?

Next generation

According to Naomi Rive, Group Director and Head of Private Wealth at Highvern, it is the next generation of high-net-worth individuals who will drive forward change in the wealth management industry, and their intentions are a helpful guide to the future.

'The next generation are definitely more focused on the quality of the professionals that they partner with and the investments they make. They want to work alongside businesses and companies that they share values with,' says Rive.

Michelle Tring, Trust Director at Affinity Private Wealth, considers that, as with any industry, the private client sector will react and change based on the legal and regulatory requirements under which it is governed, but also in response to the needs of clients.

»

'As we see wealth change hands to the next generation, we see that they are more mindful of tax considerations and that their priorities and sense of responsibility in terms of the wealth are changing,' she explains.

The rise of technology

Another significant change underpinning everything is technology and the rise of digital engagement.

'This generation has grown up with the world at their fingertips and they want to be much more involved in the investment and management of assets,' says Tring.

The challenge that advisors will face is combining the use of that technology with the desire that the next generation has to be more engaged with the wealth and to use it for purposes that align with their family values.

Rive points out that wealth creators still tend to be more focused on preservation and growth of wealth, and they recognise that investing requires a long-term strategy and that the environmental, social and governance (ESG) agenda is still bedding in.

'For this reason, many next gens are having to bide their time and help to educate the wider family about ESG matters with a view to gradually getting support for their views. In some cases, families are earmarking a certain portion of assets for the next gen to invest in the causes that they feel passionate about.'

Rive believes that businesses will need to focus more on fintech in the next five to ten years than they are at present.

'While ultra-high-net-worth (UHNW) clients certainly do like continuity of service and a real person on the end of a phone, they also appreciate ease of dealing and this is where fintech can help reduce the amount of paperwork that needs to be completed and the speed with which things can be done,' she adds.

'THIS GENERATION HAS GROWN UP WITH THE WORLD AT THEIR FINGERTIPS AND THEY WANT TO BE MUCH MORE INVOLVED IN THE INVESTMENT AND MANAGEMENT OF ASSETS'

Michelle Tring, Trust Director at Affinity Private Wealth

Rive views technology as a differentiator for winning new business in years to come, and it will be important not only for businesses but also for jurisdictions.

Tring believes that the industry is ready for the advantages that technology will bring, which will make service delivery, reporting and regulatory obligations more effective and efficient and ultimately ensure that controls and monitoring are more accurate and easier to deliver.

Generational alignment

When asked whether the industry has become too focused on the values of the next generation when the change of mindset is evident among UHNW individuals generally, regardless of generation, Tring agrees that it is wrong to make assumptions and that there is a general change of mindset across all generations.

'In fact, aligning all family members with the wealth should be the principal objective of the family advisors, regardless of the generation, as it is key to ensuring a smooth transition of wealth,' she says, pointing to education as being a feature for now and the future. 'Most important is to have education around that wealth. From a family perspective, that education should extend to understanding how the wealth was created, what its purpose is and what the roles are of the advisors that support the family.'

'AS BUSINESSES, WE ARE FOCUSING ON OUR OWN IMPACT ON THE ENVIRONMENT, AS WELL AS EMBRACING TECHNOLOGICAL CHANGE THAT WILL HELP US IN THE DRIVE TO BECOME CARBON NEUTRAL/NEGATIVE'

Naomi Rive, Group Director and Head of Private Wealth at Highvern

The increased focus on transparency and accountability will have to be taken into account, albeit there will remain a desire for privacy and confidentiality.

'I believe this will lean towards more simple structures without unnecessary layers or vehicles,' says Rive. 'Also families and family offices will play a more active role within structures.'

She adds that the structures she operates for many families are now at the heart of their governance framework and so businesses will need to take the lead in terms of being robust, well governed and ESG focused.

'Industry must also ensure there is further investment in technology and regulation to ensure that we don't cause the families we work with any reputational risk issues,' she adds.

Collaboration is the key

Even though it is difficult to be prepared for the unknown, industry has responded effectively so far, but will it remain prepared for future changes? Rive asserts that some of the focus has to be on the industry itself and driving forward change within businesses.

'As businesses, we are also focusing on our own impact on the environment, for instance, as well as embracing technological change that will help us in the drive to become carbon neutral/negative. There should be less need to travel and a greater ability to collaborate through effective use of technology.'

Tring believes collaboration is the key and will be in the best interests of the industry as whole.

'Increasingly, advisors will need to work far more collaboratively with the wider network of family advisors to ensure that financial goals around philanthropy, sustainability, ethical investing and responsible guardianship are managed far beyond the traditional expectation of straightforward returns,' says Tring.

WHERE THE WORLD DOES BUSINESS

With high-speed digital connectivity and a world-renowned financial services sector, Jersey remains a jurisdiction of choice for entrepreneurs, investors and high-net-worth individuals

Compliance

THE JERSEY FINANCIAL SERVICES COMMISSION'S myRegistry DEMONSTRATES JERSEY'S COMMITMENT TO ENHANCED CROSS-BORDER REPORTING, DISCLOSURE AND GOVERNANCE

100%
FIBRE BROADBAND TO PREMISES

~14,000
FINANCE PROFESSIONALS

ALMOST **A QUARTER** OF THE ISLAND'S TOTAL WORKFORCE

3,000+
EMPLOYEES
IN **DIGITAL** ROLES

TRUSTS AND ASSET-HOLDING VEHICLES

£1.14trn
OF CAPITAL ADMINISTERED BY THE SECTOR, SUPPORTING...

£126bn
OF GLOBAL GDP VIA GLOBAL VALUE CHAINS...

EQUIVALENT TO
0.2%
OF GLOBAL GDP

1HR
AVERAGE FLIGHT TIME FROM THE UK

Sustainability

JERSEY IS PART OF THE FC4S NETWORK OF FINANCIAL CENTRES WORKING TOGETHER TO ACHIEVE THE U.N. SUSTAINABLE DEVELOPMENT GOALS AND THE PARIS AGREEMENT

Award-winning

- **WINNER (SILVER)**, INTERNATIONAL FINANCE CENTRE OF THE YEAR, CITYWEALTH INTERNATIONAL FINANCE CENTRE AWARDS 2023
- **WINNER**, BEST INTERNATIONAL FINANCE CENTRE, WEALTHBRIEFING EUROPE AWARDS 2023

AA–/A–1+

S&P GLOBAL RATINGS' CREDIT RATING FOR JERSEY IS UNCHANGED BASED ON A STABLE OUTLOOK UNDERPINNED BY THE GOVERNMENT'S STRONG BALANCE SHEET, ROBUST AND FLEXIBLE INSTITUTIONS, A HEALTHY ECONOMY AND AN AFFORDABLE BORROWING PROGRAMME

927
MEMBERS AND AFFILIATES
OF THE STEP JERSEY BRANCH – THE **THIRD LARGEST** IN THE WORLD

£170.3bn
OF GLOBAL ECONOMIC OUTPUT SUPPORTED BY JERSEY, INCLUDING **5.1 MILLION JOBS WORLDWIDE**, AND **£73.3bn** IN ASSOCIATED WAGES EACH YEAR

Flexible structuring

TRUSTS, FOUNDATIONS AND FUND STRUCTURES CAN BE ADAPTED FOR PHILANTHROPIC AND SUSTAINABLE INVESTMENT OBJECTIVES

400+ FOUNDATIONS FORMED SINCE THE JERSEY FOUNDATION WAS LAUNCHED IN 2009

60+ YEARS AT THE FOREFRONT OF GLOBAL FINANCIAL INNOVATION

30+ JERSEY FINANCE WORKING GROUPS ON LEGISLATION, REGULATION AND INNOVATIVE PRODUCTS AND SERVICES

£1.14trn
AVERAGE ANNUAL STOCK OF CAPITAL INTERMEDIATED IN JERSEY

204
REGULATED TRUST COMPANY SERVICE PROVIDERS IN JERSEY

Global reach

JERSEY FINANCE HAS A PRESENCE IN DUBAI, HONG KONG SAR, JOHANNESBURG, LONDON, NEW YORK, SHANGHAI AND SINGAPORE

SOURCES AND FURTHER READING

The following publications are available to download for free online at **www.jerseyfinance.je**:

- ***Jersey's Contribution to Global Value Chains*** (Jersey Finance/Cebr, 2021)
- ***Jersey for Good: A sustainable future*** (Jersey Finance/ Equilibrium Futures, 2021)
- ***Jersey: The clear choice for family offices*** (Jersey Finance, 2019)

Location, location, location…

…and why it matters

Choice of jurisdiction has taken on a far greater strategic priority in the international family office market

Shutterstock

In *Trust Jersey*'s discussion with four leading practitioners, there was a consensus that, aligned with the geopolitical instability now prevalent across the globe and the increasing regulatory requirements within the wealth management sector, jurisdictions that demonstrate certain key qualities will be the ones that will be in the front line when decisions are taken on structuring international family assets.

Daniel Channing, Director at Crestbridge Family Office Services, not only notes that the role of the jurisdiction has a much more influential part to play than was once the case, but also observes that increasingly the jurisdiction is chosen first before the designing of the structure. 'It's about the infrastructure, an effective legal framework and the right service providers to service the family, given what they see as value and what's important to them.'

Behind this thinking are the key considerations of stability and security.

'Clients need the security of knowing that if something goes wrong, if there is a challenge to the structure or a dispute within the family, there is legal and professional services infrastructure to resolve the issue in a process-driven, reliable and predictable way,' explains Rajah Abusrewil, Group Partner at Walkers.

It's a theme Claire Machin, Group Director, Head of Private Wealth, at Suntera Global, reiterates: 'Many high-net-worth individuals want the reassurance that their assets are held in a secure, stable location and one which is highly regarded for its level of probity and willingness to comply with the latest standards as regards transparency and cooperation.'

Rajah Abusrewil, Group Partner at Walkers

Competitive advantage

Such thinking, reinforced by the increasing regulatory demands facing the international investor, has been helpful for leading international finance centres, which are competing ever more intensely to attract family office (FO) business. Those in Jersey have a strong message to convey when that discussion takes place, Machin says.

'Qualities such as a robust regulatory regime and high standards of transparency are features that resonate well with FOs, especially in the Gulf region. The jurisdiction's tried-and-tested legal armoury and digital infrastructure are well regarded by FOs, and there are also practical considerations such as the fact that Jersey sits in a similar time zone, which should not be underestimated and is helpful when collaborating.'

While Jersey made an early commitment to regulatory standards, Machin argues that some jurisdictions have not done so and they could now be seen to be at a competitive disadvantage.

Jersey's strategy has been to stay ahead of the curve on legislation and regulation, to implement ahead of deadlines and to react quickly to international demands.

'From the perspectives of clients and their advisors, that has worked well,' says Abusrewil. 'They get the security of knowing that the process is being managed and taken seriously and they are less likely to have

'ADVISORS AND OTHER WEALTH MANAGERS NEED TO MAKE GOVERNANCE A PRIORITY TO EASE THE PROCESS AT THE TIME OF WEALTH TRANSFER'

Claire Machin, Group Director, Head of Private Wealth, at Suntera Global

cross-border issues. That sense of security is important to clients because on a practical level it's as frictionless as possible.'

But what about the individual incentives that jurisdictions might introduce to appeal to the FO market? Channing concedes that there has been interest in locations that offer incentives, but these measures only go so far. Legislative or tax incentives in any one location are not seen as drivers for choosing a location. The governance question is crucial to the process.

'Structures are becoming simpler; however, the governance implemented within them is becoming more sophisticated,' says Channing. 'There may only be a small number of entities within a structure, but this will be reinforced by a complementary framework of committees and governance protocols that sit on top and around the structure to enhance its effectiveness.'

'Of course, there's no one-size-fits-all,' adds his colleague Laura Parkes, Director at Crestbridge Family Office Services, who stresses that it comes down to what the family needs, not only from a personal perspective, but also taking into account their business operations.

Laura Parkes, Director at Crestbridge Family Office Services

'There are many families in the same situation who are exploring several jurisdictions that meet their global wealth structuring needs while looking to tie it together into one holistic operation,' says Channing.

Parkes adds: 'The objective is to set up a governance structure through a professional, independent corporate service provider that delivers a robust framework to protect and ultimately preserve the family assets.'

Firm foundations

Jersey structures have also become more familiar to a wider audience of international investors, and that positions them well when investors are choosing a jurisdiction.

'If you take foundation regimes,' says Abusrewil, 'now they have been implemented by the Dubai International Financial Centre and the Abu Dhabi Global Market, there is a greater understanding of and familiarity with the Jersey foundation regime among families, FOs and professionals in the region, which enables a much greater use of and interplay between offshore and onshore structures.'

Alongside estate and succession planning and an analysis of the individual strengths of jurisdictions, there has also been an inexorable shift towards more responsible investing. This can be a delicate subject for advisors, as there may be some in the family wanting to maximise returns, with others insisting that their family investments have a positive impact on society, even at the risk of under-performance. Machin points particularly to the younger generations, who may have concerns about how their inherited wealth is invested as they embrace environmental, social and governance (ESG) considerations.

'It has to be discussed and so it's important to have a dialogue with the future generations if possible,' she says. 'Advisors and other wealth managers certainly need to make governance a priority to ease the process at the time of wealth transfer.'

Evidence supports this, with Deutsche Bank's annual *ESG Survey 2022* reaffirming that millennials seem to be more aware of underlying ESG issues compared with other age groups.

In this ever more complex world, FOs are encouraged to review structures and processes periodically. As Abusrewil explains: 'The intentions of a family can shift and evolve. Structures can become more complex and the importance of ESG, the roles of women and the impact of generational shift can mean that changes need to be made.

'What we have seen in the past is that, with FOs in particular, there is a real focus on the businesses, finance and investments, but not always the same level of attention to the structure and future needs and dialogue with successor generations.' ✖

'STRUCTURES ARE BECOMING SIMPLER; HOWEVER, THE GOVERNANCE IMPLEMENTED WITHIN THEM IS BECOMING MORE SOPHISTICATED'

Daniel Channing, Director at Crestbridge Family Office Services

Weathering the storm

Geopolitical risk presents both challenges and opportunities for global investors

Navigating periods of instability, market volatility, economic uncertainty and political turmoil is nothing new for international private investors. For the entirety of the past century, political change has been on the agenda in one way or another.

But with families of wealth operating in increasingly complex cross-border environments and exploring new markets, and with record levels of wealth set to be transferred to the next generation over the coming years, geopolitical risk remains a key consideration. Families and investors are therefore keen to be on the front foot.

'It's difficult to think of a time when the political world was quiet,' says Darren Kelland, Global Head of Private Client Services at Hawksford. 'Most recently, there may have been an increased focus on political issues since the war in Ukraine began, but I don't believe it has necessarily increased the focus on political risk in the minds of investors. They have always had an awareness of the geopolitics around them.'

However, the indications are that geopolitics is manifesting itself in new ways among investors, as Daniel Channing, Director at Crestbridge Family Office Services, explains: 'When speaking to clients in the Middle East, domestic instability was a key driver for initiating cross-border planning. What has become more apparent to many clients, including those in the Middle East, is that uncertainty and political change have become ever-increasing global issues. Safe harbours have therefore become increasingly sought after.'

Daniel Channing, Director at Crestbridge Family Office Services

Broader exposure

So what has the investor reaction been to the geopolitical shifts of more recent years? Among the key trends are an appetite to be proactive in reviewing structures, a renewed focus on client-advisor relationships and an awareness of the benefits of being agile in a rapidly shifting market.

'Seeking to try and protect against geopolitical risk is becoming harder,' says Laura Parkes, Director at Crestbridge Family Office Services. 'It's not as simple as putting capital into, say, a high-value piece of real estate and assuming that's going to be safe. Changes in government and tax policy, for instance, are frequent. Investors are not only battling with political risk – it's having an impact on economic risk too.'

Making things more complicated is that families with multi-generational members with multi-jurisdictional interests are exposed to a far broader set of political risks than they might have been ten years ago.

'Historically, core family members and the family business would likely have

Shutterstock

'INVESTORS WHO ARE POSITIONED WELL TO REACT QUICKLY CAN OFTEN BENEFIT FROM MARKET REACTION TO POLITICAL CHANGE'

Darren Kelland, Global Head of Private Client Services at Hawksford

been in one jurisdiction with international exposure only through investments,' says Channing. 'Now, families are spread across the globe, probably the business has grown into different locations and international investments have expanded. The result is that families now have exposure to multiple jurisdictions and to varying degrees. The geopolitical risk attached to that can be highly complex.'

Practical implications

So what are the practical implications of geopolitical risk today, and how are families and private investors responding? Reviewing structures and jurisdictional arrangements is one area where the sector is seeing a greater focus.

'There's definitely a flight to quality jurisdictions and a far greater emphasis on ensuring structures are robust,' says Channing. 'That's one area that plays out very strongly for Jersey. Families are far more comfortable looking at Jersey and its structures, knowing that the security, professionalism and certainty they are going to get through the infrastructure here compares so well to other jurisdictions.'

Control and robust governance are key elements too. Investors are taking the opportunity to review their existing arrangements, stress-test their structures and make sure that they are fit for the long term. Again, Jersey comes out well here, with its well-established trust law, the blueprint for trust legislation in other locations, being so well used and backed up by tried-and-tested case law.

It follows that horizon scanning has also become increasingly important to clients in the current environment, as Parkes explains: 'It's about being proactive, to help clients think a couple of steps ahead, looking at what's on the horizon and revisiting the structure regularly. What would you do if, for example, there was a change in government in a certain country? Would your structure and the assets it holds remain robust in that circumstance? Is it appropriate and necessary to act?'

Opportunities

When it comes to investment strategies, geopolitical risk is also having an impact, with families placing a greater emphasis on diversification within their portfolios in order to mitigate and spread risk.

'Disruption from geopolitical risk has prompted families to refocus and take a more nuanced approach to their investment strategies,' explains Laura Nevitt, Head of Family Office Services at Hawksford.

'DISRUPTION FROM GEOPOLITICAL RISK HAS PROMPTED FAMILIES TO REFOCUS AND TAKE A MORE NUANCED APPROACH TO THEIR INVESTMENT STRATEGIES'

Laura Nevitt, Head of Family Office Services at Hawksford

But while asset protection and caution might be the initial response to risk, market uncertainty can also present opportunities, particularly where investors can be agile and where they have access to liquid assets.

'While political uncertainty affects markets, it often provides opportunities for the nimble and savvy investor,' says Kelland. 'Investors who are positioned well to react quickly can often benefit from market reaction to political change.'

Parkes agrees, highlighting that just moving into what's perceived as a 'safety zone' may not necessarily be the right thing: 'There are opportunities that come with turmoil. The entrepreneurial type of investor will be thriving in that kind of climate, where a more risk-averse investor may not. In those scenarios, it's a case of being agile, ready to seize those opportunities.'

'THERE ARE OPPORTUNITIES THAT COME WITH TURMOIL... IT'S A CASE OF BEING AGILE, READY TO SEIZE THOSE OPPORTUNITIES'

Laura Parkes, Director at Crestbridge Family Office Services

In that sense, geopolitical risk is also shining a spotlight on the importance of strong client-advisor relationships. All advisors within a growing client network of experts and specialists must be ready to support investors quickly and efficiently.

'In light of the greater complexity of the environment families are now operating in, it is vital that advisors are aware of such risks and ready to challenge the status quo, while also keeping an eye on where the opportunities lie,' says Nevitt.

That means working together, all being aligned with a family agenda and fully up to speed with what they want to achieve – even going back to the basics: what they want to do, their rationale for wanting a certain structure and how they want to separate their personal and business assets, for example.

Necessary protections

Importantly, it's not about just assuming that you can or should replicate what's been done before; it's about revisiting plans and structures and asking fundamental questions. What is the geopolitical risk? What has changed and what is likely to change? How can we best plan for the medium to long term?

'Shrewd investors, who sometimes swallow more risk, can achieve significant returns during volatile times,' explains Kelland. 'It's worth noting that, with political change, some markets become too hot or uncertain for investors; this isn't something new and can be quite cyclical. Investors with medium- to long-term outlooks accept this and build necessary protections into their portfolios.'

Geopolitical risk is set to continue to be a key factor for investors in the coming years. As such, forward-thinking jurisdictions that can offer certainty, easy access to expertise and a platform to deliver agile solutions will continue to provide an attractive proposition for private investors.

In that light, Jersey looks to be in a strong position. ✕

The ABC of ESG

How sustainable finance is being integrated into fiduciary duties

The rapid evolution of sustainable finance over the past decade has brought environmental, social and governance (ESG) investing into the mainstream for private client advisors. In particular, the UN's COP26 climate change conference in 2021 made it clear that private capital would play an increasingly important role in helping to meet global sustainability goals, and with significant amounts of wealth due to be transferred to the next generation over the coming years, integrating ESG as a core concept into fiduciary businesses will become increasingly critical.

It is a movement that is providing significant opportunities for the sector, but it also raises potential challenges in terms of the alignment between fiduciary duties, private wealth structuring and approaches to sustainable investing.

Under the law of England and Wales, trustees' investment powers are rooted largely in the *Trustee Act 2000*, which provides for a wide power of investment for trustees to make any kind of investment that they would make if they were entitled to the assets of the trust.

'Prudent'

Generally, trustee duties under Jersey law have evolved in a similar way to those in the UK, with obligations including taking the same amount of care as an ordinary 'prudent' person would take if they were managing their own affairs.

This raises questions around integrating sustainable investing, particularly where doing so might impact on achieving the best possible financial returns for beneficiaries.

What has been seen in recent years, though, is that ESG factors have become more integral to material impact and financial performance, not necessarily working to the detriment of financial performance, as Elizabeth Shaw, Associate Director at Affinity Private Wealth, explains.

'There is still a misconception that ESG won't align with trust deeds and letters of wishes, but there is a distinct difference between using trust assets for low-return investments on the basis of the ESG outcome and investing responsibly and mindfully in accordance with ESG principles.

'We all have a responsibility to do the latter, to ensure that appropriate governance is maintained and that investments are made in consideration of best practice. If that's the case, there's no reason why ESG investing can't align with the duties that a trustee has.'

In fact, Shaw adds, it could be perceived as irresponsible to do otherwise because, regardless of the return, trustees could be held accountable by beneficiaries for not mindfully using the wealth and properly considering purpose and values alongside returns.

Sustainable investing, then, can be seen not as a problem but as an opportunity for trustees – something to be integrated rather than treated separately and distinctly.

What this means for advisors

There are various practical implications of this drive to integrate sustainable finance

'WE NEED TO BE CAPABLE OF EXPLAINING WHAT SUSTAINABLE INVESTMENT MEANS FOR THOSE WHO ARE NOT YET FAMILIAR WITH THE LANDSCAPE'

Elizabeth Shaw, Associate Director at Affinity Private Wealth into trustee duties. As far as structuring is concerned, an ESG approach brings further considerations for advisors and trustees in areas such as the tax treatment of ESG assets, whether or not ESG and non-ESG assets should be segregated, a family's risk profile and the potential for family conflict.

Documentation showing clear evidence of these sorts of considerations is important in demonstrating that a prudent approach has been taken. This may mean, for example, introducing clear references to ESG and impact investing in a family charter, constitution and other documents.

In addition, being alive to the long-term time horizons of sustainable investing is also important, particularly in anticipating future family litigation stemming from potential divergence between the values of current and future generations.

'Capital deployment, without sustainable risk assessment, when it comes to investment is a big litigation risk,' says Henry Wickham, Head of Estate Planning, Wills and Probate at Ogier. 'It's a risk that is exacerbated in long-term investment horizons, which you might typically find in a Jersey multi-generational trust structure.'

It follows that skills and expertise are also key. With the next generation becoming more influential in future planning, for instance, the advisory community is under increased scrutiny from this demographic. The next generation is, in general terms, more demanding in terms of transparency, wanting quick access to information and demonstrating mounting concern around greenwashing (where companies misleadingly overstate their environmental credentials in order to boost their reputation).

In that light, advisors must recognise the need to demonstrate robust ESG credentials and be skilled in reconciling the competing interests of beneficiaries, particularly where societal and environmental issues, such as climate change, play out over a long time frame.

'CAPITAL DEPLOYMENT, WITHOUT SUSTAINABLE RISK ASSESSMENT, WHEN IT COMES TO INVESTMENT IS A BIG LITIGATION RISK'

Henry Wickham, Head of Estate Planning, Wills and Probate at Ogier

Consequently, ESG upskilling is likely to become a core part of the fiduciary landscape.

Future direction

Looking ahead, the sense is that we are only really at the beginning of policy and regulatory action in the ESG space, with much more activity expected over the coming years as responsibilities, frameworks and reporting obligations become clearer, more integrated and aligned across markets and regions.

The reporting of data in particular continues to provide perhaps the biggest challenge for trustees, with huge quantities of data requiring careful analysis and scrutiny on a regular basis.

'The current ESG reporting landscape is hugely fragmented,' says Tom McKenna, Sustainable Finance Lead at Jersey Finance. 'Over recent years, a number of institutions have sought to develop their own standards to be able to demonstrate ESG credentials in some way. The result has been a myriad of different frameworks, creating a highly complex picture.'

Trustees will therefore need to be increasingly ESG data literate and decide what is most important and what is most relevant for onward reporting to beneficiaries and settlors.

On a client relationship level, meanwhile, mutual understanding and clear communication across the entire supply chain will also be increasingly important. Ultimately, it's about asking the simple questions of clients and framing the questions right from the outset to really understand what the client expectations are, so that trustees can make the right investment management appointment.

'Seeking to be a sustainable trustee means that we consider it part of our role to engage with all our clients on the philosophy of sustainable investment,' says Shaw. 'We need to be capable of explaining what sustainable investment means for those who are not yet familiar with the landscape, ensuring that we have strong relationships with relevant investment managers who can offer robust solutions in this space, and making sure that we are confident enough to challenge managers on their asset allocations and role in active stewardship so that our clients' wishes are fulfilled.'

Conclusion

Ultimately, ESG investing and sustainability will become increasingly important parts of the risk management framework for trustees and their clients. Jersey's legislative and regulatory environment is deemed to provide trustees and clients with confidence when it comes to integrating sustainable thinking.

'Jersey's trust law provides an attractive and flexible framework for ESG structuring,' says McKenna. 'Duties and guidance are built into it but with retained flexibility to enable the courts to continue making momentous decisions that can give trustees confidence in line with societal movements, trends and public policy.'

There's no doubt that it is becoming increasingly important for trustees to carefully consider ESG risks alongside the opportunities and give thought to how they are presented to satisfy family, beneficiary and other stakeholder interests and their due diligence requirements. The key for the trustee lies in ensuring they have done all they can to weigh up the considerations, look at the permutations, obtain advice and provide evidence, and then making a judgement based on those deliberations.

Then trustees can proceed with confidence.

'JERSEY'S TRUST LAW PROVIDES AN ATTRACTIVE AND FLEXIBLE FRAMEWORK FOR ENVIRONMENTAL, SOCIAL AND GOVERNANCE STRUCTURING'

Tom McKenna, Sustainable Finance Lead at Jersey Finance

Shutterstock

A virtuous cycle

Digital Jersey is piloting the use of trust structures for data stewardship

By Amy Taylor

Cyclists tackle the Jersey Coastal Path

Shutterstock

Currently underway in Jersey is a groundbreaking project that could have significant implications for the global trust industry. It's a unique collaboration between digital specialists and finance and legal professionals with a deep understanding of trusts who have come together in the burgeoning field of data stewardship.

The concept involves the innovative use of a trust structure to hold personal data so that it can be stored, managed and shared safely, lawfully and in accordance with the trust parameters, while applying fiduciary duties to the stewardship of data within a highly regulated environment.

To test the idea, a 'pilot' scheme has been launched by Digital Jersey, the government-backed body in Jersey dedicated to the growth of the digital sector, in which data will be collected on bicycle use from cyclists signed up to the project. A non-charitable purpose trust named Lifecycle has been formed to retain the data.

Data trusts allow individuals or organisations who collect or hold data to appoint an independent data steward to make decisions about how that data is used and shared with third parties for an agreed purpose. They are starting to proliferate; up to now they have been created by contract using companies but not with a trust as the central governance structure.

Applying a trust structure to data stewardship brings many benefits, not least that data providers are able to appoint independent, professional and regulated trustees with the appropriate experience in fiduciary duties, good governance and asset management. Using this approach, clear, binding rules for stewardship and sharing are prescribed from the outset, giving data providers peace of mind. A trust structure is also inherently flexible and can be tailored to meet the objectives behind the data collection.

A Jersey data trust therefore provides an easy-to-implement legal structure allowing data providers to make their data available to share according to enforceable rules, stewarded by experienced professional and regulated trustees.

The Jersey pilot has been in progress since February 2023 and there are now 500 cyclists signed up to contribute data to the project whenever they complete cycling journeys, using sensors on the bicycle and a linked app. It is envisaged that the island's sustainable transport strategy will benefit from the data being generated. A cycling study is just one example, and it's increasingly evident that data trusts provide a powerful model for local authorities and commercial organisations looking to solve challenges around mobility planning, efficiency improvements, net-zero targets and environmental, social and governance reporting, for instance. Healthcare and supply-chain data could also be applied to a Jersey data trust. The list is extensive.

We are in the throes of a data revolution and there will inevitably be a global market in data stewardship services. There is an increasing need to find independent, robust ways to manage, store and protect data effectively. Given its 60-year pedigree at the forefront of trust services, its rightly admired legislative and regulatory framework and the expertise available on the ground, Jersey is ideally placed to support data stewardship, providing individuals, organisations and government bodies with the confidence they need for storing data securely. This pilot is only the first step in an innovative new direction for the trust industry. ✖

'IT IS INCREASINGLY EVIDENT THAT DATA TRUSTS PROVIDE A POWERFUL MODEL FOR LOCAL AUTHORITIES AND COMMERCIAL ORGANISATIONS'

Amy Taylor, Chief Operating Officer at Digital Jersey

For more information, contact **info@digital.je**