Jersey Finance

Delivering Insight ▪ Driving Innovation

Flourishing Futures:

Making Succession a Success

Private wealth thought leadership report in partnership with BEDELL CRISTIN

Challenges arising from the 'Great Wealth Transfer'

1 in 3

families dealing with succession suffer conflict

In the US,

$30tn

in assets will pass down to the present-day generation

32%

of previous inheritors had a wealth transfer strategy vs only 15% yet to inherit

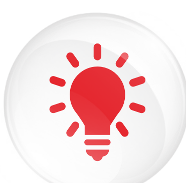
Financial education is only beginning at age

27

The next generation of beneficiaries…

…are international; live beyond one 'home' jurisdiction

…have complex family arrangements



…have access to more information via technology

…expect fast, accurate and responsive information, 24/7

Chief Executive's Statement

by Geoff Cook

Over the coming years, a phenomenon dubbed the 'Great Wealth Transfer' is expected to see trillions of dollars passed from baby-boomers to the present-day generation.

Estimates suggest that around $30 trillion of wealth will change hands in the next 30 to 40 years (Accenture, 2015), so there is clearly a lot at stake – but are trustees and other fiduciary service providers ready to meet the future needs and demands of the next generation?

To service this there will need to be a certain amount of change and evolution within the global private wealth industry.

The Knight Frank Wealth Report 2018, for instance, finds that only 26% of families have a full wealth transfer plan in place and suggests that the next generation is not being educated early enough about the management of wealth.

In addition, it's clear families are much more tech-savvy today compared to 30 years ago. They expect to be able to access information 24/7 and demonstrate a preference for communicating digitally, transacting online, and managing their finances via apps.

With this in mind, Jersey Finance has worked with the international private client specialists of top law firm, Bedell Cristin, to explore the changing needs of the next generation, examine the intergenerational transfer of wealth, and provide some guidance on 'making succession a success'.

The result is this 'Flourishing Futures' paper, which we hope can act as a roadmap as trustees and wealth advisers navigate this evolving environment.

The recommendations made in this paper, and the real-life case studies from Jersey's wealth sector that complement them, should provide trustees with some useful guidance that can help them address the complexities of modern family life and ensure the 'Great Wealth Transfer' can take place smoothly.

It's clear that those trustees and fiduciaries who are forward-thinking, adaptable, digitally-enabled and who can demonstrate flexibility, will be the ones that will win the day.

Jersey is ready to work with those who share our desire to focus on the future needs of the next generation within the ever-changing wealth management landscape.

Flourishing Futures

The future of wealth ownership is changing. It is vital that trustees and other fiduciary service providers are ready to meet the needs and demands of the next generation.

In North America alone, an estimated US$30 trillion (Accenture, 2015) in assets will pass from baby boomers to their heirs within the next 30 years. Dubbed 'The Great Wealth Transfer' by economists and financial observers, this intergenerational transfer of wealth has been widely publicised.

This shift of wealth will take many forms, including the hand over of direct and absolute wealth ownership and the transfer of individual influence in existing wealth-holding structures.

Considering that Jersey has an estimated £400 billion (Capital Economics, 2016) held in trusts established by private individuals, it is clear the impending transfer of wealth, in all of its forms, will be experienced on the Island.

Our wealth management industry has been in place for more than 50 years and as a forward-thinking jurisdiction, we have the expertise and tools to support this Great Wealth Transfer.

This paper reflects on how existing trust structures established 30 plus years ago by the settlor and the initial generation of beneficiaries (the 'founder generation') might be affected by the next generation of beneficiaries. It outlines what actions trustees may proactively undertake in anticipation of the increasing influence of the next generation.

£400bn

in trusts held in Jersey by private individuals

Source: Capital Economics, 2016

1,282

members of the Society of Trust and Estate Practitioners - one of the largest branches globally

Source: STEP Jersey Branch, 2018

182

regulated trust company service providers

Source: Jersey Financial Services Commission, 2017

The Founder Generation

The go-to wealth holding structure available and used by the founder generation was typically a 'one-size-fits-all' trust. Trustees could exercise a wide range of discretionary powers over a mix of property held in the trust.

The founder generation at the time of the trust's creation is likely to have had common attributes. These will have included:

- All beneficiaries living in a 'home' jurisdiction
- A strong expectation beneficiaries would be educated or live in the "home" jurisdiction
- Moderate understanding of wealth holding structures and no easy access to information, although entrepreneurial and well-versed in business activities
- A close relationship with most, if not all, members of the founder generation
- Beneficiaries with fairly traditional characteristics and qualifications i.e. children, grandchildren and great grandchildren of the founder generation, together with their spouses, would automatically qualify as beneficiaries
- A shared aim as to the purpose of the trust
- Active participation in the choice of trustees and therefore likely to have developed a close personal relationship with the trustees

For the founder generation, the 'one-size-fits-all' trust was sufficient for their requirements.

These typically revolved around the establishment of a financial safety net to protect future generations without having to address (or indeed anticipate) current day regulatory requirements.

The Next Generation

The next generation are also likely to have common attributes, but different to those of the founder generation, including:

- Beneficiaries and their families will more likely to have been educated or living in multiple jurisdictions beyond the 'home' jurisdiction
- A greater understanding of wealth-holding structures driven by a willingness to conduct their own research, access to online information and the media
- Expectation to easily access information via technology in a myriad of formats, 24 hours a day, seven days a week
- Difficulty in gaining or sustaining a relationship with other beneficiaries due to the growing size and international locations of the beneficial class; now including cousins, nephews or nieces and grandchildren
- More complex family arrangements
- Experience of pre-nuptial agreements, divorce, multiple marriages, long-term but unmarried relationship, same sex relationships, and any children from these relationships
- More likely to have individual requirements and aspirations which may not necessarily be shared among all of the next generation
- A shift to a transactional-style relationship with trustees, so less likely to have long-term loyalty towards the trustees

As such, it is unlikely the 'one-size-fits-all' approach would be suitable for all of the next generation's requirements. The trustees need to consider how they and the trust need to evolve to keep pace with the next generation.

Evolution, Not Revolution

What might the trustees do to support the next generation?

1. Prepare a trust structure summary. Distribute it to the next generation and explain:

- The trustee's role and their duties or responsibilities
- The terms of the trust
- What it means to be a beneficiary of the trust
- Current activities of and investments held by the trust
- Applicable regulatory requirements
- The benefits of Jersey

Why Jersey?

Jersey is one of the world's leading international finance centres. Its forward-thinking approach, robust regulatory framework and political and economic stability have kept the jurisdiction at the forefront of global finance for more than 50 years. Jersey is an attractive choice for the ongoing administration of existing trusts and establishment of new wealth-holding structures because it offers:

- Legislation which focuses on the importance of flexibility, allowing for the creation of structures tailored to individual family requirements
- A regulatory regime acknowledged by independent assessments from some of the world's leading bodies including the OECD, World Bank and IMF
- A well-respected and independent judicial system
- A depth and breadth of experience among its 13,300 plus professional advisors
- A central time zone, making the Island readily accessible around the globe
- Close proximity to the UK and frequent daily flight connections between Jersey and the UK. Choosing the Island makes practical and logistical sense for those with family connections or business interests in London or elsewhere in the UK.

2. Set up a meeting with the next generation. If the next generation is acting as a collective and speaking with one voice, it may be appropriate to meet with representatives of the next generation.

Alternatively, meet as many as possible face-to-face or if this is not logistically possible, consider video conference calls. Discuss the following topics:

- Clarify the trust structure summary
- Current circumstances of the immediate family. For example, any impending health, educational or maintenance issues which may need supporting
- Aims and aspirations; what is important to the next generation?
- Performance of current investments
- Issues of conflict or potential conflict among the next generation. It is better to be aware sooner rather than later of a divergence of views
- If appropriate, gain an understanding of what is considered to be 'fair'. Will notional distributions among the next generation apply in equal amounts among several branches of the family (per stirpes)? Or in equal amounts among all beneficiaries (per capita)?

3. Focus on the existing structure and its purpose. Think about whether the structures meet the wishes of the next generation and whether these can be modified. Might it be appropriate to establish a new structure? For example, could a foundation better support philanthropic causes?

4. Review trust fund investments. Are investments aligned with the next generation's aims and aspirations? Thinking of philanthropy, for some clients a philanthropic structure might be tailored so that an entrepreneur's business skills can be used to champion a particular cause.

5. Use a forward-thinking approach. Find out if the trust is able to accommodate the lifestyle and characteristics of the next generation. Is it able to provide benefits to those in either a same sex relationship or to children of unmarried parents? If not, what is the status of such individuals under the trust?

Might it be appropriate to vary the trust? This is what happened in the Jersey case of The Y Trust and The Z Trust [2017] JRC100 in which the next generation of beneficiaries considered the views of the deceased settlor to be outdated and restrictive. At the request of the beneficiaries, Jersey's Royal Court approved the variation of the trusts' terms which the family considered to be "out of step with modern thinking".

6. Focus on values and future growth. Can the growth of the trust fund keep pace with the growing size of the next generation? If not, should the trust's overall purpose be modified to provide only essentials, for example, a family health trust?

7. Clarify the impact of pre-nuptial agreements. If any of the next generation are party to a pre-nuptial agreement, this could result in distributions out of the trust fund to one or both parties. Consider whether altering investment structures would better reflect the terms of the pre-nuptial agreement. This would mean that any division of, and distribution out of, the trust fund can be carried out as seamlessly as possible, with the least disruption to the remaining investments.

8. Clarify who wants to remain a beneficiary. Ask how important it is for the next generation to remain as beneficiaries of one trust when one or more beneficiaries want to go their separate ways. Is the formation of a new trust or trusts aligned to different aims or aspirations more feasible?

Case study: Changing Focus

A family established a small manufacturing business in the early 1900's. Following the outbreak of civil war, they lost everything and had to flee to a neighbouring country. The family were able to re-establish their manufacturing business in their adopted country. The business was extremely successful, and the family were able to return home with their business.

At the same time, the founder generation established a trust to hold the shares in the family business. All members of the founder generation worked in the family business and assisted in its continuing success.

Following the death of the last member of the founder generation, no family members worked in the family business. The business, including the shares held by the trust, was then sold and the trust was cash rich.

Following the sale, the next generation (who were now wealthy in their own right) wanted the family wealth to make a difference beyond the family. After consultation, they applied Jersey's legal and product flexibility to establish a foundation using an endowment out of the trust fund.

The foundation's principal purpose was to help civil war refugees. To maintain the family's involvement with the foundation, the foundation's council must include several members of the next generation.

366

Jersey Foundations formed since their creation in 2009

Source: Jersey Financial Services Commission, 2018

£1.3tn

custodian of wealth

Total assets held in Jersey

Source: Capital Economics, 2016

9. Be willing to innovate. Could a private trust company be established (with the next generation included as directors) to act as a co-trustee? If there is a need for investment transparency, can read-only access be given to investment portfolios held as part of the trust fund?

10. Adapt your communications. The next generation, millennials, expect fast, accurate and responsive information. Social media integration is an increasing client demand with many seeking to conduct all lifestyle and financial activity within one platform. Are you using the right style and channels to communicate with the next generation? Consider using technology to enable this.

Case Study: A Vision for Future Growth

Following the sale of a family business, approximately 20% of the sale proceeds were settled on a trust with the settlor's vision being to provide funds to i) maintain the family estate; ii) meet any breach of warranty claims arising out of the sale; and iii) ultimately support subsequent generations of the family. The balance of proceeds was distributed to family members.

Unfortunately, due to a combination of the family estate being more expensive to maintain than anticipated and a successful breach of warranty claim, the value of the trust fund reduced by more than 80%. As a consequence, the trust fund would not provide meaningful support for the family's future generations.

The family considered terminating the trust, which would have meant the next generation would receive a reasonable, but not life-changing, lump sum. However, their grandfather's (the settlor's) ultimate vision was to support future generations, and the next generation wanted to ensure this happened in some way.

After taking advice the family transferred the trust fund to a family health trust. This took the form of a non-charitable purpose trust with the sole purpose of paying the annual premium of a health insurance policy for the benefit of a widely defined class of family members. This included, among others, those in same sex relationships, adopted children and step-children.

A forward-thinking Charities (Jersey) Law

1st

MONEYVAL ranking

Jersey highest for compliance with international standards

Case Study: A Positive Resolution

A settlor established a trust with himself as the protector and the beneficiaries being his children (three sons and two daughters) and future family generations.

The two eldest sons have professional qualifications and worked alongside the settlor on various business activities. The profits of these activities contributed to the trust fund.

Neither of the daughters worked but, until their marriages, both were fully supported by the trust.

In his early twenties, the youngest son worked with his brothers and the settlor but, after a few years, left to pursue artistic activities which, although successful, produced insufficient income to support him and his young family.

The father (as protector of the trust) consented to the trustees supplementing the youngest son's income through a monthly distribution from the trust. Other beneficiaries were told about these monthly distributions and none questioned their father or the trustees about having the same benefit.

However, following the death of the settlor, the two older brothers instigated a review of the trust's activities and decided their younger brother had received more than what they considered to be fair (despite the fact the younger brother had more children than his two older brothers combined). The elder brothers made two proposals to the trustees: either stop payments or remove their younger brother as a beneficiary.

The two sisters who had no wish to fall out with their younger brother did not support these proposals. This resulted in the two older brothers falling out with the sisters.

Not wishing to make the fall out worse, the sisters cut all ties with their younger brother. There then followed a period of deep division among the siblings and threats of litigation.

The trustees arranged to meet with each of the beneficiaries and managed to broker a mediation through which, as well as other arrangements, a separate trust was established for the benefit of the younger brother and his family.

One fifth of the trust fund, minus the total amount of the previous monthly distributions, was transferred to the younger brother.

This arrangement led to three positive benefits for the family:

- It satisfied the older brothers' concerns about fairness
- It enabled the younger brother to pursue his artistic activities, which were now producing a greater financial return, without having to be answerable to his siblings
- Although early days, it is helping to restore the siblings' relationship

Over 50 years of private wealth expertise

More than 13,300 highly-skilled and experienced finance professionals

Source: States of Jersey Statistics Unit, 2017

Adapting for the future – Jersey's point of view

Jersey Finance continue to work with wealth management firms and the wider financial services industry to ensure the expectations of the next generation of wealth management clients are met.

A wealth technology focused working group, made up of wealth management professionals, lawyers, bankers, the regulator, the Government of Jersey and Digital Jersey identified five key areas of industry focus:

- Immediacy – availability of information on a 24/7 basis has become the accepted norm, clients operating in multiple time zones have high demands for the convenient access of information
- Channel Strategy – access to private wealth professionals and portfolio information via a number of digital and mobile channels, coupled with improved self-service capabilities using online solutions
- Security – ensuring security of client information is at the heart of technology strategies. Ability to provide an additional security layer for firms and clients through encryption and advances in authentication such as biometrics
- Risk Management – consider the impact of increasingly global investments which introduce increased risk exposure to world-wide shock factors. Looking at how portfolio granularity enables enhanced risk assessments and supports scenario planning
- Responsibility – providing education and support on the upcoming wealth transfer and the new responsibilities this may entail for clients, also consider development of the next generation of wealth managers to meet client needs and build long lasting relationships

Our continued collaboration and focus on these areas sets Jersey apart as a jurisdiction of choice for the next generation of beneficiaries.

The Future

To meet the evolving needs of the next generation, advisors must adopt a forward-thinking approach now.

Globalisation and the wealth creation witnessed in emerging markets are offering significant opportunities for forward-thinking jurisdictions as investors and families look to diversify into new markets and explore new sectors. Jersey is ready to not only handle challenges in this new-look environment, but also to seize the opportunities it presents.

With a track record spanning more than half a century, Jersey's finance industry has always demonstrated a desire and ability to evolve with the times. Today, it is differentiating itself from other centres by embracing digital technologies, working with gatekeepers in key overseas markets, delivering insights through research, and evolving its range of products and services.

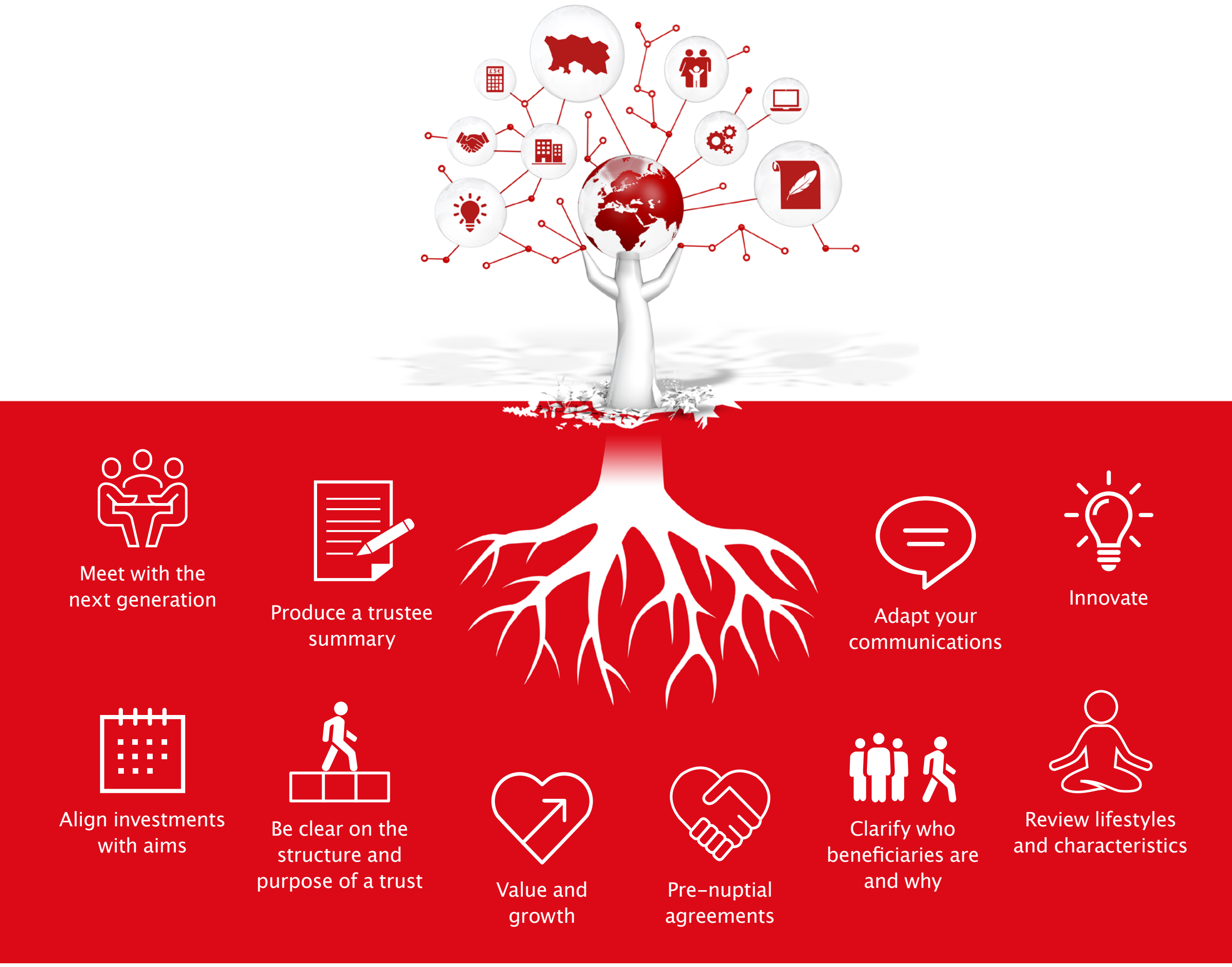
Harnessing the power of digital and creating an appealing environment for fintech business has been a real driver within Jersey's finance industry for some years now, and dedicated activity in the fintech space is focussed on giving private wealth professionals greater cyber security, enhanced oversight, more choice and better access to wealth advice in a way that continues to meet the needs of the current generation of clients and the next generation.

There is real potential, for instance, for Jersey to lead the way in exploring the use of artificial intelligence to provide quick, tailored wealth planning advice and, in a global environment where governance and information exchange are increasingly important, in looking at new approaches to data management to ensure efficient data reporting.

In a world where it seems very little is certain, Jersey stands out as a different breed of international finance centre that can provide stability, certainty and high standards of professional support for cross-border private wealth activity.

If private wealth practitioners are not already talking about the impact of the 'Great Wealth Transfer', then they soon will be. These ten points can be used to support your decision-making in preparation for the 'Great Wealth Transfer' and making succession a success.

How to Make Succession a Success



Jersey: a forward-thinking jurisdiction

Stability
Over half a century of private wealth expertise: £400bn of assets held in Jersey by private individuals or families and 366 Jersey Foundations formed since their creation in 2009

Flexibility
Legislation which allows for the creation of tailored structures, including a forward-thinking Charities (Jersey) Law and modern Foundations (Jersey) Law

Regulation
One of the best regulated IFCs recognised internationally by the OECD, World Bank, IMF and FATF

Expertise
13,000+ finance professionals, 182 regulated trust company service providers and one of the largest branches of STEP globally

Certainty
Unique third country status and an independent judicial system

Future-focussed
Capitalising on digital development, working with gatekeepers in key overseas markets and delivering insights through research – 12 pieces of independent research since 2014

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