

Jersey

Chamber of commerce:

Jersey Chamber of Commerce and Industry
19 Royal Square
St Helier JE1 4HF
Jersey
Tel: +44 1534 724 536
Fax: +44 1534 734 942
Email: admin@jersey-chamber.co.uk

Professional body:

The Law Society of Jersey
22 Grenville Street
St Helier, JE4 8PX
Jersey
Tel: +44 1534 609 000
Fax: +44 1534 609 333

Legal and regulatory changes driving growth

Wendy Benjamin
Appleby
St Helier

The finance industry in Jersey continues to grow year on year. The States of Jersey Statistics Unit's annual report, *Jersey in Figures 2006*, shows that the island produced a gross national income (GNI) of £3.2 billion and a GNI per capita of £36,000 in 2005, one of the world's highest.

Statistics collated by the Jersey Financial Services Commission (JFSC) show that in 2006:

- the net asset value of funds under administration in Jersey have risen by £41.7 billion to a record £179 billion;
- the number of expert funds has more than doubled;
- bank deposits have increased by £5.1 billion to £190 billion; and
- company formations rose by over one-fifth.

Statistics for the first quarter of 2007 establish further growth with the net asset value of funds under administration and bank deposits each approaching \$200 billion. The island's performance in recent years has been boosted by a series of regulatory and legislative measures aimed at enhancing its international reputation and competitiveness.

Expert funds

The remarkably successful Jersey expert funds regime was introduced three years ago by a change of policy by the JFSC. This has put Jersey back into contention for certain types of fund business where clients are shopping for a domicile.

The expert fund category is targeted at institutional, professional and sophisticated investors. Investors in expert funds must fall under the definition of expert investor, which includes professional investors or any investor investing over \$100,000. Funds in this category

benefit from a fast-track approval process and light regulation from the JFSC.

A related JFSC initiative fast-tracks regulatory approval for Jersey fund service providers wishing to take up appointments in connection with foreign funds not managed out of Jersey.

Traded closed-ended funds

The presence of an Alternative Investment Market (Aim) application previously meant fast-track approvals for expert funds were unavailable in Jersey, due to the way previous regulatory policy operated. That changed in January 2007 with the introduction of a listed fund category (which recognizes listings on Aim, Euronext, the London Stock Exchange and other exchanges). The flexible and fast-track approval process for Jersey expert funds has been adapted for listed funds.

Jersey's approval by Dutch regulator

On January 1 2007, the Netherlands Authority for the Financial Market added Jersey to the short list of jurisdictions whose regulation is considered sufficient to allow a light touch by the Dutch regulator. As a result, Jersey-domiciled investment funds do not need a licence in the Netherlands to list on Euronext.

The latest round of fund consultations is leading towards further refinement and reform of the regulatory regime for investment funds in Jersey. The general intention is to extend the licensing regime under the financial services legislation and related codes of practice to include fund service providers. These already include investment business, trust company business and insurance mediation. The JFSC intends to curtail the issuing of permits on a fund-by-fund basis.

Company law changes

Increasing the variety of available corporate vehicles has also been an objective for Jersey since autumn 2002, when the Companies (Jersey) Law 1991 had an overhaul. The changes included the introduction of no-par value companies (with no set nominal value

per share). They offer greater flexibility for investors contributing and extracting capital.

The more recent company law reforms in February 2006 introduced protected cell companies (PCCs) and incorporated cell companies (ICCs). The Jersey PCC enhances the ring-fencing of assets and liabilities found in other jurisdictions. The ICC concept reflects the best aspects of PCCs but is designed to overcome difficulties in jurisdictions unfamiliar with the cell company concept. Both PCCs and ICCs are proving to be popular vehicles for investment funds, commercial paper conduits and other areas where the legal segregation of assets is attractive.

As part of a package of further enhancements to Jersey's company law scheduled this year, the general prohibition on financial assistance for the acquisition of companies' own shares will be abolished. Furthermore, corporate directors will now be allowed provided they are regulated to carry out trust company business under the island's financial services law.

Treasury shares

Companies will be allowed to hold treasury shares following redemptions or repurchases of their own shares. Treasury shares should prove very popular with Jersey investment funds as well as employee share schemes and employee benefit trusts.

Limited partnerships

Jersey limited partnerships do not have legal personality but are transparent for tax purposes. This allows non-Jersey resident investors acting as limited partners to be exempt from Jersey income tax on their share of partnership profits. An alternate and separate limited partnership with legal personality is to be introduced under its own legislation by the end of this year. This provides an opportunity for a different tax treatment of limited partners compared with traditional limited partnerships.

Trust recognition

Jersey's trust law has recently strengthened the protection given to Jersey trusts against attack

by persons in other jurisdictions which do not recognize trusts or which have forced heirship rules. Any questions about the validity, interpretation, administration and exercise of powers of a trust or the capacity of a settlor must be determined according to Jersey law. No rule of foreign law, including any rule concerning recognition of the concept of a trust or forced heirship, will affect such a question.

Growth of the stock exchange

The Channel Islands Stock Exchange (CISX) continues to grow rapidly with the number of listed securities increasing from 982 to 1,489 in 2006. As Jersey is not in the EU, the implementation of the EU Prospectus Directive has led to a flood of listings of preference shares and convertible bonds on the CISX.

In private equity, the listing of payment-in-kind notes is becoming increasingly popular as a way of mitigating withholding tax on the interest on shareholder debt by relying on the quoted Eurobond exemption.

Financial and corporate

Recommended firms	
Tier 1	Carey Olsen Mourant Ogier
Tier 2	Bedell Cristin
Tier 3	Appleby Voisin & Co Walkers

One of the talking points in the Jersey market of late has been the influx of cross-jurisdictional firms. The last three years have seen Appleby, Walkers, Ozannes and Maples and Calder either merge with existing Jersey firms or open their own standalone offices.

"I'm not worried about them at the moment," said a partner at an existing Jersey firm. "The key is to get the right lawyers that are Jersey-qualified, and firms like Walkers and Appleby are bringing over lawyers from onshore," he said.

"We're keeping an eye on them though," he added.

The four firms all have a presence in other offshore jurisdictions and see the move as a way of expanding their range of services and strengthening their brands. Clients are in favour of the move as it takes away the question of bias when deciding where to domicile a transaction.

"As a firm, expansion is helpful," said one client. "If we dealt with a firm with no Guernsey office for example, we would question their impartiality."

Carey Olsen

Carey Olsen has continued to grow over the past year, hiring three senior associates and appointing ex-Freshfields corporate lawyer Mike Jeffery as a partner after he gained qualification to practise in Jersey in mid-2006.

The firm is led by Alex Ohlsson, who peers noted can handle any aspect of corporate and commercial transactions. "He has a good blend of market knowledge and client care and is technically very good," said a partner at a rival firm.

Clients were also impressed by the firm's work: "They have extremely competent lawyers, on a par with anywhere else," said one.

Another client recalled experiences with some Jersey firms which were either slow to react or lacked an overall corporate involvement. By contrast, Carey Olsen, and in particular partner Nicholas Crocker, were "very good, thorough, responsive and helpful".

Carey Olsen had a particularly strong year on local corporate transactions. One standout deal saw the firm win a role advising Sandpiper Bidco on its proposed £260 million acquisition of CI Traders, the largest trading company in the Channel Islands. The transaction is being made by means of a scheme of arrangement, which is believed to be the first time this method has been used to acquire shares in a publicly listed company in the Channel Islands.

Another local deal saw the firm act for the Brown Shipley network of private banks on the disposal of its Jersey-based banking subsidiary SG Hambros Bank.

In another high-profile transaction, Carey Olsen acted for Saint-Gobain International on the acquisition by its subsidiary Jewson of Normans, Jersey's largest builders' merchants and one of the jurisdiction's oldest companies.

However, the firm's corporate practice is not limited to clients in the Channel Islands. Carey Olsen has acted on a number of international corporate transactions over the past year for clients such as on the Royal Bank of Scotland, ABN Amro and BNP Paribas.

One standout deal saw the firm work alongside Freshfields Bruckhaus Deringer and Macfarlanes to provide Jersey advice to Allianz Capital Partners on its \$1.4 billion (£681 million) disposal of the Four Seasons Group.

The firm also provided Jersey advice to the sellers in the £750 million sale of London City Airport to a consortium of AIG-led bidders, while elsewhere Carey Olsen acted for

Morgan Stanley on the £230 million disposal of Quilter & Co (Wealth Management) to Citigroup.

Carey Olsen was also active in structured finance side, with one highlight seeing the firm act for Société Générale in relation to the securitization of a £1.15 billion portion of a £1.45 billion term loan through the issue of various classes of commercial mortgage-backed floating-rate notes.

The firm was also visible in the banking sector. In one notable transaction Carey Olsen advised Deutsche Bank on the financing of London & Regional's £200 million takeover of Next Generation Clubs.

Carey Olsen also provided Jersey advice on a number of Alternative Investment Market (AIM) listings, for clients including Camco International, Cifex, West China Cement and Wilton Row Investments.

Leading lawyers

Nicholas Crocker

Alex Ohlsson

Mourant

Formerly known as Mourant du Feu & Jeune, the firm boasts strengths in both corporate and commercial and funds work. Clients described the firm as "extremely attentive and client-focused" and "very very competent".

The firm has undergone a rapid expansion in the past 18 months, merging with Quin & Hampson in the Cayman Islands and opening offices in Guernsey and New York. Clients said they liked the fact that there are no conflict of interest issues when getting advice on where to domicile an offshore structure, while rival firms saw the New York move as a smart decision that will undoubtedly bring extra work to the firm.

Mourant's Jersey funds team is widely seen as a market leader in hedge funds, property funds, private equity funds and retail funds. The firm has a well regarded fund administration practice, which one foreign lawyer cited as an important consideration when selecting referral partners.

Mourant has advised in the establishment of a number of Jersey funds over the past 12 months. Notable work included acting for long-time client CVC to establish its €4.1 billion CVC European Equity Partners Tandem fund, structuring the €1 billion Triton II fund and guiding 3i in the establishment of its £700 million 3i Infrastructure closed-ended collective investment fund in March 2007.

The firm was also consulted by Axa Private Equity on its latest fund investing in the private equity secondary market. The fund is structured as a Jersey limited partnership and

has combined commitments of over \$2 billion. Other funds advised in the past year include Capital and Regional, The Hercules Trust and the Unite UK Student Accommodation fund.

Mourant's capital markets team, led by the "hands-on and enthusiastic" Robert Hickling, has been very active in the past year. The team established a number of collateralised debt obligations for clients such as ABN Amro and JPMorgan, and acted on a string of innovative trades in constant portfolio debt obligations and commodity securities.

One standout deal for the year involved advising on Jersey, Guernsey and Cayman issues for the Royal Bank of Scotland in relation to Barchester Healthcare's £572 million issue of commercial mortgage-backed securities. A separate team also acted for Barchester under a strict Chinese walls arrangement. In addition, the firm was involved in issuing a number of residential mortgage-backed securities for clients such as Lloyds TSB Bank.

Mourant's corporate team was also busy this year, advising on a number of domestic and international transactions. One prominent deal saw the firm advise GUS on the Jersey aspects of its much-publicized demerger from Experian. The firm also advised Pan-Ocean Energy on its C\$1.6 billion (€1.1 billion) sale to Addax Petroleum, which was structured by way of a scheme of arrangement under Jersey company law.

Finally, Mourant's banking team represents a number of top banking clients including Barclays, Deutsche Bank and BNP Paribas.

Among the year's banking highlights, the firm worked alongside Clifford Chance to provide Jersey advice for Royal Bank of Scotland and Credit Suisse's financing of the £490 million acquisition of London City Airport by AIG Financial Products.

Another significant transaction included advising on Jersey issues on Barclays Bank's \$730 million financing structure for the Anil Dhirubhai Ambani Enterprises group of companies in Mumbai, India.

Leading lawyers

Edward Davenport
Simon Gould
Robert Hickling
Jaqueline Richomme

Ogier

Led by managing partner Nick Kershaw, Ogier has had a very strong year in all facets of corporate and financial work in Jersey. The firm's Jersey office has hired 10 lawyers in the past year, the most notable inclusions being senior associate Nathan Powell from

Freshfields in London and senior associate Sinéad Meehan from Carey Olsen.

Marc Yates's corporate and commercial team had an outstanding year, with the highlight being selected to work on the \$30 billion merger between the Russian aluminium company Rusal, Sual International and Glencore International. Ogier acted as legal advisor to Rusal, which is based in Jersey, and continues to provide legal advice to the merger product United Company Rusal.

Ogier's investment funds team is headed by Richard Thomas and is widely respected by the market. "They're a good team," said one client. "They were very professional. I would definitely recommend them."

One of Ogier's more innovative deals saw the firm act as sole legal advisor to Ashburton Global Funds on the first conversion of a \$550 million umbrella investment fund to a protected cell structure. Ashburton's Americas, Asia-Pacific and European equity funds were merged into the structure, which was combined with the creation of new classes including a fund investing exclusively in India and China.

Ogier also advised New City Investment Managers on the first fund to be authorized under the new Jersey listed fund guide. The process involved a solvent winding-up of a London Stock Exchange (LSE)-listed trust, restructuring as a Jersey vehicle and subsequent re-listing on the LSE.

Another notable transaction saw Ogier advise Intermediate Capital Group on the establishment of a €1.25 billion mezzanine investment fund.

The practice won a role as Jersey law adviser to a consortium of high-profile fund and private-equity groups in a £2.2 billion public offer for AWG, the owner of Anglican Water. Ogier advised on the establishment of a Jersey acquisition vehicle and on the listing of Eurobonds on the Channel Islands Stock Exchange in connection with the bid financing.

Other outstanding deals saw Ogier act as Jersey adviser to Three Delta on its £1.5 billion acquisition of Four Seasons Healthcare and provide Jersey advice to Candant Corporation in its \$4.3 billion sale of its Travelport Corporate Solutions unit.

Ogier's structured finance team is headed by Chris Byrne and attracts wide praise from clients. "[Ogier is] excellent, the best on the island. The best in the offshore region even," said one client. "They're very original, very respected and are good value for money."

Michael Lombardi is singled out by peers and clients in this area, with one client describing him as "very respected with a wide range of knowledge on structured finance".

Ogier's structured finance deal of the year was the €850 million Harbourmaster *pro rata* collateralized loan obligation, the first of its type in Europe. Matthew Swan and Alasdair Hunter advised the collateral manager and used an innovative structure which was upsized to meet investor demand.

Another deal saw Michael Lombardi and Nathan Powell advise Swiss Re GB on the establishment of a \$750 million closed-ended fund and the issuance of interests in a Jersey limited partnership.

Ogier also acted as offshore counsel on the merger between Whistlejacket Capital and White Pine Corporation in June 2007, in what is understood to be the first merger of two structured investment vehicles. The new merged entity will have close to \$18 billion in assets under management by Standard Chartered Bank.

Matthew Swan heads Ogier's banking practice, which worked on a number of significant transactions this year. The firm enjoyed a fruitful relationship with the Royal Bank of Scotland, acting as Jersey adviser on a £400 million acquisition finance facility for the Dunedin Property Group and also on a large number of finance transactions lending to private-equity funds.

Finally, the firm advised Citicorp Trustee in connection with Telereal's £700 million financing via commercial mortgage-backed securities, and is providing Jersey advice to Capmark (formerly GMAC) in respect of lending to JPUT structures.

Leading lawyers

Chris Byrne
Nick Kershaw
Michael Lombardi
Richard Thomas

Bedell Cristin

Bedell Cristin has recorded another solid year, getting involved in some high-profile transactions and reporting close to 70% growth in turnover. The firm's banking and corporate finance group consists of six partners and 16 assistant solicitors and is headed by the "excellent all-rounder" Peter Byrne.

Byrne received praise from clients for his professional approach to transactions. "He grasps complex issues quickly and gives a pragmatic view, not an academic rehearsal of the law," said one.

The firm has a particular focus on local corporate finance work, utilizing its new Guernsey office by acting for a number of clients across the Channel Islands.

Another client said: "They're very good, very impressive, very astute and very aware of different domiciles' legislation and jurisdiction requirements."

Bedell Cristin provided Jersey advice to Minerva Group Holdings for its acquisition of Professional Trust Company and the related acquisitions of Professional Trust's operations in London and Zurich. It also advised HBOS on Jersey issues relating to the £25 million purchase of the Maurant Equity Solutions business from Maurant & Co and Maurant Holdings.

During the last year Bedell Cristin has also been involved in a number of second-phase transactions, with one notable deal seeing the firm advise a British fund on the £130 million secondary management buyout of 2e2.

The firm advised on various Jersey Property Unit Trusts totalling £600 million and provided guidance on the Aim listing of Financial Payment Systems.

Leading lawyers

Peter Byrne
Richard Gerwat
Shane Hollywood

Appleby

Formerly known as Appleby Hunter Bailhache, Appleby's Jersey office is headed by Mike O'Connell and consists of 14 partners following the merger of Bailhache Labesse and Appleby Spurling Hunter in 2006.

The firm continued its expansion in Jersey by hiring three lawyers, one senior lawyer and promoting Andrew Weaver to partner.

Appleby focuses primarily on finance work, particularly investment funds. For example, Andrew Weaver and Simon Howard established, and provide continuing advice for, a €1.15 billion private equity fund on behalf of Altor Partners. Another prominent deal saw Simon Howard advise The Fund and Minerva Financial Services on the establishment of the £50 million Ankaa Property Fund, a *shariah*-compliant fund for investment into UK real estate.

Appleby was also active on Channel Islands Stock Exchange (CISX) listings, acting for Morgan Stanley Cheshire Investments in connection with the listing of £250 million of preference shares on the CISX.

The firm was visible in the banking sector as well, with partner Wendy Benjamin working alongside White & Case's London office to advise a European banking group on Jersey aspects of a \$350 million acquisition facility and \$200 million refinancing facility in relation to a takeover bid for the London Stock Exchange.

Leading lawyers

Simon Howard

Walkers

Walkers' Jersey office, which consists of two partners and six associates, is still finding its feet following its merger with Crills Advocates in July 2006. However, considering the strength of Walkers' Cayman office, rival lawyers are taking the newcomers seriously.

The firm had a particular focus on financial transactions this year, acting for clients such as the Royal Bank of Scotland, BNP Paribas, Fairbairn and Kleinwort Benson.

Partner Hiren Patel was particularly active on market listings, acting for companies such as Global Oceanic, Sovgem, Draganfly and Geong in relation to their Aim listings. Patel also acted on the Plus Market flotation of China Education and Peach Blossom.

Walkers also acted on a number of asset finance and bank lending deals. One deal saw the firm advise Global Oceanic Carriers on a £35 million ship financing deal.

In addition, the firm advised a number of investment and private-equity funds including Jesta Capital Corporation and the trustees of the South Quay unit trust.

Other notable firms

Ozannes opened up an office in Jersey in 2006 to build on its successful practice in Guernsey. Headed by Marcus Stone, the firm has recruited widely, snaring Mark Chambers from Bedell Cristin in June 2007 and hiring an additional six senior associates.

Ozannes has acted on some notable deals in the past 12 months, mainly in the finance area. The firm drafted a package of Jersey security documentation for Barclays Capital on a £1 billion refinancing transaction.

It was also active in unit trusts, providing Jersey advice on the establishment of the Forge Property Unit Trust and its subsequent provision of a £126 million loan facility, acquisition of property and establishment of security interest agreements.

Another deal saw Ozannes act as Jersey counsel on Marble Arch Unit Trust's change of trustees as well as the £161 million sale of certain units of the trust to JTC Management.

Ozannes also advised Fabian Romanian Property Fund on its €40 million Aim listing, while Marcus Stone advised PPG Metro on due diligence and security documentation matters in relation to a £341 million facilities increase from the Royal Bank of Scotland.