

Guernsey, Hong Kong, Jersey and Singapore Trusts: A Jurisdictional Comparison

Guernsey and Jersey are geographically miles apart from Hong Kong and Singapore. However, a detailed analysis of their respective trust frameworks shows that they are not nearly so far apart when it comes to the trust industry. Many aspects of their laws bear striking similarities. Of course, there are still key differences between them too, which may be of relevance when deciding where to establish your trust. This is particularly true when technological advances make geographical distance a far less significant factor.

The appropriate jurisdiction for your trust should be determined on a trust by trust basis, and the offshore Channel Islands and mid-shore Hong Kong and Singapore should not be considered as mutually exclusive options. A combination of Channel Island and Asia trusts may produce the most advantageous result for you and your family.

To assist you when considering the most suitable jurisdiction for your trust, this table provides a detailed comparison of the trust frameworks in each of Guernsey, Hong Kong, Jersey and Singapore, highlighting both common and differing features.

For ease, we highlight some key differences identified under the comparison:-

- **Non-charitable purpose trusts** – Hong Kong and Singapore do not yet permit non-charitable purpose trusts.
- **Perpetuity period** – Singapore is the only jurisdiction with rules on perpetuity, limiting not only the trust period to a maximum of 100 years, but also preventing any application of the funds which seeks to postpone final vesting beyond that period.
- **Asset Protection** – all jurisdictions have statutory provisions to prevent trusts being attacked by forced heirship provisions. Guernsey and Jersey's statutory firewall provisions go further by also restricting the enforcement of foreign court judgments. In addition to court orders, Jersey's provisions also restrict the enforcement of decisions by foreign tribunals.
- **Settlor reserved powers** – The statutory list of powers which can be reserved by a settlor without invalidating the trusts is far more extensive in Guernsey and Jersey than in Hong Kong or Singapore, both of which limit reserved powers to investment and asset management.
- **Law of mistake** – Jersey is the only of the considered jurisdictions to have enacted statutory provisions preserving the Hastings-Bass principles of mistake without the impact of the limitations placed upon this principle in *Pitt v Holt*.
- **Private Trust Companies** – Whilst all jurisdictions permit Private Trust Companies, in Hong Kong it remains standard practice to establish these in other offshore jurisdictions.
- **Filing requirements** – notwithstanding the exemption from tax, trustees of Singapore resident trusts are still required to submit nil tax returns.
- **Power to vary** – unlike the position in Guernsey and Jersey, the courts in Hong Kong and Singapore do not have the power to vary trusts on behalf of a minor, unborn or unascertained beneficiary.
- **Charities** – All jurisdictions permit charitable trusts, but there is no statutory or regulatory framework for charities in Hong Kong.

If you have any queries regarding an existing or potential new offshore trust, please get in touch with a member of Bedell Cristin's International Private Client Team who would be very happy to assist. In addition to advising on the creation of Guernsey and Jersey trusts, we also advise on the creation of British Virgin Islands (BVI) and Cayman Island trusts.

For more information on offshore trusts and a comparison of Jersey, Guernsey, BVI and Cayman trusts, see our briefings “**21st century trusts: why offshore, and on whose shores?**” [click here](#) and “**Offshore trusts: a jurisdictional comparison**” [click here](#).

NO.	TITLE	GUERNSEY	HONG KONG	JERSEY	SINGAPORE
(1)	Constitution and court system	<p>UK Crown Dependency Self-governing. Part of the Commonwealth.</p> <p>HM the Queen of England is head of state.</p> <p>Crown is responsible for the appointment of Lieutenant Governor and the senior members of the judiciary such as the Bailiff and Deputy Bailiff.</p> <p>Own independent court system.</p> <p>Judicial Committee of the UK Privy Council is the final Court of Appeal.</p>	<p>A former British colony which became a special administrative region of China in 1997.</p> <p>The Chief Executive is head of the region.</p> <p>Own independent court system.</p>	<p>UK Crown Dependency Self-governing. Part of the Commonwealth.</p> <p>HM the Queen of England is head of state.</p> <p>Crown is responsible for the appointment of Lieutenant Governor and the senior members of the judiciary such as the Bailiff and Deputy Bailiff.</p> <p>Own independent court system.</p> <p>Judicial Committee of the UK Privy Council is the final court of appeal.</p>	<p>A former British colony having been granted independence in 1965. Part of the Commonwealth.</p> <p>The President of the Republic of Singapore is the head of state.</p> <p>Own independent court system.</p>
(2)	Primary trusts legislation	<p>The Trusts (Guernsey) Law, 2007 (as amended) (the “Trusts (Guernsey) Law”)</p> <p>The Public Trustee (Bailiwick of Guernsey) Law, 2002</p>	<p>Trust Ordinance (as amended) (the “Trust Ordinance”)</p>	<p>Trusts (Jersey) Law 1984 (as amended) (the “Trusts (Jersey) Law”)</p>	<p>Trustees Act (Chapter 337) (as amended) (the “Trustees Act”)</p>

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(3)	Applicability of principles of English common law and equity	Indirectly through the principles being reflected by statute and Guernsey customary law and where the statutory provisions are silent or the issue is absent in customary law the courts regard English and other Commonwealth judicial precedent as guidance.	Indirectly through the principles being reflected by statute and Hong Kong customary law and where the statutory provisions are silent or the issue is absent in customary law the courts regard English and other Commonwealth judicial precedent as guidance.	Indirectly through the principles being reflected by statute and Jersey customary law and where the statutory provisions are silent or the issue is absent in customary law the courts regard English and other Commonwealth judicial precedent as guidance.	Indirectly through the principles being reflected by statute and Singapore customary law and where the statutory provisions are silent or the issue is absent in customary law the courts regard English and other Commonwealth judicial precedent as guidance.
(4)	Applicability of the Hague Convention on the Law Applicable to Trusts and on their Recognition	The Convention provisions have been extended to Guernsey and many of these are reflected in the Trusts (Guernsey) Law.	Hong Kong has ratified the Convention which is enacted into Hong Kong domestic law by the Recognition of Trusts Ordinance.	The Convention provisions have been extended to Jersey and many of these are reflected in the Trusts (Jersey) Law.	Singapore is not a party to, nor has it ratified or acceded to, the Convention.
(5)	Types of express (written) trusts	<ul style="list-style-type: none"> • Discretionary • Life interest • Charitable purpose • Non-charitable purpose (see below) • Bare • Unit • Pension • Employee benefit <p>Settlor-reserved power (see below) and asset protection trust (see below) provisions can be included in most of these.</p>	<ul style="list-style-type: none"> • Discretionary • Fixed • Protective • Accumulation & maintenance • Charitable purpose • Bare • Unit • Pension • Employee benefit <p>Limited settlor-reserved power (see below) and asset protection trust (see below) provisions can be included in most of these.</p>	<ul style="list-style-type: none"> • Discretionary • Life interest • Charitable purpose • Non-charitable purpose (see below) • Bare • Unit • Pension • Employee benefit <p>Settlor-reserved power (see below) and asset protection (see below) provisions can be included in most of these.</p>	<ul style="list-style-type: none"> • Discretionary • Fixed • Protective • Accumulation & maintenance • Charitable purpose • Bare • Unit • Pension • Employee benefit <p>Limited settlor-reserved power (see below) and asset protection trust (see below) provisions can be included in most of these.</p>

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(6)	Non-charitable purpose trusts	Specific provisions under the Trusts (Guernsey) Law, subject to the requirements for an enforcer to enforce the non-charitable purposes. The purposes may be of any number or kind as long as they are lawful, not contrary to public policy or so uncertain as to render performance impossible.	Not permitted.	Specific provisions under the Trusts (Jersey) Law, subject to the requirements for an enforcer to enforce non-charitable the purposes. The purposes may be of any number or kind as long as they are lawful, not contrary to public policy or so uncertain as to render performance impossible.	Not permitted.
(7)	Trust period	Guernsey trusts may exist indefinitely.	Hong Kong trusts may exist indefinitely.	Jersey trusts may exist indefinitely.	Must not exceed 100 years, except for charitable trusts which may exist in perpetuity.
(8)	Perpetuity period for beneficiary trusts	No rule against perpetuity. Funds may be resettled or transferred to other trusts, notwithstanding that the other trusts may continue after the date by which the initial trust must terminate.	No rule against perpetuity. Funds may be resettled or transferred to other trusts, notwithstanding that the other trusts may continue after the date by which the initial trust must terminate.	No rule against perpetuity. Funds may be resettled or transferred to other trusts, notwithstanding that the other trusts may continue after the date by which the initial trust must terminate.	100 year perpetuity period. Funds originating from a Singapore trust must vest in an individual(s) within 100 years, irrespective of any resettlement or change of governing law.
(9)	Rules against excessive accumulation of income	No	Not for non-charitable trusts, which can accumulate income indefinitely. Charitable trusts may only accumulate income for 21 years.	No	No
(10)	“Firewall” legislation on governing law and anti-forced heirship and non-recognition of foreign Judgments	Such provisions protecting Guernsey law trusts and their trustees from foreign law and judgments are specifically included in the Trusts (Guernsey) Law.	Hong Kong’s “firewall” provisions are limited to anti-forced heirship provisions in respect of moveable property and do not extend to the non-recognition of foreign judgments.	Such provisions protecting Jersey law trusts and their trustees from foreign law and judgments are specifically included in the Trusts (Jersey) Law.	Singapore’s “firewall” provisions are limited to anti-forced heirship provisions in respect of property and do not extend to the non-recognition of foreign judgments.

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(11)	Hastings-Bass style legislative provisions allowing rectification of mistake	No, but the position of the application of Pitt v Holt was clarified by the court in M v St Anne's Trustees Limited. It confirmed that a breach of trust must occur, but that failure to take account of certain matters can amount to breach of trust.	No, it is a matter of common law and it is thought that the courts would follow the more restrictive approach of Pitt v Holt requiring a breach of trust to have occurred.	Yes, Article 47 of the Trusts Law enshrines the Hastings-Bass principle in statute, circumventing the decision of Pitt v Holt which requires a breach of duty to have occurred.	No, it is a matter of common law and it is thought that the courts would follow the more restrictive approach of Pitt v Holt requiring a breach of trust to have occurred.
(12)	Legislative provisions protecting transfers into trust from creditors' claims	<p>No, although to succeed in a claim (brought by way of a Pauline action), the creditor must be able to evidence set criteria, including that the transfer of assets was made with an intention to defraud the creditor and that he suffered actual prejudice as a result.</p> <p>The Pauline Action has a 10 year prescriptive period.</p>	<p>Creditors may raise a claim under the Bankruptcy Ordinance, under which the creditor must be able to evidence set criteria, including that the debtor became insolvent as a result of the transfer and that there was an intention to defraud the creditor.</p> <p>The action must be brought within 5 years of the transfer.</p>	<p>No, although to succeed in a claim (brought by way of a Pauline action), the creditor must be able to evidence set criteria, including that the transfer of assets was made with an intention to defraud the creditor and that he suffered actual prejudice as a result.</p> <p>The Pauline Action has a 10 year prescriptive period.</p>	<p>Transfers of immoveable property to trust will be voidable under the Trustees Act if proven intent to defraud creditor who existed at time of creation of the trust or transfer of assets.</p> <p>In all other cases, creditors may raise a claim under the Bankruptcy Ordinance, under which the creditor must be able to evidence set criteria, including that the debtor became insolvent as a result of the transfer and that there was an intention to defraud the creditor.</p> <p>The action must be brought within 5 years of the transfer.</p>

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(13)	Legislative provisions protecting third parties such as lenders who deal with trustees and limiting recourse to the trust fund	<p>Yes, under the Trusts (Guernsey) Law:-</p> <ul style="list-style-type: none"> a person paying or lending money to trustees need not consider the propriety of the transaction or the application of the money; and a trustee will incur personal liability if it fails to disclose to a third party (with whom it is transacting) that the trustee is acting in such a capacity and the third party is otherwise unaware of the fact. Otherwise the third party has recourse to the trust fund only by way of subrogation to the trustee's right of indemnity. 	<p>Yes, under the Trustee Ordinance, a purchaser or mortgagee shall not be concerned to see that such money is wanted, or that no more is raised than is wanted.</p>	<p>Yes, under the Trusts (Jersey) Law:-</p> <ul style="list-style-type: none"> a person paying or lending money to trustees need not consider the propriety of the transaction or the application of the money; and a trustee will incur personal liability if it fails to disclose to a third party (with whom it is transacting) that the trustee is acting in such a capacity and the third party is otherwise unaware of the fact. Otherwise the third party has recourse to the trust fund only by way of subrogation to the trustee's right of indemnity. 	<p>Yes, under the Trustees Act, a purchaser or mortgagee shall not be concerned to see that such money is wanted, or that no more is raised than is wanted.</p>
(14)	Legislative provisions aimed at trustees holding controlling shareholdings in companies	<p>No, so Guernsey trusts commonly include an 'anti-Bartlett' provision and Purpose trusts can be established with a purpose specifically to hold the shares of a controlled company with no obligation on the part of the trustees to intervene in its management.</p>	<p>No, but being a common law jurisdiction, the Hong Kong courts may follow the case of Zhang Hong Li and Others v DBS (Hong Kong) Limited and others in respect of Hong Kong trusts.</p>	<p>No, so Jersey trusts commonly include an 'anti-Bartlett' provision and Purpose trusts can be established with a purpose specifically to hold the shares of a controlled company with no obligation on the part of the trustees to intervene in its management.</p>	<p>No, but being a common law jurisdiction, the Singapore courts may follow the case of Zhang Hong Li and Others v DBS (Hong Kong) Limited and others in respect of Singapore trusts.</p>

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		<p>Being a common law jurisdiction, the Guernsey courts may follow the case of Zhang Hong Li and Others v DBS (Hong Kong) Limited and others in respect of Guernsey trusts.</p>		<p>Such provisions contained in a Jersey Trust were held to be effective by Hong Kong's Court of Final Appeal in the case of Zhang Hong Li and Others v DBS (Hong Kong) Limited.</p>	
(15)	Reserved power provisions	<p>Specific provisions under the Trusts (Guernsey) Law such that a wide range of powers can be reserved by the settlor or granted to others without invalidating the trust. These include:</p> <ul style="list-style-type: none"> • Investment and asset management • The making of distributions • Amending the terms of the trust • Appointment and removal of an officer of a corporation or partnership held by the trust • Appointment and removal of trustees, beneficiaries, investment advisors 	<p>Specific provisions under the Trustee Ordinance permit the settlor to reserve the powers of investments and asset management without invalidating the trust.</p>	<p>Specific provisions under the Trusts (Jersey) Law such that a wide range of powers can be reserved by the settlor or granted to others without invalidating the trust. These include:</p> <ul style="list-style-type: none"> • Investment and asset management • The making of distributions • Amending the terms of the trust • Appointment and removal of an officer of a corporation or partnership held by the trust • Appointment and removal of trustees, beneficiaries, investment advisors 	<p>Specific provisions under the Trustees Act permit the settlor to reserve the powers of investments and asset management without invalidating the trust.</p>

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(16)	Trustees	<p>Minimum of two unless:</p> <ol style="list-style-type: none"> one was originally appointed; a corporate trustee is appointed to act; or the trust instrument provides otherwise. <p>Subject to special requirements for certain types of unit trusts which are regulated under the Protection of Investors (Bailiwick of Guernsey) Law, 1987 (as amended) (the “POI Law”), trustees can be licensed Guernsey professional trustees, Guernsey private trust companies or foundations, foreign corporate trustees or individuals (wherever resident).</p>	<p>Maximum of four trustees, except for charitable trusts.</p> <p>Trustees can be licensed professional trustees, Hong Kong private trust company, companies or individuals (wherever resident).</p>	<p>Minimum of one trustee (corporate or individual).</p> <p>Subject to special requirements for certain types of unit trusts which are regulated by the Control of Borrowing (Jersey) Law 1947 or the Collective Investment Funds (Jersey) Law 1998 (as amended), trustees can be licensed Jersey professional trustees, Jersey private trust companies or foundations, foreign corporate trustees or individuals (wherever resident).</p>	<p>Maximum of four trustees.</p> <p>Not less than 3 for charitable trusts</p> <p>Trustees can be licensed professional trustees, Singapore private trust company, companies or individuals (wherever resident).</p>
(17)	Private trust companies (“PTC”) legislation and regulations	<p>A PTC which derives any income, fee emolument or other consideration in money or money’s worth for acting as trustee must either apply for a discretionary exemption from licensing (see below) or a full fiduciary licence under the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc (Bailiwick of Guernsey) Law, 2000 (as amended) (the “Fiduciaries Law”).</p>	<p>No specific legislation, but a company limited by shares or guarantee can carry out the function of a PTC.</p> <p>No requirement to obtain a licence.</p> <p>PTCs are typically set up in alternative offshore jurisdictions.</p>	<p>Financial Services (Trust Company Business (Exemptions) (Jersey) Order 2000.</p>	<p>Trust Companies (Exemptions) Regulations and the Trust Companies Act</p> <p>No requirement to be registered with the Monetary Authority of Singapore, but must engage a licensed trust company to carry out anti-money laundering services.</p>

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		Discretionary exemptions from licensing are available subject to the discretion of the Guernsey Financial Services Commission (the "GFSC") provided that certain criteria are met.			
(18)	Regulation of professional trust Companies	By the Guernsey Financial Services Commission (the "GFSC").	Since 2018 by the Registry for Trust and Company Service Providers.	By the Jersey Financial Services Commission (the "JFSC").	Since 2006 by Monetary Authority of Singapore.
(19)	Protectors permitted	Yes	Yes	Yes	Yes
(20)	Requirements for trust to hold local assets or to have local trust administration	None (except in the case of certain unit trusts).	None	None (except in the case of certain unit trusts).	None (although there may be tax advantageous for doing so for Asian based families)
(21)	Filing requirements and confidentiality	<p>Other than for certain unit trusts which are regulated as collective investment schemes by the GFSC under the POI Law and thus need to be authorised by or registered with the GFSC in accordance with that law, there are no public filing requirements for trusts and trust instruments are confidential documents.</p> <p>Unless it obtains a discretionary exemption from the GFSC, a PTC (see above) which is acting by way of business must be licensed to act as a trustee under the Fiduciaries Law.</p>	<p>There are no public filing requirements for trusts and trust instruments are confidential documents.</p> <p>No requirement to file tax returns unless subject to Profits Tax.</p>	<p>Other than for certain unit trusts which are regulated by the Control of Borrowing (Jersey) Law 1947 or the Collective Investment Funds (Jersey) Law 1988 (as amended) and thus need to be registered in accordance with the requirements of those laws, there are no public filing requirements for trusts and trust instruments are confidential documents.</p> <p>An exempt PTC (see above) must be administered by a person who is licensed to carry out trust company business under the Financial</p>	<p>There are no public filing requirements for trusts and trust instruments are confidential documents.</p> <p>Tax exemption statements/nil returns are filed with Inland Revenue Authority of Singapore.</p>

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		<p>An exempt PTC must be administered by a company licensed under the Fiduciaries Law which must retain certain information about the PTC's ownership and control structure and about its activities.</p> <p>There is no requirement in either case for the GFSC to be provided with the trust instrument or other essential records of the trust or that these documents are filed publicly.</p>		<p>Services (Jersey) Law 1998 (as amended) but there is no requirement for the regulatory authorities to be provided with the trust instrument or other essential records of the trust or for these documents to be filed publicly.</p>	
(22)	Any applicable taxes	<p>No capital gains or inheritance taxes.</p> <p>Resident and ordinarily resident persons are subject to income tax.</p> <p>If the settlor and beneficiaries are all non-Guernsey resident, full exemption from Guernsey taxation is given to foreign income and Guernsey bank interest, by concession.</p>	<p>No capital gains or inheritance taxes.</p> <p>Income arising in or derived from Hong Kong is subject to tax in Hong Kong.</p> <p>Income derived by a trust from assets outside Hong Kong is not taxable to the trustee, the beneficiaries or the trust entity itself.</p> <p>Trading profits are subject to Profits Tax.</p>	<p>No capital gains or inheritance taxes.</p> <p>Resident and ordinarily resident persons are subject to income tax.</p> <p>If the settlor and beneficiaries are all non-Jersey resident, full exemption from Jersey taxation is given to foreign income and Jersey bank interest, by concession.</p>	<p>No capital gains or inheritance taxes.</p> <p>Income earned inside Singapore is taxed on the trustees.</p> <p>Resident beneficiaries are subject to income tax on receipt of funds or assets.</p> <p>If the settlor and beneficiaries are all non-Singapore resident, full exemption from Singapore taxation may be given to foreign income.</p>

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(23)	Other relevant provisions and considerations	<p>Specific statutory provisions as to when the courts have jurisdiction to approve specific transactions.</p> <p>Statutory provisions extending the circumstances in which the court may vary trusts on behalf of minor, unborn or unascertained beneficiaries.</p> <p>Provisions relating to the standard of trustees' duties.</p> <p>Provisions relating to the delegation of trustees' duties to managers and other professional advisers.</p> <p>Provisions enabling the court to provide directions to a trustee as to how a trustee should act in the affairs of a trust.</p> <p>The office of the Guernsey Public Trustee who has powers under the Public Trustee (Bailiwick of Guernsey) Law, 2002 to act as trustee of a Guernsey law governed trust in certain circumstances.</p>	<p>Specific provisions as to when the courts have jurisdiction to approve specific transactions.</p> <p>Statutory provisions relating to the standard of trustees' duties.</p> <p>Statutory provisions relating to the delegation of the trustees' function under a Power of Attorney and appointment of agents, nominees and custodians.</p> <p>No statutory provisions regarding beneficiaries' entitlement to trust documents.</p> <p>No statutory requirement to keep records but extensive case law requiring a trustee to be "ready with his accounts".</p> <p>No statutory or regulatory framework for charities.</p>	<p>Specific statutory provisions as to when the courts have jurisdiction to approve specific transactions.</p> <p>Statutory provisions extending the circumstances in which the court may vary trusts on behalf of minor, unborn or unascertained beneficiaries.</p> <p>Provisions relating to the standard of trustees' duties.</p> <p>Provisions relating to the delegation of the trustees' duties to managers and other professional advisers.</p> <p>Provisions enabling the court to provide directions to a trustee as to how a trustee should act in the affairs of a trust.</p> <p>Specific provisions enabling a trustee to contract with itself in respect of different trusts.</p>	<p>Specific provisions as to when the courts have jurisdiction to approve specific transactions.</p> <p>Provisions relating to the standard of trustees' duties.</p> <p>Provisions relating to the delegation of the trustees' function under a Power of Attorney and appointment of agents, nominees and custodians.</p>

This table has been prepared for information purposes only and does not constitute legal advice. Appropriate legal advice on specific matters should be sought by legal advisors qualified in the relevant jurisdictions. The IPC team at Bedell Cristin are qualified to advise on trusts in the British Virgin Islands, Cayman Islands, Guernsey and Jersey.