

Transitioning Your Business Part 1: migrating to a new jurisdiction

Grant Collins, Head of Corporate Services - Jersey, offers a straightforward assessment of what jurisdictional migration entails

The announcement back in February that the European Union (EU) was expanding its list of 'non-cooperative jurisdictions' was a timely reminder that stability is essential when choosing an offshore financial jurisdiction. No wonder then, that more funds are considering migration to globally recognised 'top-tier' jurisdictions, such as Jersey, Guernsey and Luxembourg. But it's important to consider all of the potential implications of a migration, and to think about how you can best position yourselves for success.

Be clear on why you're moving

Before deciding on where to migrate to, it's worth pausing to consider why. Choosing to operate within a more stable regime may be part of it, but are there other considerations too? For example, are you looking to move for geographical reasons, to access specialist investment markets or business opportunities, or to cut down on administrative or service provider costs? Asking these questions at the outset of a migration will help to determine the right top-tier location and the service provider best suited to your needs.

Understand the size of the task - and cut your cloth accordingly

In most instances, the size of the investment company or vehicle will help to determine whether full migration is the right approach, and whether the benefits of migration outweigh the costs. With a smaller migration, it's about striking the right balance between the costs of moving jurisdiction, or migrating certain functions. In cases with smaller investment companies or special purpose vehicles it may be easier - and less expensive - to close down the existing entity and just migrate the operations function and assets to a new company in the new

jurisdiction. In this scenario, a service provider with intimate knowledge of the chosen jurisdiction can support the formation of a new company in a highly efficient manner, ensuring that operations hit the ground running.

Communication is key

A fund structure with a large investor base needs to ensure that communication is clear, consistent and regular. Moving to a new service provider, for example, will need to be communicated to all relevant parties. Investors will need to be notified of the intention to migrate, what the implications are, and to be 'on board' with the reasons given. Change always brings a degree of uncertainty, so investors need assurance that the migration will deliver tangible positive benefits, and that the process will be seamless from their perspective.

Overcoming regulatory hurdles

Choosing a legal counsel should be top of your list of priorities. As you'll be dealing with potential regulatory issues across two jurisdictions, it's a good idea to choose a legal firm with bases in both the current location and the new destination. A good service provider will be able to recommend a number of different legal firms with a presence in different jurisdictions and good migration experience.

Taking care of the practicalities

When migrating to a new jurisdiction, be prepared for slight variations in areas such as 'Know Your Customer' (KYC) and Anti-Money Laundering (AML) standards from one jurisdiction to another. While the rules are broadly universal, sometimes the detail can be different. However, this shouldn't be seen as a roadblock to a smooth migration; the service provider may only have to refresh the KYC documentation – and should be able to do this quickly and efficiently. Be mindful also that when migrating, you might not be able to get continuity with the same bank. Again, communication needs to be clear and consistent, so that all parties understand what is required, with investors facing minimal disruption.

Consider other 'intangibles'

An organisation's biggest asset is its people – keep them fully informed of your

migration plans early on, and they'll be able to help you plan ahead. Some staff may not be willing to move as the business migrates, but early conversations and clear communication will ensure the process is as smooth as possible for all involved. Also, migration involves licensing employees to continue their duties in a new jurisdiction, which is why some companies prefer to leave key individuals in their original location and only migrate certain functions.

Choosing the right service provider

When migrating, it's vital to have the support of a service provider with deep expertise and strong networks in that jurisdiction. Providers with multi-jurisdictional experience will have seen it all before, and can apply best practice to almost any scenario, overcoming challenges and offering cost-effective solutions. Most importantly, a service provider with multi-jurisdiction experience can be geographically agnostic, helping to determine which is the best location overall. Once that location has been determined, they should also have strong local knowledge and access to a network of local professionals, including project managers and lawyers.

In conclusion

Migration to a top-tier jurisdiction is a significant undertaking, but once the decision has been made, your chances of success can be greatly enhanced by taking the right approach. That means going in with a clear understanding of the scope of the project, leading with an effective communications strategy, and partnering with a service provider that has local knowledge and experience.