



# Louvre Group

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## Business Review



### Chief Executives welcome.

Foundations in Guernsey? Purpose trusts? A revised, streamlined and more efficient Fund administration industry?

It may sound like an advisors wish list, but these are all changes that will be taking place within a bullish Guernsey finance sector during 2007.

To support this, the anti-money laundering and disclosure laws and regulations are currently undergoing a review and consultation process and will be revised and published to the finance sector in a 'Handbook', probably later this year. This too, is a positive step and will assist both intermediaries and administrators with the introduction and ongoing administration of client relationships.

Lynn Giovinazzi outlines the changes to the trust legislation that will enable Foundations and Purpose trusts, but the main focus of this newsletter is on our London office and their **Probate services**.

Chris Woodward is our specialist in this area and, importantly, is not only able to assist with straightforward UK probate but, also, with the more complex situations created when there is either an asset abroad or, alternatively, when an expatriate leaves behind an asset in the UK.

More exciting for the Louvre Group is that we have almost completed the formalities necessary to obtain our licence in Dubai and will be busy over the coming months establishing our operation there. Our focus will be on Fund work and we hope there will be opportunities to be of assistance to you and your clients.



Derek Baudains  
*Chief Executive Officer*

"It is a very funny thing about life: If you refuse to accept anything but the best, you very often get it" **W.Somerset Maugham**



## New Guernsey trust legislation

A review of the 1989 Guernsey trust law in March 2006 made several recommendations that have now gone to the legislature for drafting. Principal amongst these are the recommendations for Foundations and Purpose trusts.

The Foundations will have several key features -

- Establishment by Charter, entry on a public register and a registered office in Guernsey
- Foundation rules to allow for the reservation of powers to the Founder thereby retaining his influence over the assets
- Ability for outbound migration of Guernsey Foundations and inbound migration of Foundations from other jurisdictions
- The terms of a foundation are enforceable by the beneficiaries as they are contractual rather than fiduciary
- Tax treatment will be the same as that for a trust with Guernsey trustees
- They may have an open-ended existence if desired

The introduction of Purpose trusts will also have several key features, but two worth mentioning at this stage are -

- Perpetual Purpose trusts - there will not be a limitation on the trust period (existing trust law limits this to 100 years).
- Clear clarification of the holding of 'an asset' as constituting a valid purpose - this will enable Purpose trusts to be used in a wide range of transactions including holding shares in Private Trust Companies or SPV's.

## Probate services

*The year on year increase in the value of property has brought into sharp focus the number of personal estates that now fall into the inheritance tax net. This liability makes it more important than ever that the complex process of probate is carried out correctly and in a timely manner. Chris Woodward, the probate specialist in our London Office, explains what probate is and how Louvre can assist.*

Probate can be described as - the legal procedure that gives executors of a will the authority to deal with the assets of the deceased in accordance with the terms of the deceased's will.

It sounds as though it should be simple, but the problem is that probate is a complicated process that requires adherence to a specific series of steps. This, in turn, means that any person taking on the role of executor, whether professional firm or family member, takes on a number of onerous legal responsibilities.

These begin with identifying all the assets of the deceased. This can be straightforward for the simple estate with perhaps just a bank account, house and car, but can become increasingly difficult if there is an investment portfolio, perhaps a property abroad or a classic car collection.

Once all the assets have been identified, the next step is to obtain valuations at the time of death from professional valuers and then, to protect the executor from personal liability, proper management and precautions need to be put in place to protect the value of the assets during the probate process. An extreme example of something going wrong would be to leave a yacht on an exposed mooring through the winter months. A straightforward example of taking simple precautions is to ensure that an empty family home is properly aired and serviced.

Whilst this is taking place the probate form has to be completed to apply for probate and attendance made at the probate court. The fact that the probate form is four pages long is often enough to dissuade most people from carrying out probate themselves.

The next stage in the process is managing the sale of the assets of the estate (assuming they are to be sold) for best value. This is followed by preparation of the tax return, calculating the tax due and then submitting the return and ensuring that all debts and taxes (this will

include income tax and capital gains tax as well as inheritance tax) are properly accounted for, paid and receipted.

Only then can final estate accounts be produced and the remainder of the estate distributed in accordance with the terms of the will. It is also worth emphasising that there can be no shortcuts - the responsibilities and liabilities of the executor remain for six years.

This article is too short to dwell on other complications that can arise such as proving the estate in a foreign country where there is an asset and they have different rules of inheritance (France and Spain being two nearby examples). Or, what has to be done when not all the beneficiaries can be traced immediately, if at all. And if there is no will at all...well that is another article.

It will be clear that the process of probate can be time-consuming and bewildering to a non-accounting or legal mind at a time of the utmost sensitivity. These are, without doubt the principal reasons why increasing numbers of people, usually sons and daughters, are no longer willing to take on the role of executor to their parent's estates.

Instead they are turning to professionals such as Louvre who can provide a discreet, confidential and friendly service in a timely manner.



We do so for a fixed fee of 2.5% of the gross value of the estate although, if the estate is small, perhaps because we are dealing with a first death and there is no house sale, we will negotiate a smaller fee.

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