



WHY SHOULD MIDDLE EAST CLIENTS CHOOSE GUERNSEY?

By Mary Humphreys, Trust Manager, Artemis Fiduciaries

Choosing a fiduciary for any client involves several considerations to ensure that the client's needs, legal requirements, and financial objectives align with the offerings of the service provider. However, with the remarkable rate of change in the Middle East, this becomes more relevant.

The immense push towards diversified economies, with a growing infrastructure to uphold such economies and the work force to support them, the UAE has seen sizable investment in education with continued immigration of skilled and professional employees choosing to make the UAE their permanent home. Collectively the UAE and Saudi Arabia make up 45% of the ultra-high-net-worth (UHNW) population in the Middle East.

The Knight Frank Wealth Report 2021 expected the number of UHNWI's in the region to surge by 24.6% in the five years from 2020, with the region forecast to remain the fourth largest wealth hub in the world.

Saudi Arabia is seeing an astonishing scale and pace of change, with Vision 2030 a key driver, it is using its investment power to establish a more varied and sustainable economy, by using its strategic location to build its role as an international trade centre to connect three continents: Africa, Asia and Europe. The Saudi economy is reported as having achieved 8.7% growth in its GDP in 2022, this being the highest growth rate among the G20 countries in the period.

According to the 2021 Knight Frank Wealth Report, the number of UHNWIs in Saudi Arabia grew by a staggering 9.3%, with law firms, accountancy practices and banks all creating a presence in the Kingdom to be able to meet the growing demand. So when it comes to their private wealth, where are Middle Eastern UHNWI looking to establish their structures?

A man wearing a white thobe and a patterned ghutra is seated at a dark wooden table. He is looking down at a laptop in front of him. On the table, there is also a white cup of coffee on a saucer, a pair of sunglasses, and a small vase with a white flower. The background is softly lit, suggesting an indoor setting like a lounge or office.

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Historically, Middle Eastern clients looked to establish their offshore structures in Cayman, with a significant proportion of the wealth in the region being oil connected given the plentiful natural resources in the region and therefore the need for structures connected to oil production, which Cayman was well placed to serve.

There has in the past been a strong demand for Cayman investment funds and private wealth structures, as Cayman was one of the world’s leading jurisdictions for the formation of alternative investment funds. For private clients, Cayman was a leading domicile for offshore trust structures. We have seen Middle Eastern families and UHNWI utilise private Cayman wealth solutions, however because of evolving socio-economic circumstances we have in recent years seen a shift in the sands with the Middle Eastern client now looking towards Guernsey and the Crown Dependencies for their private wealth structuring.

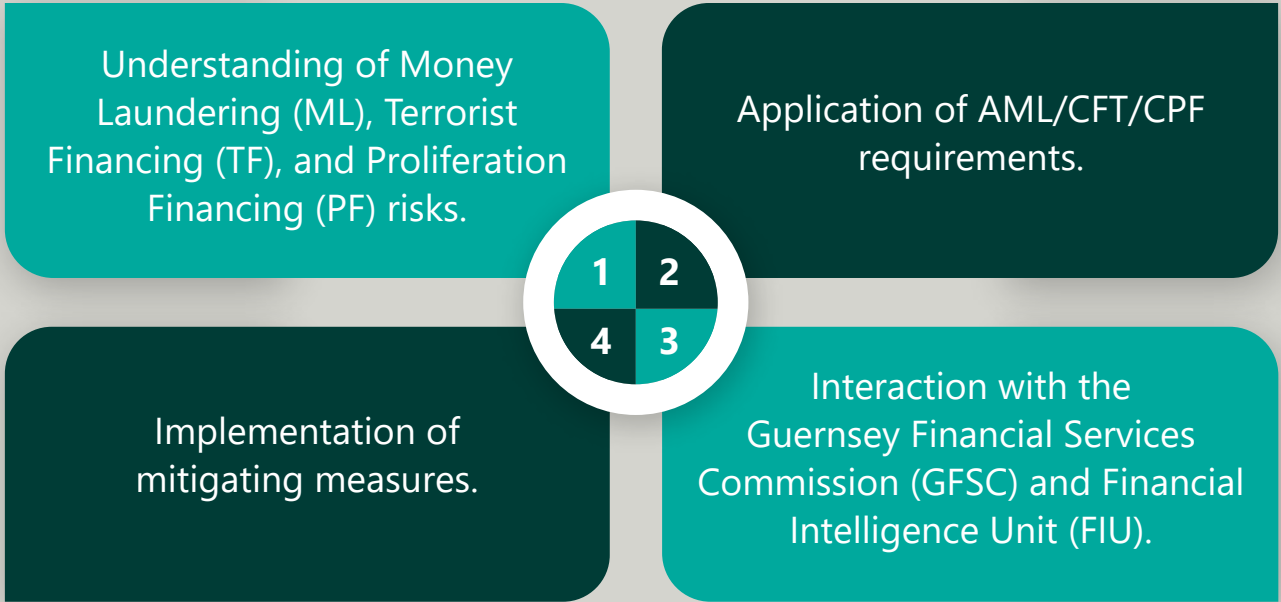
In March 2022, Cayman was Grey listed by the Financial Action Task Force, resulting in increased monitoring in relation to anti-money laundering (AML) and countering the financing of terrorism (CFT), with the knock-on effect of profound social implications, reduced access to financial services, heightened social stigma and political instability.

Being placed on the grey list has tangible consequences for any country’s economy and financial system, as it can restrict cross-border transactions, leading to difficulties in obtaining credit, and limiting inward foreign investment. I wonder if the economic damage incurred comes from the higher level of due diligence required in listed countries, with the resulting higher costs and additional time commitments. Such costs are surely a contributing factor to the move away from private wealth structuring in the jurisdiction.

In comparison, Guernsey has benefited from Cayman being sat “on the naughty step”, with more Middle Eastern UHNWI’s looking to Guernsey as their jurisdiction of choice. With Guernsey, having experienced their own Moneyval Assessment earlier this year, which brought about a comprehensive evaluation of Guernsey’s compliance with international AML/CFT/CPF standards, but what is Moneyval?

Moneyval is a permanent monitoring body of the Council of Europe and undertakes mutual evaluations in respect of countries’ compliance with the FATF Recommendations on combating money laundering and the financing of terrorism and proliferation as well as assessing the effectiveness of their implementation.

The evaluation consisted of two parts: **technical compliance** and **effectiveness**, with the four general areas of focus in the scoping note being:-



For me there is no doubt that for Guernsey preparing for the Moneyval evaluation has served to strengthen our financial system and regulatory framework, with the evaluation requiring comprehensive efforts from both public and private sectors. While it undoubtedly presented challenges and costs, the long-term benefits continued financial integrity, international cooperation, and economic stability outweighed the immediate burdens.

Meeting the principal international standards on AML, CFT and proliferation is an important aspect of being a respected international finance centre. It is also key for Guernsey's reputation and economy and our ability to continue operating as a respected international finance centre. The efforts that Guernsey made in the preparation, demonstrated its absolute commitment to the global efforts in combatting money laundering, terrorist financing and the proliferation of weapons of mass destruction.

Under performance in the "Mutual Evaluation" can result in follow-up actions being required which can prove costly and time consuming, as they may identify strategic deficiencies in an AML/CFT/CFP regime, the jurisdiction may be placed under increased monitoring until the shortcomings are actioned, if it fails to meet those timeframes it will be added to FATF's so-called Grey List.

The Guernsey finance industry has a pedigree of servicing the needs of our clients. The range of uses to which a trust may be put is constantly being developed, but flexibility and confidentiality are the principal advantages that a Guernsey trust has over other legal forms designed to hold, preserve and transfer wealth.

Clients are looking for ever more sophisticated ways of maintaining their wealth, of preserving the continuity of ownership of particular assets, such as a business within a family. By vesting legal ownership of the assets in the trustee, they may be able to continue benefitting from the assets, whilst avoiding fragmentation of ownership amongst second and third generation beneficiaries.

Forced heirship is a civil law position that is all too familiar for our Middle Eastern clients, trust assets will not form any part of the settlor's estate upon his death, thereby enabling a settlor to mitigate forced heirship rules under the laws of their domicile, residence or nationality.

I would be remiss if I did not consider the variety of uses a trust may be put to use in a commercial context, such as:-

- unit trusts for the collective investment of capital;
- off-balance sheet transactions;
- inter-creditor agreements;
- asset securitisation schemes. These are structured to provide for mortgages and receivables to be held pursuant to the terms of a trust; and
- employee share option and executive incentive schemes which benefit from being established in a politically stable, fiscally neutral jurisdiction such as Guernsey.

The growth in the use of Guernsey demonstrates that UHNWI's have a growing awareness for asset protection and intergenerational planning. In the Middle East we are experiencing a generational shift, with the next generation stepping up in terms of planning for financial security, alongside a deepening sophistication for family governance.





For more information

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