Isle Of Man Foundations On The Statute Book
Intrust (Manx) Limited is based at the Isle of Man Airport, Isle of Man. Our objective is to provide a bespoke, flexible, cost-effective, efficient and confidential service to clients, both private individuals and professional intermediaries, who require a personalised international business solution.

Intrust (Manx) Limited provides added value through the latest technology, in supplying details of up to date banking transactions, statutory information and commercial contracts, via fast communications and experienced staff assigned to specific clients, responding to clients on a daily basis during normal working hours, and with the further support of senior management and director assistance when necessary.

The Island offers a highly favourable regime of corporate taxation, which can offer many benefits to clients wishing to implement structured tax planning.

Isle of Man companies with non Isle of Man beneficial owners, whose activities take place outside the Isle of Man, are subject to tax at a rate of 0%.
The Foundations Act 2011 ("the Act") received Royal Assent on 11th November 2011, and became available under Isle of Man law at the beginning of 2012.

The Constitution

The Isle of Man is a common law jurisdiction, well known for its trust law. In view of demands from clients from civil law countries, like other international centres, it has introduced foundations based on the civil law model.

The foundation is a separate legal entity formed by the dedication of property to specified purposes. Registration is required, giving clients added comfort and ensuring separation from the Isle of Man's trust law.

It is expected to be used for private wealth structuring purposes, as well as for charitable purposes and in commercial structures.

The foundation will be constituted by two documents:

01 The Foundation Instrument

The foundation instrument is the public statement of the existence of the foundation. It includes the name of the foundation and its objects. It must also list its council members and its registered agent. The private internal constitution, including details of any beneficial objects, are kept off its face and are therefore not public.

02 The Foundation Rules

The foundation rules provide for the internal governance of the foundation. Where the foundation is a private one, for the benefit of a family or other beneficiaries, the details will be set out here and not in the foundation instrument. The rules also provide for how the council members, registered agent and enforcer (if any) may be removed, appointed and remunerated. It will also provide for what happens to the assets on the winding-up of the foundation.
The Roles within the Foundation

The Council
The Council comprises the individuals or Companies who manage the foundation on a day to day basis and ensure the furthering of the foundation’s purposes. They are subject to duties in respect of this fiduciary role.

The Enforcer
The Enforcer is the person who ensures that any given purpose is being fulfilled by the council. One is only required if the founder stipulates it or there is a non-charitable object in respect of which there is no beneficial object.

The Registered Agent
The Registered Agent is a regulated person or Company in the Isle of Man who applies for the registration of the foundation and must subsequently ensure compliance with statutory requirements for the keeping of records and so on in the Isle of Man.

The Foundations (Winding Up) Regulations
The Treasury is expected to pass regulations in respect of the winding-up of foundations, outlining the circumstances in which foundations can be wound up by application to Court and who can make such application. Consultation has already taken place on draft regulations.

The Foundations (Continuance) Regulations
It is expected that the Treasury will also pass regulations outlining how foundations from other jurisdictions with foundation legislation can be imported into the Isle of Man. They will outline the criteria that the foreign foundation must fulfil to be migrated to the Isle of Man, the circumstances in which they can or cannot be migrated and the procedure for importing the foundation. The regulations also outline how a foundation is to be discontinued to be migrated to another jurisdiction.
More Than a Trust? Foundations in the Crown Dependencies

Wealth can be a reward, a privilege or the result of good fortune. But it can bring problems: there are plenty of ways to lose it; it can spoil lives and split families.

The prudent and sophisticated take care with their wealth, to:
- Protect it from outsiders
- Invest it
- Put it to work
- Prevent it from bringing family problems
- Direct its management and distribution, even after death

There are various international financial centres ("IFCs") well-suited to provide the necessary services. Trusts are well established legal vehicles in IFCs, but they have European cousins that offer a powerful alternative: foundations. Jurisdictions that previously offered trusts alone are introducing foundations, including the Crown Dependencies.

What is a Foundation?

Jersey and the Isle of Man offer foundations already. Guernsey is presently working on its legislation. While the legislation differs to some extent between the Crown Dependencies the essence of the foundation remains the same: a founder dedicates property to a his chosen purpose (such as family or charitable purposes); the foundation is registered and becomes a legal entity; its affairs are conducted by a council under the constitution.
What does a foundation in the Crown Dependencies offer?

The major Crown Dependencies ("CDs") are the Isle of Man, Guernsey and Jersey. They are all located in the British Isles and have historic links with the United Kingdom.

The following advantages of a foundation are available through one or more of the CDs. Most (but not all) are available in all of the CDs:

- It is a registered legal entity
- Registration gives confidence: the foundation’s very existence and identity is clear
- Being a separate legal entity simplifies management
- It can be for private or public purposes
- The foundation can be used to hold and manage wealth for the purposes of the founder and his family, for commercial purposes or for charitable purposes
- Private foundations can be supervised through the court, giving comfort to the founder and any beneficiaries
- The founder can exercise control through reserved powers over the foundation
- The founder can reserve powers or confer them on favoured, trusted people
- The founder can, for example, control investment, distributions, sale of foundation assets and the make-up of the council that administers the foundation
- The founder and his advisers can have a role
- They can be appointed to the foundation council (and can even comprise the entire council)
- If not council members, they can still be given powers (see above)
- It can last indefinitely
- Trusts have only a limited lifespan in some jurisdictions, so the foundation offers more chances to plan for dynasties
- “Firewall” legislation insulates it from foreign law
- Having the foundation run by professionals can enable property to withstand greater pressure than in family hands
- It is tax-neutral in the CDs
- The CDs offer a tax-neutral base from which wealth can be managed and controlled
Confidentiality

- The CDs forbid the unlawful sharing of confidential information
- The CDs are not “secrecy” jurisdictions but satisfy requirements of, for example, the OECD/G20, the IMF and numerous individual countries pursuant to international agreements
- General “fishing expeditions” by foreign or local authorities are not permitted – this will become increasingly important as Asian governments extend their interest in offshore arrangements
- Those holding confidential information are also regulated as to the purposes for which data can be held and shared
- Management by dedicated professionals in a well-regulated environment
- The large range of service-providers in the CDs, well-qualified and highly experienced, keen for work and prepared to offer a high level of personal service, is unsurpassed
- The CDs provide the highest levels of technical and personalised services
- The courts in the CDs apply strict legal principle, so law is predictably and reliably enforced
- There is a regulatory authority in each of the CDs that uses a legislative framework to oversee the financial services provided
- Experienced lawyers, accountants and other advisers support the running of foundations and other legal structures
- The professionals are familiar with coping with the compliance legislation

Which is the Best Model?

- The key aspects of the existing (Isle of Man and Jersey) foundations are similar
- The particular CD used may not matter
- But there are subtle differences between foundations in the three jurisdictions so a comparison would be best to identify whether one CD might be better than another in the individual case
And do not forget ..... 

- You need good legal and tax advice, at home as well as in the location of the foundation
- The foundation property will no longer belong to the founder, and he will need to ensure that he reserves or confers adequate rights and levels of control as he will require in the constitution
- Choose professionals with care – not only must they be properly regulated, technically able and cost-effective but the founder and they should be content with the relationship!
Contact Us

InTrust (Manx) Limited are well placed to provide clients with best value services, since we:

- Are dedicated professionals serving only professional clients;
- Are long established with a solid track record;
- Can provide long term continuity of service;
- Have complete in-house professional expertise;
- Are located in strategic centres;
- Have multilingual staff, able to deal with client requirements;
- Have very solid banking connections.

For further information, please contact Bill Leach or Paul Murtagh.

Intrust (Manx) Limited
Suite 1, Ground Floor,
The Jet Centre,
Isle of Man Airport,
Isle of Man,
IM9 2RJ

Tel: +44 (0) 1624 616544

E-mail: bill@intrust-manx.com or paul.murtagh@intrust-manx.com

www.intrust-manx.com

Disclaimer
Whilst we have taken all reasonable measures to ensure that the information contained in this brochure is correct and it is believed to be correct at the time of printing, we cannot accept any responsibility or liability for any errors or omissions from any information contained in this brochure or for any consequences arising. Readers of this brochure are advised, therefore, not to rely on the information contained in this brochure but to obtain advice on any particular matter from our office directly.

Intrust (Manx) Limited is Licensed by the Financial Services Authority as a Corporate and Trust Service Provider.
Registered in the Isle of Man No: 026131C
Registered Office: Suite 1, Ground Floor, The Jet Centre, Isle of Man Airport, Isle of Man, IM9 2RJ