



THE GREAT MIGRATION

MAY 2016

For users of offshore companies for many years the smartest thing to do was to follow the herd. Jurisdictions for special purpose vehicle and holding company incorporations were often chosen on the basis simply of cost and ease. The end result was that when an offshore vehicle was needed many followed a well-trodden path to the cheapest jurisdictions with the easiest (ie most minimal) compliance regimes.

Recent events have led to the acceptability of vehicles located in a number of those jurisdictions being called into question in some areas. For many, the reputational risk of domiciling a company in a jurisdiction that is subject to criticism far outweighs a small saving on annual registry fees. As a result, many of the herd are now wondering if there may be greener grass elsewhere.

Guernsey has long focussed on achieving a sensible balance between providing the necessary ease of doing business whilst still retaining a compliance regime that meets worldwide expectations. As such we are seeing an increasing flow of companies choosing to move their domicile from other jurisdictions to Guernsey; the herd is migrating if you will.

Whilst migrating herds on the African savannah face myriad dangers crossing crocodile-infested rivers pursued by other predators, the process of migrating to Guernsey is pleasingly more straightforward and less stressful. Lawyers in both Guernsey and the outgoing jurisdiction will need to be involved and a number of criteria must be met. The most significant requirements are summarised below:

1. the company must be able to register as a Guernsey company under the law of the jurisdiction it is currently registered in (i.e. it must be allowed to migrate out under its origin law);
2. the company must have complied with the requirements of its law of origin;
3. a special resolution of the shareholders must be passed approving the migration to Guernsey;
4. the company must not be involved in any insolvency proceedings;
5. the company must be solvent immediately after it is registered in Guernsey; and
6. the company's articles must be amended so that the company cannot issue bearer shares.

If the company in question is subject to regulation (e.g. an investment fund) then Guernsey regulatory consent to the migration will also be required.

With these areas addressed an application to the Guernsey Registrar of Companies must be made. This application will provide the Guernsey Registrar with the bulk of the information required for the migration, including the constitutional documents for the company along with any Guernsey regulatory consents, a declaration of compliance and any applicable fees.

Once the process is complete the Guernsey Registrar will issue the company with a certificate of registration and allocate it a Guernsey

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company number. In terms of timescales for a migration, the process has been significantly streamlined in recent years. The migration of a typical company can now be completed within a few weeks.

Collas Crill has extensive knowledge of the migration process and have been heavily involved in the recent trend of mass company migrations to Guernsey. Our team is well versed in the process and will be more than happy to assist with any enquires. If you would like any further information on migrations please do get in touch.

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FOR MORE INFORMATION PLEASE CONTACT:



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