

Key Facts Trusts

The Cayman Islands Trusts Law as amended, is similar to the trust laws of the United Kingdom.

A Cayman Islands trust may be established by either a Deed of Settlement, in which the Settlor is identified, or by Deed of Declaration in which the Trustees acknowledge their appointment as such and receipt of the settled sum with the identity of the Settlor not being recorded in the Deed of Declaration.

The Cayman Islands Trusts Law provides for three kinds of trusts:

- Ordinary Trust

There is no provision in the law for the formal registration of an Ordinary Trust which is the most frequently used trust structure. Cayman legislation permits new trusts to continue for a maximum duration of 150 years regardless of the rule against perpetuities and clarifies the powers that can be reserved by the Settlor.

- Exempted Trust

The Exempt Trust is registered with the Registrar of Trusts with the trust deed entered in the Registry. The Registry is not open to public inspection. An important advantage of an Exempted Trust is that upon application to the Registrar of Trusts the trust may be exempted for up to 50 years from the incidence of all taxes that may at a future time be introduced in the Cayman Islands.

- Purpose Trust

The Special Trust Alternative Regime enacted in 1997 and now incorporated into The Trusts Law provides the legal basis on which a special purpose trust may be established in the Cayman Islands.

A Special Trust or STAR trust may now be created in the Cayman Islands for a specific purpose or for the benefit of an identifiable group or class of beneficiary as well as for a specific purpose, provided that the purposes are lawful and not contrary to public policy.

Private Trust Companies

Under new legislation passed in the Cayman Islands in September of 2008, certain Private Trust Companies incorporated in Cayman no longer require a Restricted Trust License from the Cayman Islands Monetary Authority ("CIMA"). Certain restrictions do apply in that the Private Trust Company must maintain its Registered Office in the Cayman Islands at the office of a Company that does have a trust license and include "Private Trust Company" or "PTC" in its name. A Private Trust Company is one that carries on connected trust business with related parties. Instead of obtaining a full license the Private Trust Company can now register with CIMA on an expedited basis and file an annual declaration. The fees are US\$8,538 on registration and US\$8,538 annually thereafter.

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Protection Against Foreign Laws

In 1987 the Cayman Islands enacted The Trusts (Foreign Elements) Law (now incorporated into the Trust Law), the principal purpose of which is to protect assets transferred to a Cayman trust from claims based on rights of heirship existing under foreign laws or the fact that a foreign law prohibits or does not recognise the concept of a trust.

Creditor Protection

The Fraudulent Dispositions Law, provides Cayman trusts with statutory protection against claims of creditors seeking to set aside transfers to such trusts. A transfer can be set aside if, within a six year period, a creditor can show that the transfer was made with an intent to defraud and at an undervalue. After the six year limitation period no such actions may be brought under the statute.

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