

Key Facts Trusts

A trust is a legally binding arrangement, established by a written document (Trust Instrument)¹, whereby a person (Settlor) transfers legal ownership of assets (Trust Property) to another person (Trustee) who is entrusted with the Trust Property, for the benefit of one or more persons (Beneficiaries). The Trustee has the legal ownership of the Trust Property, but the Beneficiaries have the equitable interest therein.

In circumstances where a professional trustee company acts as Trustee, the role of Trustee is usually classified as an excluded person. This means that, apart from the payment of their professional fees, the Trustee cannot benefit from the Trust.

The Trust System in Jersey

While trusts have been established in Jersey for many decades, their operation is now governed by a modern, comprehensive statute entitled the Trusts (Jersey) Law 1984 ("Trusts Law") recognised internationally as the model for similar laws in competitor trust services jurisdictions.

Complementing this modern and comprehensive statute is a substantial and internationally influential body of judicial authority developed by the Jersey courts, interpreting and applying the Trusts Law. Jersey, including its courts, have been long recognised as having political, legal and regulatory stability.

Parties to and Features of a Jersey Trust Settlor

The Settlor may also be a Beneficiary but cannot be the sole Beneficiary of the Trust. Also, when establishing the Trust, the Settlor may retain for

himself or in favour of a third party certain powers in order to retain a degree of control over the Trust Property².

Trustee

The Trustee has the same power as an absolute owner unless those powers are restricted by the terms of the Trust Instrument. The Trustee is required to act with due diligence, as would a prudent person, to the best of its ability and skill, and exercise its powers only in the best interests of the Beneficiaries.

Beneficiaries

There must be sufficient certainty as to the identity of the Beneficiaries, which must be set out in the Trust Instrument, however, additional persons may be added to the Beneficiaries by supplemental Trust Instrument(s).

Protector

The Settlor may wish to appoint a Protector to ensure controls are placed upon certain of the Trustee's powers. This is achieved by specifying within the Trust Instrument those key powers requiring the Trustee to obtain the prior consent of the Protector. Typically, the Protector will be

¹"Trust Instrument" is the appropriate terminology as Jersey law does not have, for example, the English law concept of a "deed", and certainly Jersey Trust Instruments do not require the formalities of an English law deed.

²See section regarding Settlor Reserve Power Trusts.

Key Facts Trusts

a close friend, relative or trusted adviser of the Settlor, although the Settlor may even be the Protector.

Letter of Wishes

Subsequent to the creation of the trust, the Settlor may provide the Trustee with a document known as a Letter of Wishes. This document provides helpful guidance to the Trustee detailing the Settlor's wishes in connection with the management of the Trust Property and the benefits to be provided to the Beneficiaries. This is a non-binding document, provided to assist the Trustee in the day-to-day discharge of its duties. Additionally, the Settlor may update this document at any time to reflect changes in circumstances.

Forms of Trust Instrument

To meet a Settlor's particular circumstances and objectives, including the intended entitlement of Beneficiaries on an equal, unequal or conditional basis, many forms of Jersey law governing Trust Instruments have been developed over the course of Jersey's long standing trusts services history.

Discretionary Trusts

Discretionary trusts are the most common Trust Instrument, entrusting to the Trustee largely unfettered discretion to exercise its own judgement as to timing, manner and amount by which any one or more Beneficiaries might benefit from the Trust Property. The Letter of Wishes helps guide the Trustee.

Settlor Reserved Power Trusts

Settlor reserved power trusts enable the Settlor to retain for himself, or in favour of a third party, certain powers over the Trust Property, including power of investment or to amend terms of the Trust Instrument or remove and appoint Trustees.

However, caution must be taken as to the extent to which powers are reserved in order to preserve the integrity of the Trust.

Non-Charitable Purpose Trusts

Non-charitable purpose trusts are commonly used in corporate transactions, to hold underlying assets "off balance sheet". They are also commonly used as part of a Private Trust Company³ structuring.

Why Use a Trust and Why Jersey?

Asset Protection and Succession Planning

A trust enables the Trust Property to be segregated from the Settlor's personal affairs with the Settlor ceasing to own them, provided the trust is not established with the intention of defrauding creditors. Equally, it can provide succession of family wealth without onerous and time-consuming probate formalities and costs where the assets were previously owned by the Settlor. Most importantly, it ensures that family wealth is managed and preserved, including controlling how it is spent, for the benefit of future generations.

Privacy and Confidentiality

The Trust Instrument is a private document with no requirements to file with any public body and information relating thereto is not accessible by the public, allowing for the preservation, confidentiality and personal security of our UHNW clients.

Premier Trust Services Centre Globally

As well as its internationally recognised secure and stable judicial and political environment, Jersey was the first jurisdiction globally to license and regulate the provision of professional trust services, and as such, has become the leading "go to" jurisdiction for the provision of trust services. This "flight to quality" has enabled Jersey's trust services industry to go from strength to strength over recent decades.

³ See separate Fact Sheet on Private Trust Companies.

Key Facts Trusts

Tax

Jersey trusts are tax neutral⁴, and there is no capital gains, inheritance or stamp duty payable by a trust in Jersey. However, several matters, including but not limited to the following, should be considered, and independent legal and tax advice should be sought by the Settlor:

- Legal and tax implications arising in the Settlor and Beneficiaries' country of residence
- Beneficiaries' personal tax position
- Physical location and possible relocation of the assets that will comprise the Trust Property

⁴ Provided all Beneficiaries and the Settlor are resident outside Jersey and there is no Jersey sourced income.

Offices

The Americas/Caribbean

Bahamas

Trident Corporate Services
(Bahamas) Ltd
T: +1 242 322 6154
bahamas@tridenttrust.com

Barbados

Trident Corporate Services
(Barbados) Ltd
T: +1 246 621 0760
barbados@tridenttrust.com

British Virgin Islands

Trident Trust Company (BVI) Ltd
T: +1 284 494 2434
bvi@tridenttrust.com

Canada

TT Services (Canada) Ltd
T: +1 604 687 0811
vancouver@tridenttrust.com

Cayman Islands

Trident Trust Company
(Cayman) Ltd
T: +1 345 949 0880
cayman@tridenttrust.com

Nevis

Morning Star Holdings Ltd
T: +1 869 469 1817
nevis@tridenttrust.com

Meridian Trust Company Ltd

T: +1 869 469 1333
nevis@tridenttrust.com

Panama

Trident Trust (Panama) S.A.
T: +507 302 7494
panama@tridenttrust.com

United States

Atlanta
Trident Corporate Services, Inc
T: +1 404 233 5275
usa@tridenttrust.com

Trident Fund Services, Inc

T: +1 404 364 2019
americasfunds@tridenttrust.com

Miami

Integritas, Inc
T: +1 305 405 9006
contact@integritastrust.com

New York

Trident Corporate Services, Inc
T: +1 212 840 8280
nyc@tridenttrust.com

Sioux Falls

Trident Trust Company
(South Dakota) Inc
T: +1 605 679 4355
sd@tridenttrust.com

US Virgin Islands

Trident Trust Company (VI) Ltd
T: +1 340 774 7322
usvi@tridenttrust.com

Asia

Hong Kong

Trident Corporate Services (Asia) Ltd,
Trident Fund Services (HK) Ltd
& Trident Trust Company (HK) Ltd
T: +852 2805 2000
hongkong@tridenttrust.com

New Zealand

Trident Trust Company (NZ) Ltd
T: +64 9 300 6067
nz@tridenttrust.com

Singapore

Trident Corporate Services
(Singapore) Pte Ltd, Trident Fund
Services (Singapore) Pte Ltd &
Trident Trust Company (Singapore)
Pte Ltd
T: +65 6653 1800
singapore@tridenttrust.com

EMEA

Cyprus

Trident Trust Company (Cyprus) Ltd
T: +357 258 20 650
cyprus@tridenttrust.com

Dubai

Trident Trust Company (UAE) Ltd
DMCC Branch
T: +971 4 423 9988
dubai@tridenttrust.com

Trident Fund Services (DIFC) Ltd

T: +971 4 277 1191
dubai@tridenttrust.com

Guernsey

Trident Trust Company
(Guernsey) Ltd
T: +44 1481 727571
guernsey@tridenttrust.com

Isle of Man

Trident Trust Company (IOM) Ltd
T: +44 1624 646700
iom@tridenttrust.com

Jersey

Trident Trust Company Ltd
T: +44 1534 733401
jersey@tridenttrust.com

Luxembourg

Trident Trust Company
(Luxembourg) S.A.
T: +352 26 30 28 48
luxembourg@tridenttrust.com

Malta

Trident Corporate Services
(Malta) Limited &
Trident Trust Company (Malta) Ltd
T: +356 21 434 525
malta@tridenttrust.com

Mauritius

Trident Trust Company
(Mauritius) Ltd
T: +230 210 9770
mauritius@tridenttrust.com

Seychelles

Trident Trust Company
(Seychelles) Ltd
T: +248 4 422 000
seychelles@tridenttrust.com

Switzerland

Trident Corporate Services AG
T: +41 44 396 1080
switzerland@tridenttrust.com

United Kingdom

Trident Trust Company (UK) Ltd
T: +44 20 7935 1503
uk@tridenttrust.com

Trident Company

Services (UK) Ltd
T: +44 20 7487 0460
corpservices@tridenttrust.com