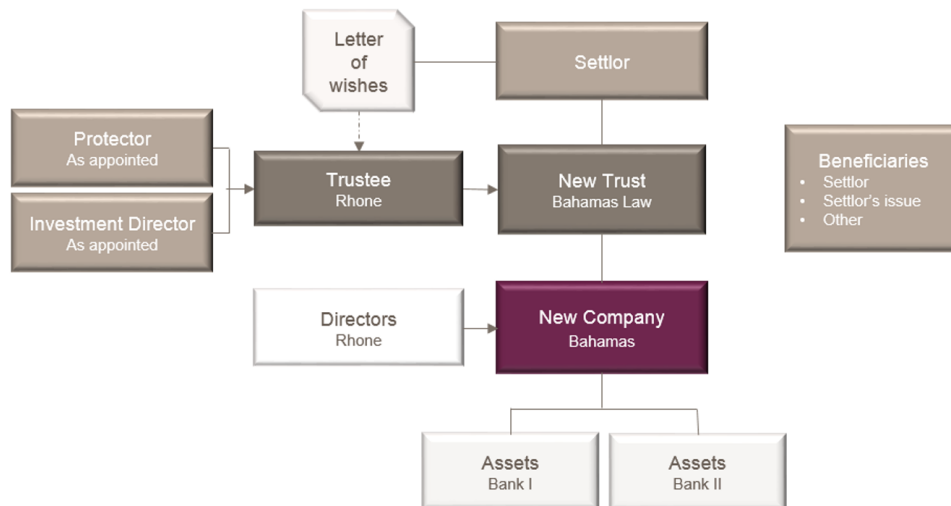




INTRODUCTION TO TRUSTS

KEY FEATURES



A trust is a private arrangement that comes into existence when a person (the “settlor”) transfers property to another (the “trustee”). The trustee is required to deal with that property for the benefit of certain persons (the “beneficiaries”).

A trust is not itself a legal entity. As a result, the trust assets are legally owned by the trustee. The trustee holds the trust assets as a separate fund (known as the “trust fund”) in accordance with the trust terms.

The terms of the trust are normally set out in a deed (known as the “trust deed”). Typically, the settlor will also write a “letter of wishes” to the trustee providing guidance as to how the trust should be administered. The letter of wishes is non-binding and is confidential to the trustee.

SUMMARY

Control and Administration: The control and administration of a trust is exercised by the trustee according to the terms of the trust deed. After the creation of the trust, the settlor’s only powers in respect of the trust are those set out in the deed. The settlor must take care not to reserve too many powers as this could render the trust ineffective for the settlor’s personal tax and legal objectives.

Frequently, the deed will provide for a “protector” who can supervise the trustee and exercise certain controls over the trust. The protector may be a close family member or advisor. The settlor can act as the protector during his/her lifetime, subject to review of the settlor’s personal tax and legal objectives.

Unless provided for otherwise in the trust deed, the trustee and any power holder (such as a protector) are subject to “fiduciary duties”. This means that they must act in the best interest of the beneficiaries. Failure to do so means the beneficiaries or, possibly, the protector can apply to court to request enforcement

Beneficiaries: The beneficiaries of a trust are defined in the trust deed. Beneficiaries can be legal persons, individuals or charities and may include the settlor. In certain jurisdictions, including the Bahamas, it is possible to set-up trusts for charitable or non-charitable purposes.

The most common type of trust is “discretionary”, meaning that the trustee has wide flexibility to decide how and when the beneficiaries can benefit. Many trust jurisdictions entitle the beneficiaries to information in relation to their interest. For example, a beneficiary with a reasonable expectation of benefiting from a trust may ask to see the trust deed and accounts.

Confidentiality: A trust is a private arrangement between the trustees and the settlor. Trustees are subject to a general duty to keep the affairs of the trust confidential (the extent of this duty depends on the laws of the jurisdiction concerned). There is currently no requirement to register trusts in a public registry. Most trusts are treated as “Reporting Financial Institutions” for the purposes of FATCA and the Common Reporting Standard (CRS). This can mean that information in relation to the trust is reportable on a confidential basis to the local tax authority of any person with a deemed “equity interest” in the trust.

RHONE LEVELS OF SERVICE

During the set-up process Rhone will assist with the drafting of the trust deed and letter of wishes and deal with all matters concerning the incorporation and appointment of the directors and officers of the underlying company.

Trustee services include liaison with such legal and tax advisors as required; annual meetings with you and/or the beneficiaries or your representatives; exercising trustee discretion as required (e.g. concerning distributions); preparation of annual financial statements for the trust and the underlying company; maintenance of all statutory registers for the underlying company and necessary records, files and archives and dealing with all FATCA and Common Reporting Standard (CRS) compliance and other reporting requirements.

RHONE

Rhone, a leading Swiss Group with international operations, provides guidance on selecting the right legal structures and jurisdictions to suit your needs. Our mission is to create tailor-made and innovative solutions founded on sound expertise and a disciplined approach, and delivered through a personal relationship forged with clients over the long term.

We have more than 60 experienced staff who are carefully recruited for their qualifications and discretion. They draw on decades of experience in providing services of the highest caliber to clients from all over the world – whatever their needs.

We manage a fairly small number of structures with total assets in excess of CHF 35 billion.

Rhone is fully independent and owned by a management team with no external finance, debt or private equity.

Disclaimer

The information and comments contained herein are for the general information of the reader and are not intended as advice or opinions to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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