

# Overview of Trusts

July 2021

# Why a trust?

- ✓ **Protection of assets:** the entrusting of legal title to a third party removes assets from estate and expropriation
- ✓ **Smooth succession plan:** inter-generational transfer of wealth is clearer and understood, when properly planned
- ✓ **Flexible:** can cater for multiple international assets in multiple locations across multiple generations and families
- ✓ **Track record:** experienced trustees and administrators have been carrying out responsibilities over generations
- ✓ **Professional support:** given long history, many law firms, tax advisors and accountants have dedicated specialists
- ✓ **Jurisprudence:** case law exists to give clarity and certainty under Common Law
- ✓ **Privacy:** centralising private documentation to control and limit dissemination
- ✓ **Administration:** probate and other administrative procedures on passing minimised

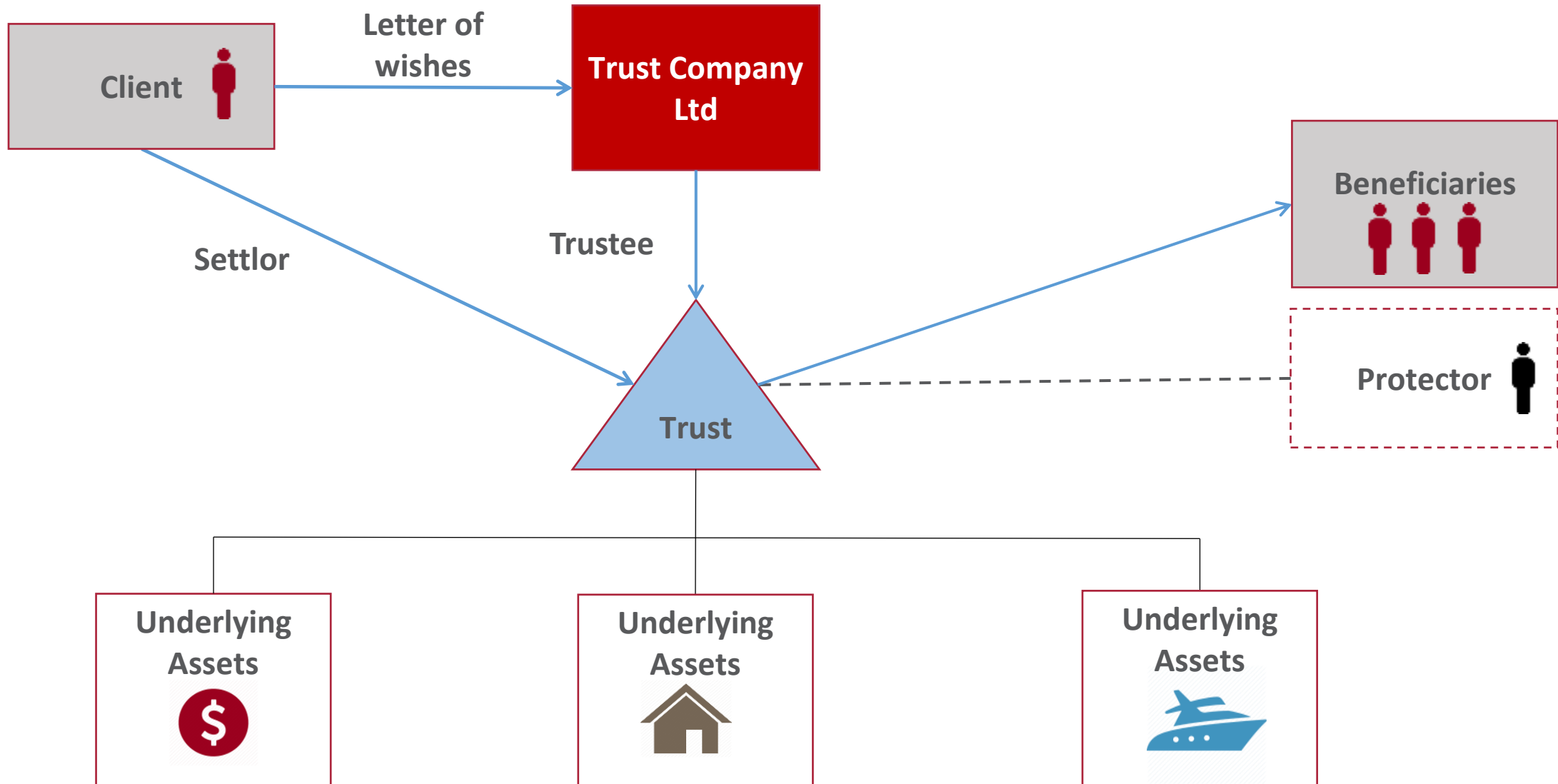


# Overview of typical trust structures

Discretionary Trust	Reserved Powers Trust	Private Trust Company (PTC)
<p><b>Full transfer of ownership &amp; control</b></p>	<p><b>Full transfer of ownership but elements of control retained</b></p>	<p><b>Ownership and control stays within family enterprise but with regulatory obligations.</b></p>
<ul style="list-style-type: none"><li>➤ The Trustees must comply with the Trust Deed – a legal obligation.</li><li>➤ They manage the assets for the benefit of the Beneficiaries.</li><li>➤ Settlor cannot insist that a trustee act in a certain way but can offer guidance through Letter of Wishes.</li><li>➤ Process of removal of trustees set out in Trust Deed.</li><li>➤ Assets are legally segregated from other assets owned by Trustees.</li></ul>	<ul style="list-style-type: none"><li>➤ Certain powers are retained by the Settlor.</li><li>➤ These could include:<ul style="list-style-type: none"><li>– <i>Investment management decisions over the Trust.</i></li><li>– <i>Appointing and removing the trustees.</i></li><li>– <i>Appointing and removing beneficiaries.</i></li></ul></li></ul>	<ul style="list-style-type: none"><li>➤ A PTC is a privately owned company that operates as a Trust Company.</li><li>➤ Does not offer public trustee services but acts as the appointed trustee of a specific trust or related group of trusts.</li><li>➤ Usually for a family, specific philanthropic objectives or a common settlor.</li><li>➤ Exempt from regulation provided no solicitation to the public and administration is carried out by a registered person (e.g. Vistra).</li><li>➤ Continues to be subject to overall jurisdictional regulation.</li></ul>



# Standard Trust Structure



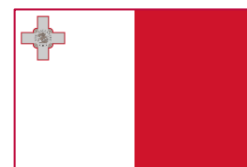
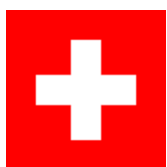
# What happens?

- A person (the **Settlor**) transfers assets to another person/corporate (the **Trustee**) who is entrusted with the legal ownership of the trust assets, not for his own benefit but for the benefit of other persons (the **Beneficiaries**).
- A Settlor establishes a **Trust** by appointing Trustees and transferring legal ownership to them. The Trustees are responsible for managing the assets for the benefit of the Beneficiaries. The details of this arrangement are recorded in a formal document, the **Trust Deed**.
- The Settlor gives the Trustee a **Letter of Wishes** that is an expression of how they would like the Trustee to act in certain scenarios. It is not legally binding but does give guidance as to the intentions of a Settlor under common law.
- An additional role of **Protector** can be included who can be given powers of oversight for certain decisions.
- Some powers can be reserved to the Settlor = a Reserved Powers Trust
- A Family Office / Investment Manager can be appointed by the trustee with a mandate to manage the investments.



# Some examples of jurisdictions

- The choice of jurisdiction revolves around a number of factors:
  - **Reputation:** families do not want to be associated with a jurisdiction on watch lists
  - **Experience of the courts:** more case law gives more clarity
  - **Depth of professional support:** gives clients access to quality and choice
  - **Regulation:** an effective regulator maintains high standards of professionalism
  - **Regional experience:** can effectively adapt to the nuances of families from a particular region
  - **Proximity to Financial Centres:** assist in access to asset managers and bankers
- Each has its own distinct identity and history so taking independent legal & tax advice is essential.
- A trust can be administered by a trustee in one jurisdiction but the Trust Deed can be drafted under laws for another jurisdiction. For example, a Swiss trustee can be the trustee of a Jersey law trust.



# Trust Jurisdictions

Jurisdiction	Name of Trust Company	Licensed Trust Company
1. British Virgin Islands	Vistra Trust (BVI) Limited; Jordans Trust Company (BVI) Limited	Yes
2. Cayman Islands	Vistra Cayman Trust Limited	Yes
3. Curacao	Vistra (Curacao) NV	Yes, licensed for provision of fiduciary services
4. Cyprus	Vistra (Trustees) Limited	Yes, licensed for provision of fiduciary services
5. Hong Kong	Vistra Trust (Hong Kong) Limited	Yes
6. India	Vistra ITCL (India) Ltd	Yes, licensed for provision of funds trusteeship services
7. Jersey	Vistra Trust Company (Jersey) Limited; Vistra Trustees Limited	Yes
8. Labuan, Malaysia	Vistra Trust (Labuan) Limited	Yes, but no Vistra personnel
9. Malta	Vistra (Malta) Limited	Yes, licensed for provision of fiduciary services
10. Mauritius	Vistra Trustees (Mauritius) Limited	Yes
11. Samoa	Vistra Trust (Samoa) Limited	Yes, but no Vistra personnel
12. Seychelles	Jordans Trust Company (Seychelles) Limited	Yes
13. Singapore	Vistra Trust (Singapore) Pte. Limited; Vistra Trust Corporation (Singapore) Limited	Yes
14. United Kingdom	Vistra Trust Corporation (UK) Limited	Yes
15. United States, Nevada	Alliance Trust Company	Yes, through management agreement



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**Thank you**

