

# 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

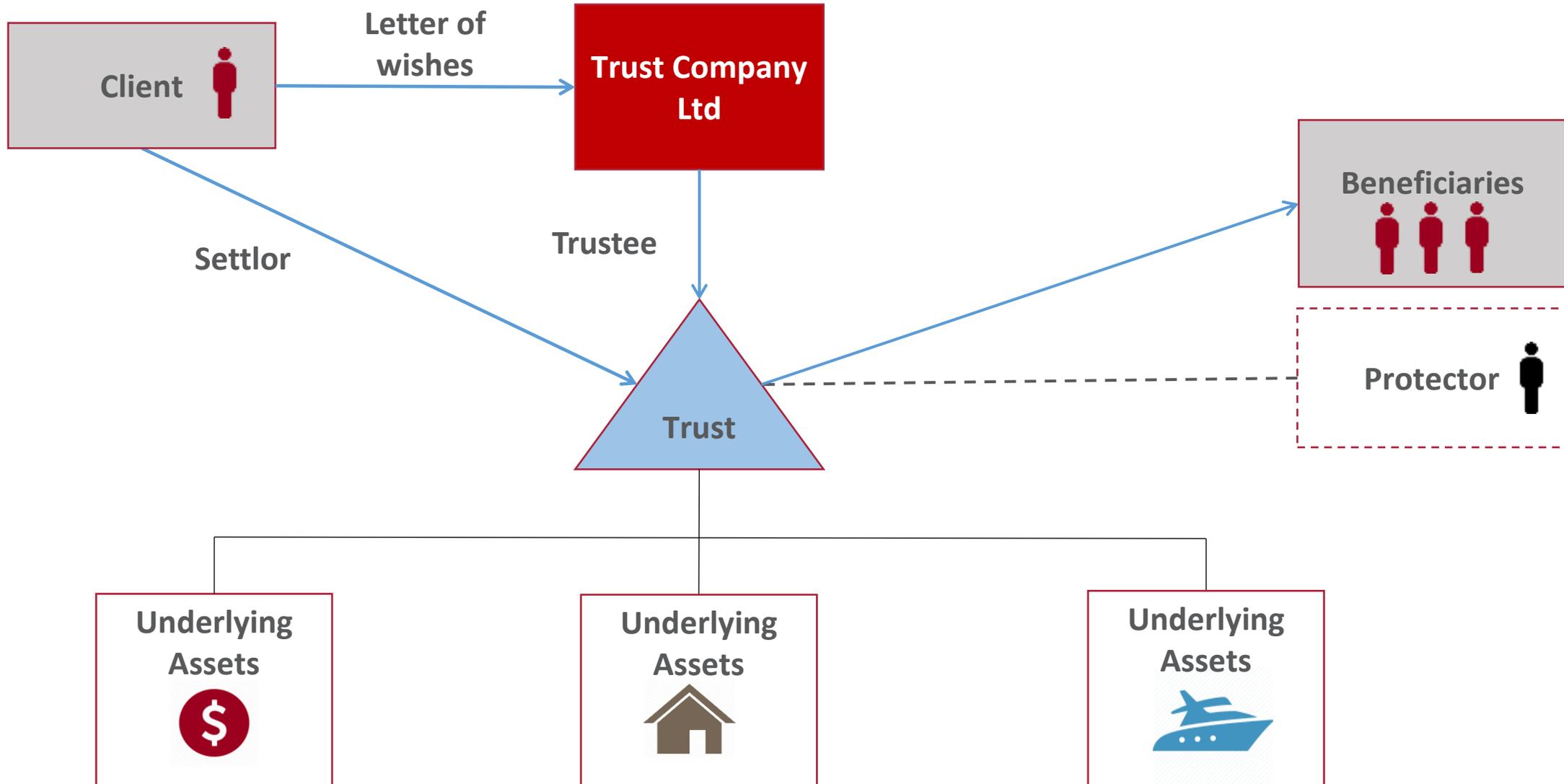


# Overview of typical trust structures

| 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



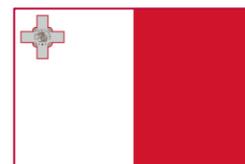
# What happens?

- 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;<br>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;<br>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;<br>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**

