

The Uses of Trusts

A trust is a legally recognised arrangement in many parts of the world which allows a person or organisation, sometimes called the grantor or settlor (the “settlor”) to transfer the legal title of defined assets to a trustee who is then obliged to carrying out the instructions of the settlor. Trusts can run for short periods for transactional reasons through to hundreds of years depending on the original instructions of the settlor and the governing law of the trust. In most circumstances, assets transferred on trust do not form part of the trustee or settlor estates and so are protected in the event of bankruptcy.

Principal Uses

Trusts are in widespread use for a wide range of reasons including:

- 1) Private Wealth Planning;
- 2) For transactional purposes in the course of normal business; and
- 3) Court use to hold a person or company to account (the use of resulting and constructive trusts).

JP Integra is able to provide services relating to private wealth planning and transactional purposes, the information provided herein is focused on the use of trusts for private wealth planning.

New wealth in emerging economies as well as changes in regulation and transparency during the last 10 to 15 years have led to an increase in the sophistication and uses of trusts and other vehicles to service ever more complex global lifestyles and investment objectives.

Trusts are recognised in many jurisdictions in the world, notably by the signatories of the relevant Hague Convention which includes a number of non-trust jurisdictions. The nature of trusts has changed as a result of recent changes in the law internationally. JP Integra can help clients to make an initial assessment of existing trust settlements and their relative robustness (usually without charge) then project manage remedial action including the identification of legal counsel to minimise hassle and cost to the client while protecting the settlor’s original intentions.

Traditional Uses of Trusts

Trusts, and the body of law of which they form part, have been a recognised and popular solution (and form of redress) in many regions of the world for millennia (arguably dating back to ancient Greece) although the modern use of trusts dates back to English law in the Middle Ages. Through regulatory and practical refinement over time, a raft of specific trust forms have come into being including discretionary, interest in possession as well as accumulation and maintenance trusts.

Traditional trusts remain a valuable tool for preserving and organising family wealth and are often used for the following purposes as part of an overall structure:

- succession planning, including the management of forced heirship rules;
- asset protection;
- wealth preservation;
- confidentiality; and
- tax planning.

Purpose Trusts (“STAR Trusts”)

In addition to well established, trust solutions that impose strict limitations on the use of trusts (known as the ‘three certainties’ being the intention for which a trust is settled, the time for which it is settled and certainty of the people for whom it is settled), a number of other jurisdictions have legislated in favour of more flexible arrangements, thus broadening the appeal of trusts generally. Some of the most innovative trusts law in the world is The Cayman Islands Special Trusts (Alternative Regime) Law, (known as “STAR”), first introduced in 1997 and provides for non-charitable purpose trusts. STAR Trusts provide increased opportunities to service all the traditional requirements as well as adding substantial flexibility in respect of the three certainties.

Additionally, by allowing a defined purpose, STAR Trusts provide a flexible solution to individuals looking to fulfil philanthropic ventures that fall outside the scope of charitable trusts that typically have restrictive definitions as to which organisations may benefit.

By using the purpose provisions, STAR Trusts are able to provide the following solutions to individuals and institutions:

- holding the shares in a family business for succession planning;
- greater levels of settlor defined control over the trust settlement;
- hold the shares in a Private Trust Company; and
- hold specific share and interest classes in underlying companies and SPVs. For example, voting shares or limited partner interests.

Private Trust Companies (“PTC”)

PTCs are increasingly being used for both wealth planning and commercial transactions. The advantage of a PTC is that it allows flexibility to market a structure independent of the trustee and also to allow persons to be appointed to the board of the Trustee from outside of the licensee where the PTC holds its Registered Office. In effect, a family may establish such a structure to retain control for the individual board members (often family members) and protect the family by placing the PTC shares on STAR trust.

Unit Trusts

Unit Trusts have long been offered as open ended collective investment vehicle and remain popular in certain jurisdictions as a way of structuring a fund for investors.

The role of the trustee is to ensure the fund is managed in accordance with the stated objectives and to safeguard the trust assets.

Transactional and Commercial Uses of Trusts

In a commercial context trusts are a useful vehicle to assist both individuals and corporations in transactions by providing a vehicle owned and managed by neutral persons to assist with the lending, securitisation, leasing or any contractual transaction where two parties come together into a mutual-agreement with a future obligation; the completion of such obligations to be judged by an independent party (the trustee). An example of such work that would be a good fit for JP Integra is as a trustee of a liquidating trust.

JP Integra Group

Through its CIMA licenced and regulated trust, fund administration and corporate management companies, JP Integra Group is able to provide trustee and management services to a full range of Trusts and SPVs in both private wealth and commercial, transactional uses. JP Integra can assist clients to settle and then help administer trusts in most international trust jurisdictions including but not limited to the United States of America, New Zealand and the Cayman Islands.

JP Integra Group acts as general counsel and/or project manager for clients engaged in complex, international deployments of private capital. We are not a law firm and do not offer legal advice, but we have a comprehensive network of law firms and other advisors internationally that enables us to obtain the best expertise for the project in an efficient and effective format to reduce time and workload for our clients.

Further Information

For more information on how JP Integra can assist with the establishment, operation and administration of trusts, please contact:

Dominic Lawton-Smith

dls@jpintegra.com

+1 (345) 745-2581

Conrad Proud

cp@jpintegra.com

+1 (345) 745-2572

Eduardo Silva

edps@jpintegra.com

+1 (345) 745-2583

Phil Griffiths

pcg@jpintegra.com

+65 3158 5897