

TRUST

Trust

A Trust is a legal arrangement where the Settlor transfers assets to a third party (known as the Trustee) who will administer and manage the Trust for the benefit of person (s) chosen by the Settlor (i.e. the Beneficiaries). The Trustee will manage the Trust in accordance with either a Declaration of Trust or Trust Settlement ("Trust Deed").

General Overview	
Creation of Trust	<p>Upon set up of a Trust, the settlor will transfer assets to a Trustee. The assets will be managed by the Trustee according to the terms of a deed for the benefit of the beneficiaries</p> <p>The trust is usually set up with a Trust Deed setting out the terms of the trust, the powers and the duties of the Trustees, the rights of the beneficiaries and the appointment of a protector or/and enforcer</p>
Parties to a Trust	<ul style="list-style-type: none"> •Settlor •Trustee •Protector •Enforcer •Beneficiary/ies
Types of Trust	<ul style="list-style-type: none"> •Discretionary Trust •Purpose Trust •Charitable Trust •Private Trust Company
Duration of a Mauritius Trust	<p>99 years</p> <p>A Purpose Trust including a Charitable Trust may be of a perpetual duration</p>
Migration	Yes
Confidentiality	Yes

Parties to a Trust	
Settlor	<p>The Settlor settles assets into a Trust and decides how the assets in a trust should be used – this is usually set out in a document called the Trust Deed</p> <p>The Settlor can also be a beneficiary but cannot be the sole beneficiary. Once a trust is created additional assets can be transferred on the trust to the trustee</p>
Trustee	<p>The trust property is vested in trustee chosen by the settlor and appointed to hold and manage the assets of the beneficiaries</p> <p>Mauritian law recognises the possibility of having custodian trustees to which the trust property is vested while the management of the trust property remains with the management trustee</p> <p>A settlor or a beneficiary may give a letter or memorandum of wishes to the trustees who may have regard to this letter in exercising their functions</p> <p>Under Mauritian law, a trust may have a maximum of 4 trustees but must have at least one qualified trustee which is a management company or such other person resident in Mauritius as may be authorised by the FSC to provide trusteeship services</p> <p>A body corporate may also act as trustee as per the provisions of the Mauritius Trust Act 2001</p>
Protector	<p>The terms of the Trust Deed may provide for the appointment of a Protector. The Protector function shall be to advise the Trustee of the trust. Such powers can be:</p> <ul style="list-style-type: none"> to remove a trustee and to appoint a new or additional trustee; <ul style="list-style-type: none"> • to determine the law of which jurisdiction shall be the proper law of the trust; • to change the forum of administration of the trust; • to withhold consent from specified actions of the trustees either conditionally or unconditionally. <p>The trust instrument may appoint as protector, any person of full age and of sound mind, including the settlor, or any body corporate, any firm, partnership or group of persons whether incorporate or unincorporated</p> <p>The protector of a trust may also be a settlor, a trustee or a beneficiary of the trust</p>

Parties to a Trust	
Enforcer	<p>There shall be appointed under the terms of a purpose trust an enforcer whose duty shall be to enforce the trust in accordance with its terms and purposes</p> <p>No person shall at any time act as both trustee and enforcer of the same trust</p> <p>An appointment as enforcer shall be of no effect unless the appointment has been accepted by enforcer, and in the case of a purpose trust created by a Mauritian national, the appointment has been approved by the Financial Services Commission</p>
Beneficiary/ies	<p>A beneficiary shall be:</p> <ul style="list-style-type: none"> (a) identifiable by name; or (b) ascertainable by reference to – <ul style="list-style-type: none"> i. a class; or ii. a relationship to another person, whether or not living at the time of the creation of the trust or at the time by reference to which, under the terms of the trust, members of a class are to be determined <p>However, the settlor cannot be the sole beneficiary of the trust.</p> <p>The terms of a trust may:</p> <ul style="list-style-type: none"> • provide for the addition of a person as beneficiary, or for the exclusion from benefit of a beneficiary; or • impose an obligation upon a beneficiary as a condition of benefit

Types of Trust	
Discretionary Trust	A discretionary trust is the most common and flexible type of trust mainly used in wealth protection and tax planning
Purpose Trust	<p>A Mauritius trust may be created for a purpose other than a charitable purpose, notwithstanding the absence of any beneficiary</p> <p>The purpose must be specific, reasonable and capable of fulfillment; not immoral, unlawful or contrary to public policy</p> <p>A purpose trust must have an enforcer who is capable of enforcing the terms of the trust</p> <p>The instrument creating the trust must provide for the disposition of the assets upon its termination</p> <p>Duration: A purpose trust whether charitable or not, may be of perpetual duration</p>
Charitable Trust	<p>A Charitable Trust should be set up for charitable purposes only</p> <p>A charitable trust must have as its exclusive object one or more of the following purposes:</p> <ul style="list-style-type: none"> • The relief of poverty • The advancement of education • The advancement of religion • The protection of the environment • The advancement of human rights and fundamental freedoms • Any other purpose beneficial to the public in general <p>Duration: perpetual</p>
Private Trust Company	<p>A Private Trust Company is a company formed to act as Trustee to a number of trusts, either for the benefit of a single family, or for distinct (but related) family groups. The PTC takes on the trusteeship of the various family trusts and act as the registered owner of their assets</p> <p>A PTC provides:</p> <p>(i) a solution for a family situation where a greater degree of control over Trust assets is required</p> <p>(ii) flexibility in investment decision making process and allows members of succeeding generations to sit on the Board and take part in running the family business</p>

Trust Property
Cannot consist of any immovable property situated in Mauritius if the Beneficiary of the trust is a not a citizen of Mauritius unless prior approval is received from the Prime Minister's office

Taxation	
<p>A Mauritius Foreign Trust is a trust where the settlor and the beneficiaries are not resident in Mauritius. Such trusts are not subject to taxation in Mauritius</p> <p>In accordance with section 46(3) of the Income tax Act 1995, a trust qualifies for exemption from income tax in Mauritius by filing a declaration of non-residence for any income tax</p>	<p>To qualify the Settlor and/or any of the Beneficiaries should be non-resident in Mauritius throughout an income year</p> <p>A trust can opt to hold a Global Business Licence under the Financial Services Act 2007</p>