

## KEY FACTS TRUSTS

TRUSTS ARE WELL-ESTABLISHED AND EFFECTIVE TOOLS FOR WEALTH MANAGEMENT AND FAMILY SUCCESSION PLANNING. HONG KONG IS A WELL-REGULATED AND MODERN TRUST JURISDICTION AND THE GATEWAY TO CHINA.

Trident Trust Company (HK) Ltd is regulated by the Hong Kong Companies Registry and is registered as a trust company under Part VIII of the Hong Kong Trustee Ordinance to provide professional trustee services. The regulatory environment in Hong Kong facilitates the establishment of private trust company structures and trusts holding family operating businesses. Trident Trust has had a business presence in Hong Kong since 1992.

### HONG KONG – AN OVERVIEW

- > Special administrative region of China
- > Well-established legal system based on a mixed system of English model common law and Chinese customary law (in matters of family and land tenure)
- > Free market economy, highly dependent on international trade and finance
- > Hong Kong has substantially implemented the internationally agreed tax standards set out by the Organization for Economic Cooperation and Development (OECD) guidelines and is part of its “white list”
- > Hong Kong complies with the Hague Convention on the recognition of trusts
- > Hong Kong Trust law allows for the situs or the governing law of a trust to be changed from Hong Kong, or for resettlement of the assets into a new trust, subject to the laws of the receiving jurisdiction
- > There is no statutory perpetuity period for Hong Kong law trusts following the amendments to Hong Kong’s trust law in 2013
- > Hong Kong trust law allows for the reservation of investment powers by the settlor

### TAXATION

- > Tax-efficient legislation with a treaty network of more than 30 double taxation agreements in place
- > There is no capital gains tax levied in Hong Kong
- > Taxation of income in Hong Kong is assessed on a territorial basis: only income arising in or derived from Hong Kong, is subject to tax in Hong Kong
- > No estate, inheritance or wealth taxes

### FIDUCIARY SERVICES

Trident Hong Kong has expertise in managing complex, high-value and bespoke Hong Kong and foreign-law trust structures, including reserved powers trusts, discretionary trusts, private trust companies, pre-IPO trusts, employee benefit/share option trusts, US grantor/foreign grantor/non-grantor trusts, Canadian “granny” trusts, charitable trusts and occupational retirement schemes.

### PRIVATE TRUST COMPANIES

- > Hong Kong trust law provides that there is no requirement to obtain a licence to act as a Hong Kong private trust company (PTC), so long as it is not operating as a business.

- > There is no requirement for a Hong Kong trustee to be resident or administered in Hong Kong, or for it to be a Hong Kong company.
- > This offers a good foundation to establish a PTC structure, usually to hold the family business or listed company shares.
- > Correct administration of the PTC is crucial to ensuring successful succession planning and protection provided by the “Family Trust”.
- > Trident Trust can provide professional support to the PTC, as trustee of the “Family Trust”, to ensure that the trust is properly administered.

## TRUST LAW REFORM

On 17 July 2013 the Trust Law (Amendment) Bill 2013 was passed, amending Hong Kong’s Trustee Ordinance (Cap.29) and the Perpetuities and Accumulations Ordinance (Cap.257), which date back respectively to 1934 and 1970. These amendments ushered in much needed improvements and modernisation to the legal infrastructure for trusts subject to HK law, including:

- > Providing appropriate checks and balances
  - > the trustee must exercise the care and skill that is reasonable in the circumstances, taking into account any special knowledge or experience that the trustee has or has represented that it possesses
  - > professional trustees cannot be exempted from liability for wilful misconduct, gross negligence, or fraud
  - > beneficiaries have the right to appoint and retire trustees
- > Improvement or validation of certain governing powers or rules
  - > settlors can reserve to themselves certain powers
  - > abolition of the rule against perpetuities: a Hong Kong trust can be settled for an unlimited amount of time
  - > provision against forced heirship rules in jurisdictions outside Hong Kong
- > Enhancing trustees’ default powers where the trust instrument is silent
  - > in view of the complexity of modern-day trust structures, the Trust Law Amendment Ordinance 2013 enhances the default powers of trustees to ensure that the law will support effective administration of the trust even if the trust instrument does not contain specific provisions. These default powers include:
    - > the ability to appoint agents, nominees and custodians to perform certain functions
    - > the power to insure trust property against loss or damage
    - > the entitlement to receive remuneration
    - > authorisation to invest in a widened scope of investments

- ▶ PEOPLE LED
- ▶ TECH ENABLED
- ▶ GLOBAL COVERAGE
- ▶ TAILORED SERVICE

- ▶ 1,100 STAFF
- ▶ 25 JURISDICTIONS
- ▶ 47,000 ENTITIES
- ▶ \$177BN AUA

- ▶ FUNDS
- ▶ PRIVATE CLIENTS
- ▶ CORPORATE CLIENTS
- ▶ MARITIME

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