A GUIDE TO TRUSTS FOR INTERNATIONAL INVESTORS

Safeguard your investments for the future with Old Mutual International Trust Company.

Not for use in the UK, Hong Kong or Singapore.
WHAT IS A TRUST?
A trust is a legal agreement where a person, known as a settlor, transfers the ownership of their assets to another party – a trustee.

There are normally three parties involved in setting up a trust:

1. The settlor. The settlor sets up the initial investment like your Old Mutual International policy and then transfers ownership of the assets to the trustee.

2. The trustee, for example Old Mutual International Trust Company, is the legal owner of the assets and manages them in the best interests of the beneficiaries.

3. The beneficiaries are the individuals or groups of people who may receive the benefits of the trust. You, the settlor, could be one of them.

There are a number of types of trust for different circumstances, and this guide considers two of the main categories: discretionary trusts and absolute trusts.

WHAT IS A DISCRETIONARY TRUST?
In a discretionary trust there are no named beneficiaries with fixed entitlements, simply a list of people, for example: my grandchildren, and other legal entities, such as charities or companies, that may benefit in the future at the discretion of the trustees.

There is one type of discretionary trust that can include the settlor – you – as one of the beneficiaries.

WHAT IS AN ABSOLUTE TRUST?
An absolute trust is one where the trustee’s primary obligation is to pass the trust assets to the beneficiaries. Upon reaching adulthood the beneficiaries can demand their benefits be paid. In an absolute trust, you, as the settlor, name specific people such as family members as the beneficiaries, and specify their share of the trust property. The beneficiaries have an absolute right to their share of the trust property. Neither the named beneficiaries nor their share of the trust property can be altered.
There are a number of circumstances in which using a trust could safeguard your investment.

**COMPLEX FAMILIES**

You may want to ensure that on your death, all assets are held only for the benefit of your own children and are not shared out amongst ex-spouses/partners or their children.

If you have married more than once, you may want to ensure that assets are held solely for the benefit of your children and not for any stepchildren. Alternatively, in the same circumstances, you may want to ensure that assets are held solely for the benefit of your current spouse/partner and not for an ex-spouse/partner.

**FORCED HEIRSHIP**

If you’re domiciled in a country that has forced heirship rules, you may not be entirely free to decide who should benefit from your estate when you die.

In many countries, laws of succession define specific rights for your heirs, known as ‘protected heirs’. Whatever your will might say about how you would like your estate distributed, it can easily be overturned by protected heirs. This is known as ‘forced heirship’.

The primary purpose of forced heirship is to ensure that individuals make proper financial provision for their dependants. Forced heirship laws are found in a number of jurisdictions, such as Islamic countries and many European countries. A trust governed by the laws of a country other than that in which you live can sometimes be used to give you more control in these circumstances.

The law in the Isle of Man, where Old Mutual International Trust Company Limited is registered, recognises an individual’s right to create a trust under Manx law, even if their home jurisdiction does not. The Isle of Man courts will not enforce the rights of dispossessed heirs under a trust set up in the Isle of Man. It may be that forced heirs disinherited by the trust may try to challenge it in the courts of other countries. Whilst the Isle of Man legislation claims jurisdiction, it would be for foreign courts to decide if they were willing to hear an action.

This may also be a benefit to you even if the concept of forced heirship doesn’t exist in your home jurisdiction. This is because it may still be possible for someone who felt inadequately provided for in your will to make a claim against your estate.
PASSING ON YOUR WEALTH QUICKLY AND EASILY
The assets held in a trust are legally owned by the trustees on behalf of the beneficiaries. A trust can therefore avoid the possible delays associated with the legal process that decides who will administer your estate in the event of your death. Instead the trustees can distribute your wealth quickly and easily.

ASSET PROTECTION
Although asset protection may not be the primary reason to set up a trust, it can be an important factor in wealth planning. For example, if you run your own business, a trust may protect some of your personal assets should something go wrong with that business in the future. Creditors might otherwise have the ability to pursue all the business owner’s wealth.

If an Isle of Man trust was set up where the trustee was a professional trustee like Old Mutual International Trust Company, and where your business was solvent (i.e. no known or ascertained creditors) at the time it was set up, then those assets would be unlikely to be treated as your property in any later creditor claims against the business.

A trust can also be used in certain circumstances to protect personal assets from a spouse/partner in the event of separation or divorce.

TRUST CONFIDENTIALITY
The terms of a trust, unlike those of a will, are private and can offer greater confidentiality. This can be particularly useful in complex family situations.

MITIGATING POTENTIAL TAX LIABILITIES
By transferring assets to a trust, you (the settlor) are no longer the legal owner of those assets. The trustees, as legal owners of the trust property, control the assets and administer them in accordance with the terms of the trust deed and in accordance with any trust law applicable to that trust. Your trustees, such as family members, may be liable for tax, on behalf of the trust, on the trust’s assets in their own country of residence.
MAKING THE RIGHT CHOICE OF TRUSTEE

The primary responsibility of a trustee is to manage the trust fund in accordance with its terms and trust law.

The trustee must administer the trust in the best interests of the beneficiaries with honesty and with impartiality.

APPOINTING A FAMILY MEMBER OR FRIEND

The office of trustee carries with it significant responsibilities. Administering a trust successfully can be a challenge for someone unfamiliar with trusts. The law relating to trusts is not static and a trustee must therefore ensure that they keep up to date with any changes.

You could appoint a family member or close friend to take on the responsibility of managing your trust fund.

The person you appoint (the trustee) would have to accept the appointment for it to be valid. If a trustee acts in a way that contradicts the trust terms they could be held personally liable.

If you do appoint a family member or close friend as your trustee and that person dies after your death, any remaining trustees may then appoint someone you might not have been comfortable with managing your trust fund. To avoid this happening, it’s therefore good practice to appoint at least two trustees from your family or friends.

APPOINTING OLD MUTUAL INTERNATIONAL TRUST COMPANY

Old Mutual International Trust Company offers a corporate trustee service which can help give you peace of mind that your assets will be dealt with in a professional and unbiased manner, and in accordance with your wishes.

- You don’t have the dilemma of who to select as personal trustees.
- Your trustee will remain the same until such time as you decide otherwise or until your trust fund has been distributed.
- Decisions made by the trustee will be objective and in line with the aims of the trust, without personal complications or influence. This means no family member or personal friend will find themselves in a predicament – for example, when distributing your trust fund or being personally liable for their actions.
- All trust paperwork will be dealt with professionally, so there is no need for a lay trustee to spend time understanding the terms of the trust and trust law when dealing with any paperwork.
- The trust assets will be held in an offshore location, which could prove beneficial.
Many of the benefits of a trust come from transferring your assets to your trustees.

LOSS OF CONTROL

One of the main concerns people have when considering a trust is the loss of control when their trustees become the legal owners of the trust assets and have sole discretion over the use of trust property.

Although this is understandable, the reality is that by setting the trust up properly, you can help ensure that the outcome will be in line with your wishes. You can also take steps to protect your interests, and those of your chosen beneficiaries, by appointing a protector.

LETTER OF WISHES

A letter of wishes is a document which the settlor gives to the trustees setting out their wishes. For example: ‘On my daughter reaching the age of 21, I would like the trustees to consider advancing $100,000 to her’. A letter of wishes is not binding but provides the trustees with guidance to the settlor’s wishes. This is especially useful where a professional trustee like Old Mutual International Trust Company is used.

APPOINTMENT OF A PROTECTOR

You can also, if you wish, appoint a protector to your trust. Under the terms of a trust deed, the ‘protector’ is granted certain powers over the administration of a trust in addition to powers granted to the trustees. The protector does not have the same powers as a trustee and whilst they would not be involved in the day-to-day administration of the trust, they can give the trustees guidance. They also have certain duties and responsibilities, such as the power to dismiss a trustee.

THE SERVICE WE OFFER

WHAT’S INCLUDED

The Old Mutual International Trust Company provides you with trust administration services only, leaving you free to continue your relationship with your existing financial and investment advisers – we do not replace or duplicate those relationships.

The goal of our well-trained, responsive staff is to provide you with the best possible service at reasonable cost.

We concentrate on implementing the provisions of your trust and responding to enquiries to various parties to the trust – you, the beneficiaries and third parties.

WHAT’S NOT INCLUDED

Old Mutual International Trust Company’s trustee service does not include tax or investment advice. You should always consult your financial adviser on both of these matters.

WHAT IT COSTS

The current fee scale is published in the client agreement which is available from your financial adviser.
Let the experts make sure the wealth you worked hard to build is safeguarded

OLD MUTUAL INTERNATIONAL TRUST COMPANY

Old Mutual International Trust Company is part of Old Mutual International and is based in the Isle of Man. It provides you with an independent trustee service, helping to give you peace of mind that the assets of the trust will be dealt with in a professional and unbiased manner.

Old Mutual International is the international arm of Quilter, a leading wealth management business in the UK and internationally with £116.5 billion in assets under management on behalf of over 900,000 customers (as at 30 June 2018). Their offering includes platform-based investments and protection, asset management solutions and discretionary management, as well as financial advice services in the UK and Singapore.

ISLE OF MAN TRUSTS

The Isle of Man has one of the longest unbroken histories of parliamentary government in the world. It is not politically or constitutionally part of the United Kingdom, however its trust law has its origin in, and owes most of its continued development to, English trust law.

The Isle of Man is well regulated, with regulatory legislation specifically aimed at those who provide administration of trusts in the Isle of Man. The Financial Action Task Force, an inter-governmental body set up by the G7 countries in 1989, made favourable comments about the anti-money laundering controls in operation in the Isle of Man, and the island currently has a rating of Aa2 by credit rating company Moody’s. The Isle of Man provides a stable and secure environment for establishing and administering trusts.
Old Mutual International is a leading provider of offshore savings products and offers a comprehensive range of innovative and market-leading investment solutions to investors around the globe.

You could help safeguard your investment in the following products when you use Old Mutual International Trust Company:

**MANAGED CAPITAL ACCOUNT** or **EXECUTIVE WEALTHBUILDER ACCOUNTS**

Flexible investment solutions with a choice of charging structures, designed for people looking for investment growth over the medium to long term.

* Lump sum business only.

**COLLECTIVE BOND**

A flexible lump-sum investment bond that allows customers to hold all of their funds in one portfolio with the minimum amount of administration.

**EXECUTIVE BOND**

Our Executive Bonds can be an effective offshore investment solution, allowing clients to hold all of their funds, stocks and shares in one portfolio with complete control.

For more information about these investment products, please talk to your financial adviser or visit [www.oldmutualinternational.com](http://www.oldmutualinternational.com)

Not all of these products may be available in your country. Your financial adviser will be able to tell you more about this.

Your investment may fall or rise in value and you may not get back what you put in.