TABLE OF CONTENTS

Preface.............................................................................................................................................. 1
Cayman Islands Jurisdiction of Choice .......................................................................................... 2
Legal Framework and Types of Trusts........................................................................................... 3
Fiduciary and other Duties of Trustees .......................................................................................... 9
Charitable Trustees ....................................................................................................................... 10
Star Trusts in the Cayman Islands................................................................................................. 12
Anti Money Laundering Obligations............................................................................................. 13
PREFACE

The Cayman Islands is one of the world’s leading financial centres, serving as a base to 580 banks and trust companies with deposits of over US$600 billion. The availability of expert professional advice together with the Islands’ reputation as a respectable and well-regulated financial centre with stable and business-friendly government have contributed to the success of the Islands’ financial industry.

Appleby is the longest established law firm in the Cayman Islands. Our success is built on giving timely, clear and sound advice that reflects an understanding of our clients’ business needs. We regularly work with – and many of our lawyers come from – the world’s leading international firms. We aim to provide world-class quality of service and expertise, combining in-depth knowledge of Cayman Islands laws and regulations with international experience.
CAYMAN ISLANDS – JURISDICTION OF CHOICE

The Cayman Islands have, in recent years, gained increasing worldwide recognition as a jurisdiction of the highest quality. In August 2002, Moody’s Investor Services released its annual report on Cayman. The highly respected rating organisation maintained the country’s Aa3 foreign currency country ceiling and described the outlook for Cayman as stable. The Cayman Islands respectable rating is largely due to the strength of it’s strong offshore financial services industry.

Historically, the use of offshore jurisdictions was driven largely by the desire to reduce taxes. Recently, however, the motivation for using offshore jurisdictions is not only directed at reducing taxation but also at introducing a greater flexibility with regard to the operation of international corporations and corporate group structures. Other than the globalisation of business transactions, this trend has also been facilitated by improvements in the infrastructure and reputations of offshore jurisdictions generally. The Cayman Islands are a prime example of such development and recognition.

There are many reasons why the Cayman Islands are the jurisdiction of choice for the establishment of trusts, including the following:

- **Reputation** – Due to its well-developed legal system, stability and strong financial services industry, the Cayman Islands have a reputation as a high quality offshore centre.

- **Flexibility** – The Cayman Islands have the advantage of progressive “leading edge” legislation concerning trusts which removes many of the traditional limitations of the trust vehicle. (Please refer to the section entitled “Legal Framework and Types of Trusts” below.)

- **Speed** – A trust can be established in a matter of days and there is no requirement of registration. For most types of trust there is no requirement to have a Cayman Islands trustee.

- **Central Time Location** – The Cayman Islands’ central time location (GMT-5) means that we are easily and conveniently accessible from Asia, Europe and the Americas as travel times and costs can be kept to a minimum.

- **No direct taxes** – The Cayman Islands presently impose no capital gains, income, profits, corporation or withholding taxes. A trust can be registered as an “Exempted Trust” and an undertaking obtained that for a period of up to fifty years, no law enacted imposing any income capital or taxes will apply to any property comprised or income arising under the trust.

- **Availability of world-class professional services** – The Cayman Islands have a wealth of trust companies, trustees, lawyers, accountants and other service providers who specialise in providing trust and trust related services.
- **Trustworthy and reliable legal system** – Cayman Islands law which is derived from English common law and supplemented by local legislation, ensures that business in the Cayman Islands is conducted in the context of a sophisticated, respected and reliable legal system. The Cayman Islands court system is well developed, user-friendly and staffed by a respected judiciary with final appeals ultimately heard by the Privy Council in London.

- **Anti-money laundering culture** - The Cayman Islands have long been committed to implementing best international practice and are fully compliant with the requirements of the Organisation of Economic Cooperation and Development (OECD) and Financial Action Task Force (FATF).

- **Stable and business oriented government** – The Cayman Islands are a British Overseas Territory and have a history of stable government, committed to promoting the financial services industry.

- **The Cayman Islands Monetary Authority** ([www.cimoney.com.ky](http://www.cimoney.com.ky)) – The Authority’s mission is to regulate and supervise the financial services industry in order to maintain a first class financial system. The Authority has regard to international standards, the need for operational freedom by financial services providers and for the maintenance of a dynamic and competitive industry.

- **Exchange Controls** – There are no exchange control regulations in the Cayman Islands. As such, money and securities in any currency may be freely transferred to and from the Cayman Islands.

- **Legal Opinions** – Cayman Islands legal opinions are routinely relied upon in overseas transactions.

Together these factors ensure that the Cayman Islands remain a premier jurisdiction for the establishment of trusts.

**LEGAL FRAMEWORK & TYPES OF TRUSTS**

**Introduction**

A trust has no separate legal personality and is not a legal person. A trust creates a fiduciary relationship with respect to property, imposing on the trustee an obligation to deal with the trust property for the benefit of specified persons or, in certain limited cases, for specified objects. Trusts established in the Cayman Islands subject to Cayman Islands law are strongly influenced by English common law. This comprises judicial decisions of the English courts in trust cases which often go back hundreds of years but which are nevertheless still relevant.

The other source principal of Cayman Islands trust law is Cayman legislation. Cayman Islands statutes include the *Trust Law (2001 Revision)* incorporating the *Trust (Immediate Effect and Reserved Powers) Law 1998*, *Fraudulent Dispositions Law (1996 Revision)* and the *Perpetuities Law 2001 Revision*.
Law (1999 Revision). We would be happy to discuss the key features of this legislation with you.

The other source of Cayman Islands trust law is the decisions of the Cayman Islands courts. Many of the trusts established in the Cayman Islands in the early years of the growth of the jurisdiction as an offshore financial centre have now, perhaps inevitably, become the subject of litigation, most frequently characterised by disputes between beneficiaries and/or trustees and by applications made by trustees to the courts for directions to resolve ambiguities or otherwise deal with issues that were not foreseen when the trusts were first established.

When considering an appropriate jurisdiction in which to establish a trust, the availability of a sound legal system and independent judiciary are very important factors. The Cayman Islands with their English common law base and the right of appeal up to the Privy Council in England ensure that the Cayman Islands are an ideal jurisdiction for the establishment and administration of offshore trusts.

**Reasons for Establishing a Trust**

(a) **Estate Planning** Estate planning is a primary reason for establishing a trust, whether onshore or offshore. Within this context, the exclusion of assets of an estate subject to probate is usually the prime consideration. Other factors include (a) ensuring that particular assets (e.g. the family business) are kept within the family and (b) avoiding forced heirship rules in civil law jurisdictions.

(b) **Professional Portfolio Management** Whilst it is not necessary to establish a trust in order to take advantage of professional portfolio management capabilities which most trust companies usually have, this is often a factor taken into account in conjunction with other reasons for establishing a trust.

(c) **Taxes** In the past, the avoidance of tax was an important reason for establishing a trust. However, many jurisdictions have now imposed substantial rules and regulations which substantially limit the tax advantages of establishing an offshore trust. Nevertheless, even if establishing a trust for other reasons, it is always an important consideration to ensure that there are no tax disadvantages onshore to establishing a trust. It is essential when establishing a trust structure that settlors and trustees obtain appropriate tax advice from all relevant jurisdictions.

(d) **Asset Protection** As an offshore jurisdiction, the Cayman Islands discourage fraudulent dispositions of any kind. In 1989, the Cayman Islands was the first jurisdiction to legislate in this area with the enactment of the Fraudulent Dispositions Law. The intention of this law is to make any disposition of property into, for example a trust, voidable by a creditor prejudiced by such disposition where the disposition is made with intent to defraud present creditors. The burden of proof to establish the fraudulent intention is upon the creditor. An action by a creditor to attack what would otherwise be a fraudulent disposition cannot be brought more than six years after the
relevant disposition. In contrast with other offshore jurisdictions which have much shorter limitation periods of one or two years or, in some cases, months.

Another important aspect of the *Fraudulent Dispositions Law* affects the trustees rather than the settlor of a trust or its beneficiaries. This provision provides that a trustee that has not acted in bad faith, notwithstanding that a fraudulent disposition is set aside, will have first claim on the trust assets for its costs in defending the fraudulent disposition action as well as its other proper fees and costs. Moreover, any distributions made by the trustee in good faith to beneficiaries before the trust is set aside will not be recoverable.

It is still often an important consideration in deciding whether to establish a trust, to obtain asset protection against future creditors where there is no present intention to defraud existing creditors.

**Structures**

A trust can be established by a unilateral declaration of trust made by the trustee. Alternatively, a trust can be established by means of deed of settlement to which both the trustee and the settlor are parties.

A majority of trusts are irrevocable which means that, subject to the comments below, the settlor loses control over the trust assets completely. Alternatively, a trust can be declared revocable, usually by the settlor, or it can be partially revocable in certain circumstances. Adverse tax consequences may flow from the creation of a revocable trust. And onshore tax advice should be taken in this regard.

Trusts are principally established “inter-vivos” which means that they are created and assets contributed to the trust within the life-time of the settlor. Alternatively, a testamentary trust is possible in which the assets of the settlor are deemed to be held on trust on the death of the settlor under the terms of the will or succession arrangements of the settlor.

(a) **Discretionary Trusts** The discretionary trust is probably the most common trust vehicles used in the Cayman Islands. In effect, the trustee is given an absolute discretion as to how to manage and invest the trust estate and how much and to which beneficiaries distributions should be made. In many countries, for example, in Latin America, there is an understandable reluctance to give a third party complete control over one’s life-time earnings and assets. Under the Trusts Law (2001 Revision) there are a number of limitations (or degrees of limitations) which can be imposed on these discretionary powers.

(b) **Strict Settlements** A strict settlement is the opposite of a discretionary trust. The trust document will strictly define exactly what the trustee can and can't do, when it will be done, for whose benefit and what will happen if circumstances change and the strict instructions cannot for some reason be followed. This highlights probably the less flexible nature of this type of trust because the unforeseeable will usually happen
thereby paralysing the trust. The trustee will then have to apply to the courts for directions as to what it should do in those circumstances.

(c) **Protector and Reserved Powers** One half-way house between a discretionary and strict settlement is to make provision within the trust document for a protector or other similar individual with quasi-trustee powers. The trust document will then limit the discretionary powers of the trustee by requiring the trustee either to consult with, obtain the consent of or otherwise follow the instructions of the protector. These limitations can be in relation to the investment powers of the trustee and can also extend to the distribution of assets to the beneficiaries. A common feature is to give the protector the power to remove the trustee and appoint a new trustee. However, adverse tax consequences can result for the trust if a protector is resident in a jurisdiction which would attempt to tax the trust because of the powers retained by the protector.

An alternative to the appointment of a protector is to retain (or reserve) certain of these powers in the hands of the settlor (or grantor) of the trust. Again, such powers reserved by the settlor can include the power to appoint or remove the trustees, power to consult or direct investment management functions and power to control distributions to the beneficiaries. However, adverse tax consequences can flow both to the settlor and to the trust depending upon the tax jurisdiction to which the settlor is subject.

(d) **Advisors and Investment Guidelines** English judicial decisions going back hundreds of years have established that the common law duty of a trustee is to preserve the capital for the benefit of the beneficiaries. In the absence of careful documentation, therefore, a trustee will be restricted to a balance of conservative investments. Equities, for example, have been determined to be too high risk for a trust investment and one can only guess what the attitude would be to derivatives and options.

It is important to establish investment parameters within the trust document. This can either be done within the trust deed itself or by incorporating into the trust documents investment guidelines which can be subject to change by, for example, the settlor or a protector, depending upon changes in circumstances. Such guidelines should establish a base currency for the trust and contain a description of the general investment parameters such as the percentage mix between sovereign and corporate issuers, equities and fixed income and geographical concentrations (e.g. OECD or emerging markets).

(e) **Letters of Wishes** A common practice has developed of the settlor issuing a non-binding letter, known as a “Letter of Wishes”, addressed to the trustee to supplement the provisions of the trust documents. The intention is to give the trustee a degree of guidance on investment guidelines and distributions to beneficiaries without derogating from the discretion of the trustee. It is important to bear in mind that a letter of wishes is not binding on the trustee but merely serves as a guide. From the point of view of the trustee, therefore, the trustee cannot escape liability just because the trustee has followed the wishes of the settlor. As compared to incorporating the investment
guidelines within the trust document as previously mentioned, high risk guidelines in
the letter of wishes will not protect a trustee from attack by future beneficiaries. Similarly, whilst the general practice is that trustees will usually seek to follow the
wishes expressed in the letter where possible, circumstances may change which may
mean that the trustees cannot and should not follow the settlor's wishes. It must always
be remembered that the beneficiaries can enforce their rights against the trustee by
requiring the trustee to act either in accordance with its common law duties or
otherwise in accordance with the trust documents.

(f) **Exempted Trusts**  The *Trusts Law (2001 Revision)* provides for a separate category of
trusts called exempted trusts. With the changes to the perpetuity periods of all trusts
introduced by the *Perpetuities Law* in 1995, the only significant feature remaining of an
exempted trust is the entitlement to a tax exemption undertaking. This undertaking
guarantees that the trust will pay no Cayman Islands taxes for a fixed period (usually 50
years). There are fairly minimal fees (US$450 on registration and US$120 annually)
payable for the privilege of this tax exemption undertaking and it should be
remembered that no Cayman trusts pay any Cayman taxes of any nature whether
exempted or otherwise now and none are foreseeable.

(g) **Private Trust Companies**  One way for a settlor to retain some control over the
affairs of a trust is to establish and licence a private trust company in the Cayman
Islands. If this is desired, it will be necessary to appoint directors of such private trust
company with substantial trust experience.

**Perpetuity Periods**

Until the *Perpetuities Law*, first enacted in 1995, Cayman trusts were subject to English rules
concerning perpetuities. The effect of these rules was to limit the number of generations by
which a settlor could place trust assets subject to the trust. The previous rule was that trust assets
must vest within a perpetuity period of a life-in-being at the date the trust was created plus 21
years. The *Perpetuities Law* replaced the life-in-being rules with a much simpler rule so that the
perpetuity period is now fixed at 150 years. If not previously distributed by the trustee, a
Cayman Islands trust must now enable the trustee to terminate the trust and distribute the trust
assets to the beneficiaries within 150 years from the date of its creation.

**Forced Heirship**

A number of jurisdictions do not recognise the concept of a trust. Furthermore many of these
same jurisdictions specify how the assets of a deceased person must be distributed to his heirs
with a fixed percentage of the estate, for example, to the spouse and fixed percentages for the
children. A trust created by a settlor who is domiciled in one of these jurisdictions may be
subject to attack both by the heirs in that jurisdiction and/or perhaps by a regulatory or tax
authority in that jurisdiction. Apart from the fact that this defeats the purpose of the settlor
setting up the trust, this obviously has adverse consequences to the trustees who may have to
return their fees and possibly even recover distributions made to beneficiaries. In response to
this, Part VII of the *Trusts Law (2001 Revision)* provides that (at least as far as Cayman Islands law is concerned) no trust governed by Cayman Islands law is void or can be set aside because the laws of any foreign jurisdiction prohibit or do not recognise the concept of a trust, or the trust avoids or defeats forced islands rights conferred by foreign law. The express selection of the laws of the Cayman Islands to govern the trust will be valid and effective. Even the capacity of the settlor to create the trust will be governed by Cayman law. So far as the Cayman Islands are concerned, therefore, trustees need be less concerned by the applicability of forced provisions in other jurisdictions.

However, this Law only goes so far in dealing with forced issues. Consideration must also be given to the location of the trust assets. Obviously a jurisdiction with forced heirship laws will not hesitate to attach any assets of the trust which it finds within its jurisdiction, so that the trust assets can be applied in accordance with the local forced heirship rules.

**Charitable Trusts and Foundations**

The Cayman Islands do not recognise as a separate legal entity charitable foundations which are common in some European jurisdictions. However, it is possible to achieve the same effect by the use of charitable trusts, STAR Trusts or a Cayman company limited by guarantee with charitable objects. The perpetuity period becomes important here. One of the exceptions to the rule against perpetuities is a charitable trust. In other words, a charitable trust can have unlimited duration. Cayman Islands law adopts the English common law definition of charitable objects and it is important to ensure that charitable trust complies with the definitions or it will be held to be void.

A particular use of charitable trusts has developed in the Cayman Islands as part of structured finance transactions. In such transactions, particular assets are settled into a charitable trust so that the assets will no longer be owned by the settlor and will be deemed to be “off-balance sheet”. These structures are particularly useful for the repackaging of securities and other self-financing transactions.
Foundations

Foundations for non-charitable or other philanthropic purposes can be created by establishing a STAR Trust (see below) or by incorporation of a Cayman Islands company limited by guarantee. It is important to note that other than a STAR trust, a Cayman Islands trust which includes any non-charitable purposes will be void.

Purpose Trusts

Part VII of the Trusts Law (2001 Revision), which replaced the Special Trusts (Alternative Regime) Law, 1997, permits the creation of non-charitable purpose trusts, known as "special trusts" or “STAR Trusts”. The rules of traditional trust law are varied in certain respects for STAR trusts established pursuant to the Law. The Law provides that a STAR trust may be created for any objects, whether persons, purposes or both, provided they are lawful and not contrary to public policy; this varies the rule of traditional trust law that a trust will be void if its objects are uncertain. The settlor is also permitted to specify in the trust instrument the person (who need not be a beneficiary) who is to have standing to enforce the STAR trust and is known as ‘The Enforcer’. Special trusts may be used as part of structured finance transactions instead of charitable trusts.

FIDUCIARY AND OTHER DUTIES OF TRUSTEES

A trustee has a fiduciary obligation towards the beneficiaries (not the settlor) of the trust, an obligation which demands honesty, integrity, loyalty and high standards of care and good faith. The trustee is required to act within the terms of the trust instrument and must always act in the interests of the beneficiaries.

The precise obligations of a trustee will vary according to the provisions of the trust instrument. Unless expressly extended in the trust, a trustee’s investment powers are restricted to those powers granted pursuant to the Trusts Law (2001 Revision). The general duties of trustees are to:

- Act in good faith and in accordance with the terms of the trust deed;
- Manage the trust fund bona fide in the best interests of the beneficiaries. A trustee is under a personal duty to acquaint itself with the powers and duties which will be assumed by accepting the office;
- Exercise the level of care and skill in administering the trust as might reasonably be expected of trustees with their level of experience;
- Take reasonable steps to preserve and protect the assets in the trust fund;
- Disclose any conflict in relation to the trust. A trustee must not generally profit from the trust;
• Keep accurate records and accounts;
• Satisfy itself as to the legitimacy of the source of the funds in trust.

A trustee who fails to comply with its duties will be liable to the beneficiaries to account for loss occasioned by any breach of trust. Where there is more than one trustee all decisions should be unanimous.

CHARITABLE TRUSTEES

Duties of Charity Trustees

Observance of the Trust. The duties of charity trustees are the same in principle as those of non-charitable trustees. The primary duty is to execute the trust in accordance with its terms. For example, it is a breach of duty for charity trustees to divert a charitable fund given for one object to another not contemplated by the settlor.

Duty Towards Trust Property. It is the duty of charity trustees to protect the trust property, but they are not bound to look with more prudence to the affairs of the charity than to their own.

Duty Towards Objects. It is improper for charity trustees to retain the trust fund without taking any steps to apply the property for charity. Where there is a temporary or permanent failure of the particular object of the charitable trust, the charity trustees may not merely retain the property for themselves. In this situation the charity trustees are under a duty to secure the effective use of the charity as nearly as may be practicable or reasonable in accordance with the law.

If it is established that the stated objects of a charitable gift fail, the property may be applied cy-près for a charitable purpose similar to the original object, otherwise the whole gift fails. Generally, cy-près application is not possible unless (1) the donor has shown a general charitable intention or (2) either, (a) the gift has taken effect but failed subsequently or (b) the amount of the gift is, from the outset surplus to what is required to achieve the stated object.

Accounts

Charity trustees have a general duty to keep proper books of account with respect to the affairs of the charity.
Powers of Charity Trustees

Exercise of Powers Generally. Trustees invested with discretionary powers must exercise them honestly and with fair consideration of the subject but need not give reasons for their actions. The court will interfere where the charity trustees state reasons that do not justify their conclusions, or where they have acted corruptly or improperly.

In addition, the Trusts Law (2001 Revision) implies certain powers in relation to all Cayman Islands trusts, some of which are subject to provision to the contrary in the trust instrument.

Exercise of Discretionary Powers. The trust instrument should specify the mode of applying the charitable gift, the manner of exercise of the power and its scope.

Liability of Charity Trustees

Misapplication of Trust Property. In the absence of evidence to the contrary it is presumed that charity trustees have faithfully discharged their duty.

Accounts of Defaulting Trustees. The general rule is that in the absence of special circumstances accounts are to be taken against the charity trustees from the date at which the misapplication commenced.

Jurisdiction Over Charities

The Crown represented by the Attorney General. The Crown as “parens patriae” is the constitutional protector of all property subject to charitable trusts, such trusts being essentially matters of public concern. The Attorney General, who represents the Crown for all forensic purposes, is the proper person to take proceedings on behalf of and to protect charities. The Attorney General represents the beneficial interest (i.e.- the objects) of the charity.

The Attorney General is not under a duty to enforce for his strict legal rights when the result of enforcing them would be oppressive to individuals. However, if he insists the court will enforce them.

The Courts. As a general rule the Court has jurisdiction to enforce the observance or redress breaches of trusts. In the case of charities, the court also has jurisdiction, in certain circumstances, to make schemes for the administration of the charity and to alter or modify the trust to a greater or lesser degree by virtue of the cy-près doctrine. When there is a gift to charity and the donor either created or intended to create a trust, whether the objects are specified or indefinite, the court has jurisdiction to enforce the execution of the trust, and, if necessary, to apply the gift to charitable purposes by means of a scheme.

As a general rule, the court does not interfere with the execution of a charitable trust unless it appears that its interference will benefit the charity. However, the court always has a
general controlling power over all charitable institutions and can always enforce the performance of trusts and redress breaches of trust.

**Actions and Other Proceedings**

The general rules as to who are the proper parties are subject to two qualifications in the case of proceedings involving charities, namely:

(i) They may only be brought by the charity trustees, or by any interested person in the charity, or by the Attorney General; and

(ii) The Attorney General is a necessary party.

**STAR TRUSTS IN THE CAYMAN ISLANDS**

*The Special Trusts (Alternative Regime) Law, 1997* ("STAR Law") now incorporated in the *Trusts Law (2001 Revision)*, has been in effect in the Cayman Islands for over five years and allows for the creation of non-charitable purpose trusts and other special trusts and powers ("Purpose Trust") under Cayman law.

Before the STAR Law was enacted, trusts established for a purpose (other than a charitable purpose) were, as a general rule void under Cayman Islands law. The following three conditions had to be met before the courts would uphold a Purpose Trust:

(a) the trust needed to be for a purpose which was previously upheld by the court (the so-called "monument" and "animal" cases);

(b) the trust had to be subject to a perpetuity period;

(c) there had to be an individual to execute and enforce the Purpose Trust.

The STAR Law was passed in response to a popular demand for non-charitable Purpose Trusts. The principal rules militating against Purpose Trusts have been overcome by the STAR Law, which provides a secure legal framework. For example, the beneficiary principle (which provides that there must be an ascertainable beneficiary with a proprietary interest in the trust property capable of enforcing the trust) has been solved by the requirement for an Enforcer who is subject to fiduciary duties. The requirement of certainty whereby the terms of the trust must be sufficiently clear and capable of being executed is facilitated in the STAR Law by giving the court power to resolve uncertainty. Under Section 13(1) Perpetuities Law (1999 Revision), the rule against perpetuities does not apply to a trust or power created under the STAR Law, so there is no risk of a resulting trust in favour of the settlor at the end of the permitted period. Unless the Purpose Trust is contrary to public policy it will not be struck down on the basis that it is perpetual. The STAR Law also provides for subsequent reformation of a Purpose Trust by the courts.
The STAR Law has therefore provided many solutions in the area of Purpose Trusts and this dynamic piece of legislation has bolstered Cayman's position as a leading offshore trust jurisdiction. It should be noted that the STAR Law is not just restricted to non-charitable purpose trusts and can be invoked by the settlor to cover trusts of all kinds, e.g. trusts for persons, trusts for purposes (charitable, philanthropic or non-charitable) and trusts for a combination of persons and purposes. This provides for greater planning flexibility for settlors.

The main features of a trust established under the STAR Law are as follows:-

1. A trust or power which is subject to the STAR Law must be in writing, either testamentary or inter vivos, and either contain a declaration that the STAR Law is to apply or, if there is no such declaration, the STAR Law must otherwise be deemed to apply.

2. A trust company licensed in the Cayman Islands under our Banks & Trust Companies Law must be the trustee. (There may be a foreign co-trustee).

3. A Purpose Trust must have one or more enforcers, who may or may not be beneficiaries, appointed under the terms of the trust document or by court order (e.g. where the enforcer under the trust document is unable or unwilling to act or if there is no enforcer for any reason).

4. A beneficiary of a Purpose Trust has no standing as such to enforce a trust, which right is vested in the enforcer.

5. The objects or beneficiaries of a Purpose Trust can be persons of any number and/or purposes of any number or kind, charitable or non-charitable, provided such purposes are lawful and not contrary to public policy.

6. Any uncertainty as to objects or mode of execution or administration can be resolved by the trustee or any other person, if the trust document so provides, or by a court.

7. A Purpose Trust which cannot be executed or administered in whole or in part, because it is impossible, impracticable, unlawful or contrary to public policy or is obsolete in that, by reason of changed circumstances, it fails to achieve its general intent can be reformed by the courts.

Purpose Trusts have many useful applications. Settlors can create Purpose Trusts in cases when they are not certain that their purposes qualify as exclusively charitable. A Purpose Trust may be used to establish philanthropic or quasi-charitable trusts, given that many worthy causes are not necessarily charitable. A Purpose Trust may also be applied where, for example, the settlor wants to benefit his family but also wants to ensure the continuation of his family business. The STAR Law has opened the door to a variety of interesting and useful possibilities.
ANTI-MONEY LAUNDERING OBLIGATIONS

The Cayman Islands legal system incorporates sophisticated anti-money laundering laws and regulations in accordance with modern international best practice. Appleby and its affiliated corporate management provider, Appleby Corporate Services, have always required certain information from our clients in all cases. Beyond that, we are required to obtain and keep on file extensive documentation of the identity of each client for whom certain specified types of business are conducted. In certain cases, it may be possible to rely on an exemption or on client identification carried out by another regulated service provider, and we will do so where appropriate. However, it will often be necessary to ask clients or prospective clients for documentary evidence of their identity, and often also that of related parties, as well as certain references.

We ask for the co-operation and understanding of our clients in this process, which is an important element of the drive by leading offshore financial centres such as the Cayman Islands to ensure that they are not used as a vehicle for unlawful purposes.
For more specific advice on trusts in the Cayman Islands, we invite you to contact the following in the Trust Practice Group:

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Appleby is one of the largest and most well respected offshore-based legal, fiduciary and administration service providers. With over 600 lawyers and staff, the organisation is uniquely positioned in the key offshore jurisdictions of Bermuda, the British Virgin Islands, the Cayman Islands, Jersey and Mauritius as well as the financial centres of London and Hong Kong.

The group provides sophisticated, specialised services primarily in the areas of: Corporate and Commercial, Litigation and Insolvency, Trusts and Property. Complementing our legal expertise are our service companies, Appleby Corporate Services, Appleby Trust and Reid Management.

Appleby's associated service companies provide clients with a range of supplementary services:

- Appleby Corporate Services provides corporate administration services to thousands of companies that have their registered offices in the offshore jurisdictions in which we are located.

- Appleby Trust consists of licensed trust companies in Bermuda, Cayman Islands, Jersey and Mauritius offering a comprehensive range of trust services. In Jersey, the group also provides employee benefits trusts, corporate and funds administration services. Appleby Securities (Jersey) Limited acts as a listing sponsor for the Channel Islands Stock Exchange.

- Reid Management Limited provides professional management, consulting and accounting services and also acts as a listing sponsor for the Bermuda Stock Exchange.

Appleby is also a member of TerraLex, an international association of law firms; the World Services Group, a global multi-disciplinary network of service providers; and is represented in many of the major international legal organisations.
This publication is intended only to provide a summary of the subject matter covered. It does not purport to be comprehensive or to provide legal advice. No person should act in reliance on any statement contained in this publication without first obtaining specific professional advice.

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