

PRINCIPALITY OF LIECHTENSTEIN – TRADITIONAL AND MODERN

LIECHTENSTEIN TRUST DIVERSE AND FLEXIBLE

In 2019, the Principality of Liechtenstein celebrates “300 Years Liechtenstein”. In 1719 Emperor Charles VI. united the County of Vaduz with the Lordship of Schellenberg, two former imperial territories, belonging to the Princely House of Liechtenstein, to create an Imperial Principality. Liechtenstein is the only European country that has not changed its borders over the last 300 years. The principality has displayed continuity and stability over a long period of time – two values which provide an optimistic view for the future.

Continuity and stability are also reflected in the Liechtenstein corporate order. In 1926, the Persons and Company Law laid the foundations for a successful Liechtenstein financial market.

Through the Persons and Company Act, the country, which, at that time, was predominantly agricultural, now offered a broad band of legal entities to foreign investors: in addition to the Public Limited Company (PLC), the Establishment and the Foundation, it also introduced the Trust. Liechtenstein was the first continental European country which anchored the Anglo-Saxon trust into its law.

Similar to the Foundation, the Liechtenstein Trust is ideally suited for the long-term protection of family assets as well as hereditary planning and company succession. Just like its Anglo-Saxon role model, the Liechtenstein Trust, which has remained unchanged for nearly a century, has provided a high level of variety and flexibility in asset protection. The trust is seen as a real alternative ➔

LIECHTENSTEIN TRUSTS AND FOUNDATIONS DIFFERENT INSTRUMENTS – SAME PURPOSE

In 1926, within the framework of Persons and Company Law (PGR), Liechtenstein created two legal instruments for asset protection: the Trust and the Foundation. Both legal constructs can look back on a long tradition with regard to their legal construction and judgement. For almost 100 years, trusts and foundations have also offered similar but partly different possibilities for financial intermediaries to structure the private equity of their clients.

The Liechtenstein Foundation, in essence, serves the protection of privacy. Foundation Law offers extensive scope for private equity, especially for inheritance planning and asset protection. The Foundation is a legal entity which is created in accordance with the specifications of the founder, who determines the purpose of the foundation and the use of its assets. The minimum capital for a Liechtenstein Foundation is 30,000 Swiss Francs, Euros or US Dollars. A foundation can, without any particular restrictions, hold any form of assets.

The Liechtenstein Trust, which is based on Anglo-Saxon law, is seen as an alternative to the foundation. In comparison to the foundation, a trust offers a higher degree of flexibility in the long-term security of private assets. A trust is created when assets are transferred from the settlor to the trustee. The trustee administers the assets of the trust and must allocate payments to designated persons in accordance with the deed. Within the terms of asset administration, participations can be acquired on behalf of the trust.

Whereas foundation law was extensively revised in 2009, trust law has remained basically unchanged since its introduction in 1926. In 2006, Liechtenstein joined the Hague Trust Convention, which regulates the law applying to trusts and their recognition. The Hague Trust Convention created an internationally valid trust model.

Liechtenstein was the first continental European country to anchor Anglo-Saxon trust into law.

EDITORIAL



If anyone believed, that there would be a consolidation period for the financial marketplace Liechtenstein, after the implementation of the international OECD standards with regard to combatting money laundering and increasing tax transparency, they were wrong. Parallel to this, the new regulations required constant adjustment by the participants in the financial market which, in part, involved considerable effort and some limitations. The Government's goal is to position Liechtenstein internationally as an innovative, stable and reliable financial marketplace. That is why great emphasis has been placed on maintaining global standards. The next assessment by Moneyval, the expert board of the European Council, has been scheduled for 2020. Both, Moneyval and the International Monetary Fund certified Liechtenstein's high standards in their last examination. Liechtenstein, once again, stands a good chance of receiving excellent ratings.

Yours truly,

Dr. Norbert Seeger

to the foundation for structuring private assets and is currently experiencing a renaissance throughout Europe: the Czech Republic and Hungary have already introduced their own trust laws; other countries – such as Switzerland and Italy – recognise the trust as a legal institution.

The renaissance of the trust is closely connected to the fact that assets should be protected against risks such as uncertainties in politically and economically unstable countries. Furthermore, the trust offers the possibility of consolidating assets which are spread over various jurisdictions.

The Flexible Structure of a Trust

The trust, in accordance with Liechtenstein law, is not a legal person but a specially designed deed set up between the settlor and the trustee. The settlor can be a natural person or a legal entity. On the basis of the deed, the settlor hands over the assets to the trustee, who acts, in his own name, as an independent legal body within the terms of a trust deed, administering and using the assets in the interest of the beneficiaries. The trustee outwardly exercises his duties as owner of the trust assets. Contrary to the Anglo-Saxon law, a Liechtenstein trusteeship is not limited by time but can be set up for an indefinite period. In addition, Liechtenstein permits the constitution of a trust in accordance with foreign laws, whereby the law prescribes that, outwardly, only the Liechtenstein law is applicable: the foreign law regulates the internal relationship between the settlor, the trustee and the beneficiaries, whereas representation of the trusteeship to third parties is governed by Liechtenstein law.

One advantage of a Liechtenstein trust is that the trusteeship can be set up for any purpose, however the fulfilment of the purpose may not be, according to Liechtenstein law, illegal, immoral or impossible. On condition that the settlor complies with this law, the settlor can freely set out the conditions of the trust relationship. For example it is possible to stipulate that the trust volume or assets should revert to the settlor or be diverted to other persons under set conditions or after a set period of time. Equally, the settlor can

determine under what conditions a beneficiary can be excluded and the conditions for the transfer of funds to the remaining beneficiaries – in the case of an exclusion or the demise of a beneficiary. The law also permits the setting up of a Purpose Trust that does not designate beneficiaries but follows solely the fulfilment of the trust purpose.

A Protector as a Supervisory Body

Official trust registration can be undertaken in two ways: there is a choice between a deposit and an entry. Entry in the Commercial Register only requires the name of the trust and that of the trustee, the trust deed must not be presented. In contrast, a deposit is when the actual trust deed is deposited. The contents of an entry into the Commercial Register are open to the public. Deposited documents, however, can only be viewed by the settlor or an authorised representative. Third persons, however, may be allowed to view if there is a legitimate interest, this requires a ruling of the State Court.

The administration of the trust i.e. the trust assets is conducted by the trustee in accordance with the trust deed. Although the trustee is seen outwardly to be the owner of the trust property, this must be kept separate from the trustee's own assets. The trustee is obliged to keep an inventory of the trust assets which must be updated annually. An additional obligation of the trustee is to serve the beneficiaries in accordance with the trust deed.

A protector can be nominated to safeguard the wishes of the settlor. This can be a natural or legal person. The founder of a trust, who nominates a protector, usually chooses a person of trust to monitor whether the trustee is fulfilling his duties in accordance with the wishes of the settlor. The terms and extent of the protector's competence with regard to the administration and use of the assets must be set out in the trust deed. Although the trustee has power of disposition over the assets, he is obliged to administer the assets in accordance with the conditions of the trust to the advantage of the beneficiaries.

The Trust is a real alternative to the Foundation for structuring private assets and succession.

Asset Protection and Succession Planning

A Liechtenstein trust, as well as a foundation, is suitable for the long-term protection of assets, family wealth and succession planning. The settlor of a trust can structure the inheritance in accordance with his wishes, in order to avoid family disagreements, when the estate is distributed. Provisions for the welfare of family members are also possible e.g. support, education or care. In the case of succession, specific requirements can be placed on the trustee as to what must be done on the demise of the settlor e.g. how successors should be cared for and what special features must be considered. This will ensure that the distribution of the inheritance is not blocked over a long period of time due to differences between the heirs.

The trust also offers tremendous advantages when the assets or family wealth are to be secured over a long period. Transferring the power of disposition of the family assets to a trustee, can safeguard the family wealth for generations to come. If a trust is established for a long period of time, it must be taken into account that the conditions, family relationships of the settlor and the beneficiaries or the legal aspects may change. To be prepared for such changes, the settlor can reserve a degree of influence.

Summary: Trusts Experience a Renaissance

Liechtenstein was the first continental European state to anchor the Anglo-Saxon trust into its law. As early as 1926, law makers created, in accordance with the Anglo-Saxon role model, a legal instrument for the structuring and preservation of private wealth. Contrary to the foundation, which was introduced into Persons and Company Law at the same time, the trust has remained unchanged over the entire period. In order to increase legal certainty, foundation law was totally revised whereby the scope of a foundation was limited. The close alignment with the tradition of Common Law has given the trust more flexibility in asset structuring. The trust has recently experienced a renaissance in the field of

asset protection and succession. Many countries in Europe are considering the recognition of trusts or have already introduced the legal status of a trust.

Liechtenstein has also secured trust law internationally. In 2006, Liechtenstein joined the Hague Trust Convention (HTC) which recognises and applies the laws regarding trusts. This convention provides an internationally valid model for the creation of trusts. By joining the Hague Trust Convention, Liechtenstein positioned itself internationally in the community of trust law states. The decision of the EFTA Court on 9th July 2014 is of considerable importance to Liechtenstein trusts: according to this judgement, trusts and beneficiaries enjoy the fundamental rights of the EEA agreement. The Court set out in its judgement that the trust may profit from the freedom of establishment in as far as the trust's commercial activities are exercised within the EEA. In addition, beneficiaries can, in accordance with this judgement, rely →

NEW BLOCKCHAIN LAW FROM 1ST JANUARY 2020

At the beginning of October 2019, the Liechtenstein Parliament unanimously passed the "Token and Trustworthy Technology Providers Law (TVTGL)", which, at the request of the Government, will come into force on 1st January 2020. With this new law, Liechtenstein is the first country to have, at its disposal, extensive regulations on the Token Economy. In order to allow the law to remain valid for future technological generations, the Government coined the term "Transaction Systems Relying on Trustworthy Technology (TT Systems)". This includes, in addition to Blockchain Technology, other trustworthy systems.

Blockchain, with its extensive potential as a base technology, provides the legal foundation covering not only current applications such as Cryptocurrencies or Initial Coin Offerings (ICO) but also all other applications of the Token Economy. This legally covers various new applications in the fields of financial services, logistics, mobility, energy services, industry and the media.

The Blockchain Law opens new opportunities for customers of the STABIQ TREASURE HOUSE. The STABIQ TREASURE HOUSE, covering 6000 m², offers a bespoke atmosphere for the safekeeping of valuable items such as gold and precious metals, cultural goods, works of art and jewelry in addition to coin collections and watches. Clients allow their stored valuables to be assessed by a so-called physical validator, they are then entered (logged) into the Blockchain system. The validator also ensures that no legal clash between the analogue and digital world can occur, by only allocating the tokened objects to the person who has the token legal right to them.

Blockchain technology allows such "information" to be depicted and exchanged with interested parties, copy and forgery-free. The objects remain in the rented facilities of the STABIQ TREASURE HOUSE, protected by the highest security standards.

In joining the Hague Trust Convention, Liechtenstein has secured its trust laws internationally.

on the free movement of capital when and if they can prove to the national tax offices that they have no influence on the trust. A limitation of EEA fundamental freedom is,

according to the EFTA Court, only permissible if the trust is an "artificial construct" for the avoidance of tax.

F.L. TRENDING ONLINE

www.seeger.li

Visit our website at www.seeger.li.

Here you can download previous editions of F.L. TRENDING.

For data protection purposes, we kindly ask you to refer to our data protection declaration on our website www.arcomm.li, in particular to the right of objection under Art. 21 of the EU General Data Protection Regulation.

© 2019

The title F.L. TRENDING is a registered trademark.

The articles in this newsletter do not maintain to be exhaustive and are protected by copyright.

Copying and reprinting requires written permission by the publisher.

IMPRINT

Publisher:

ArComm Trust Company Est.

Responsible for content:

Dr. iur. et lic. oec. HSG Norbert Seeger
PO Box 1618, Am Schrägen Weg 14
9490 Vaduz, Liechtenstein
T +423 232 08 08, F +423 232 06 30
admin@seeger.li, www.seeger.li

OUR SERVICES:



Your personal partner for over 30 years in:

- Legal Representation
- Legal Counselling and Contract Design
- Design and Implementation of Business Structures
- International Finance and Trading
- Commercial and Industrial Protection
- Legal Opinions

www.seeger.li, admin@seeger.li,
Telephone +423 232 08 08



Your reliable support in:

- International Financial, Tax and Economic Counselling
- Holistic Family Office Solutions
- Asset Protection Solutions
- Asset and Wealth Counselling
- Inheritance Planning
- Bookkeeping, Accounting and Controlling

www.arcomm.li, admin@arcomm.li,
Telephone +423 232 06 31



Highest level of security:

- Vaults and Safes for Valuables i.e. Precious Objects of all Descriptions
- Open Customs Warehouse (OCW)
- Security 24/7
- 4 Bespoke Showrooms

www.stabiq.com, admin@stabiq.com,
Telephone +423 238 82 80