

## Reform of the Cyprus International Trust Law

The long-awaited reform of the Cyprus International Trusts Law, a much-needed initiative, has finally become reality with the enactment of the International Trust (Amending) Law of 2011. When it came into force in 1992, the Cyprus International Trusts Law gave Cyprus a “state of the art” international trusts regime, with excellent tax mitigation and asset protection features.

However, the world has changed considerably in the past 20 years, and a number of restrictions and limitations contained in the original law are no longer necessary. New opportunities and investment practices have emerged, which the original law did not anticipate. As a result, while the basic structure provided by the International Trusts Law remained sound, it required updating to adapt it to the needs of investors today and in the coming years.

The amending law makes numerous changes to the original law, many of which are of a relatively technical nature. The key changes are outlined in the following paragraphs.

### Clarifying the provisions on residence

When the 1992 law was drafted, the availability of international trusts was restricted to non-resident settlors in order to prevent tax avoidance by Cyprus residents. It was not clear whether settlors could relocate to Cyprus after establishing a Cyprus International Trust, and the resulting uncertainty discouraged many of them from doing so. The amending law provides only that the settlor may not be a Cyprus tax resident **for the year preceding the year in which the trust is created**. It also removes the prohibition on resident beneficiaries and on ownership of immovable property in Cyprus, thus avoiding difficulties that might otherwise arise if the settlor or any beneficiary were subsequently to take up residence in Cyprus.

### Exclusion of overseas law

The law as amended explicitly provides that any question relating to the validity or administration of an international trust or a disposition to an international trust will be determined by the laws of Cyprus without reference to the law of any other jurisdiction, and that the law relating to inheritance or succession in force in Cyprus or any other country will not in any way affect the validity of the international trust or any transfer or disposition of property to it. It also makes clear that the powers and duties of trustees and any protectors of the trusts are governed exclusively by Cyprus law. Furthermore, it provides that

dispositions to a trust may not be challenged on the grounds that they are inconsistent with the laws of another jurisdiction. These provisions further reinforce the already formidable asset protection features of the Cyprus International Trust.

### **Reserved powers and interests**

A new section of the law allows the settlor of a trust to reserve powers, to retain a beneficial interest in trust property, or to act as the protector or enforcer of the trust, without affecting the validity of the trust. The powers which may be reserved are extensive, and include the power to revoke, vary or amend the terms of the trust and to appoint or remove any trustee, enforcer, protector or beneficiary. These new provisions, which are similar to the corresponding provisions of Jersey and Guernsey law, give settlors great flexibility to adapt to changes in circumstances or objectives.

### **Abolition of restrictions on duration of trusts**

The 1992 law restricted the maximum life of international trusts apart from charitable trusts and non-charitable purpose trusts to 100 years. In recent years this restriction came to be seen as a disadvantage of trusts compared with foundations and several jurisdictions have removed any restriction on the duration of trusts.

The amended law provides that from the date the amendment takes effect and subject to the terms of the trust, there will be no limit on the period for which a trust may continue to be valid and enforceable, and no rule against perpetuities or remoteness of vesting or the like will apply to a trust or to any advancement or application of property from a trust.

### **Extension of trustees' investment powers**

Trustees' investment powers under the 1992 law were wide, and the amending law extends them further, by giving trustees the same investment powers as those of an absolute owner, allowing them to invest in a broader range of investments for the best interests of the beneficiaries. The amending law also removes any doubt regarding trustees' ability to invest in Cyprus by including a new section explicitly empowering trustees to invest in movable and immovable property in Cyprus and overseas. The abolition of the prohibition on investment in Cyprus will remove an obstacle to inward investment and provide a boost to the real estate market.

## **Public policy**

The amending law entrenches jurisdictional protection by providing that an international trust containing a choice of law clause in favor of Cyprus law is fully protected from unfounded foreign judicial claims as a matter of public policy and order.

## **Other amendments**

A number of further amendments of a technical and detailed nature have been made, including a redefinition of charitable purposes, the introduction of powers for the trustees and others to apply to the Cyprus court for directions, and clarification and amendment of the rules regarding choice of law, jurisdiction and foreign law trusts.

## **Conclusions**

The amendments address a number of perceived deficiencies in the trust regime in Cyprus, bringing it back to the “cutting edge” internationally. They have been welcomed by practitioners and business leaders in Cyprus and abroad, and have received extensive positive comment in the local and international professional press. The International Trusts Law as amended ensures that settlors and beneficiaries enjoy the highest possible degree of protection, by reason of the clarity of the new provisions and the removal of any ambiguities.

The reform of the International Trusts Law will give Cyprus the most modern and favorable trust regime in Europe and restore it to the “premier league” of trust jurisdictions.

Should you require any further information or clarifications regarding the above, please do not hesitate to contact us:

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