CITADEL
WEALTH MANAGEMENT

MEDIA RELEASE

TRUSTS 101: AN OVERVIEW

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9th February 2017: A trust is essentially a contract between the Founder and the Trustees who undertake to manage the trust assets for the benefit of the beneficiaries.

These assets do not belong to the beneficiaries and therefore are not susceptible to the financial risks of the beneficiaries in their personal capacities. The trust assets are consequently protected against, for example, the beneficiaries' private creditors, their spouses (in case of divorce) and, to some extent, against their personal tax liabilities. Importantly, too, a trust creates a platform where wealth may be managed by the trustees by employing their collective expertise.

It is important when transferring assets to a trust that you effectively hand over control of those assets to the trustees. While you may also be a trustee, you cannot be the only one and neither should the other trustee/s be too closely related to you. (If they are, it would be difficult to prove that you do not control the trust and that the other trustees are merely "rubber-stamping" your decisions.) It is important that at least one other trustee is an independent person like an accountant, attorney or trust company.

Assets in a trust are only protected if the trust is managed properly and separate to the personal assets of the beneficiaries. Should this not be the case, a court may look through the trust and deem the assets to belong to the individual. The trustees should therefore be involved in all decisions of the trust. Proper minutes of meetings should be kept and proper resolutions of decisions should be put in place. Trustees should apply their minds to decisions and not only sign the resolutions because "…you said so."

Choosing trustees is probably one of the most important considerations when setting up a trust. The number and identity of the trustees should always be considered in light of the effective management of the trust. A trustee that cannot contribute to the decisions of the trust because, for example, the person is extremely hard to contact or does not possess the necessary knowledge and insight, should not be considered. Your independent trustee should be a person or institution with the necessary levels of knowledge of trust administration and the systems to support it.

Are you a business owner that should consider housing your assets in a trust to mitigate the risk of creditors accessing your assets? Are you considering investing in a Black Economic Empowerment Scheme and need to structure your affairs so as to generate wealth for you and your family? Consider consulting a fiduciary partner who can set up a trust for you where your wealth can be expertly managed and protected.

ENDS

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