

The Macau Trust Law

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Macau is finally taking the last steps of a long legislative path to approve and implement a trust regime in Macau.

Generally approved by Macau Legislative Assembly, the new Trust Law ("Law") provides for the respective legal regime, which was absent from Macau Laws, preventing the use of this legal figure, accepted in many jurisdictions worldwide by trustees, trustors and beneficiaries.

The Law, still under the legislative process, intends to meet market expectations by offering a legal, safe net for wealth management through the trust. It foresees the definition, incorporation and winding up of the trust's assets, as well as the capacity, rights and obligations of all parties involved, i.e., the trustee, trustor and beneficiary.

Under the Law, a trust is a legal relationship under which the trustor transfers the rights over specific assets to the trustee, so the latter manages the same, as their own, having in mind the interests of the appointed beneficiary, or to meet a specific purpose.

The trust is incorporated through the execution by the relevant parties of a private contract or by will unless the assets to be part of the trust require a specific form of transfer (e.g., real estate properties that require a notarized deed). If so, such form requirements must be followed. Likewise, the setting up of a trust shall be subject to registration if the transfer of the underlying assets must be registered as well.

While managed by the trustees as their own, the underlying assets of a trust shall be separated and independent from the assets of the trustee, trustor and beneficiary. Credit institutions, insurance companies, finance companies, investment funds management entities, wealth management companies and pension funds management companies are the listed Macau entities allowed to provide trust services and undertake trust activity soon.

The new Law specifically regulates the trustees' activity, rights and obligations, to safeguard all parties' best interests. The rigorous compliance of diligence, loyalty, impartiality, confidentiality and information duties are among those obligations to be followed by trustees.

On the other hand, any person or entity capable of disposing of its assets and goods can establish a trust. Likewise, any person or entity – even the trustor – may be appointed as a beneficiary of a trust. However, a trustee cannot be appointed as the sole beneficiary. It

will be allowed to appoint several beneficiaries who will have equal rights over the trust's assets in the absence of a specific rule providing otherwise.

The Law also provides for the rights of the beneficiaries and respective heirs that, unless stated otherwise, will become the beneficiaries of the trust's rights upon the decease of the original beneficiary.

Finally, we are yet to understand how Macau Tax laws, which are also under a thorough review by the legislative assembly, will consider the setting up, the termination and transfer of rights of a trust.

Considering the above, the trust regime and this most welcoming Law will create significant opportunities for the finance and wealth management market's stakeholders, enhancing the Macau finance services available to the public.

For more information on this subject and the specifics of your case, please contact **C&C Lawyers & Notaries**.



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