



for the family wealth

Trusts: instructions for use

Definition | Practice | Legal framework



Trust&Wealth
Bespoke Professional Solutions

Trusts

What is a trust?

Trusts are instruments through which the **SETTLOR**, be it an individual or a legal entity, transfers an asset or a right (i.e., **TRUST FUND**) to another party, the **TRUSTEE**, who may also be an individual or a legal entity, which must manage it in the interest of one or more parties (i.e., **BENEFICIARIES**) or in order to realise a predefined purpose.

Assets placed in Trust and transferred to the Trustee for this purpose, do not become part of the Trustee's personal assets.

- The Trust assets are "*segregated*" in the hands of the Trustee;
- Trust assets are not subject to the claims of the Trustee's personal creditors;
- Trust assets are not part of the Trustee's family and estate.

Subjects



Settlor:

A person who transfers assets or rights which will form the Trust fund, i.e., segregated assets intended for the achievement of specific purposes and/or in the interest of the beneficiaries.

Trustee (owner of the assets in trust):

Person to whom assets/rights are transferred with the task of administering them and disposing of them in the interest of the Beneficiaries to whom they will be transferred at the conclusion of the trust.

Beneficiaries:

Persons identified at the time of creation or subsequently, in whose interest the Trust assets are managed until final allocation upon termination of the Trust.

Guardian:

A person who assists the Trustee in the management of the trust assets in order to monitor the Trustee's performance and compliance with the Trust granted by the Settlor.

Trusts

Asset segregation:

In order to ensure the proper circulation of assets, it is necessary to take into account the regulatory provisions aimed at protecting third parties from unlawful acts of asset misappropriation, such as:

- ordinary revocatory action (Article 2901 et seq. of the Italian Civil Code);
- bankruptcy revocation action (Article 67 et seq. of the Bankruptcy Law);
- fraudulent evasion of tax payments (Article 11 of Legislative Decree 74/2000).

Term:

Established in the Trust deed - may extend beyond the life of the Settlor.



Basic Concepts

Trust deed

This is a document that formalises the Settlor's wishes and defines the structure in which the Trustee and Protector, if any, must operate. It specifically sets out the powers and limits to the discretion of the Trustee, as well as the rights of the Beneficiaries.

Deed of Addition

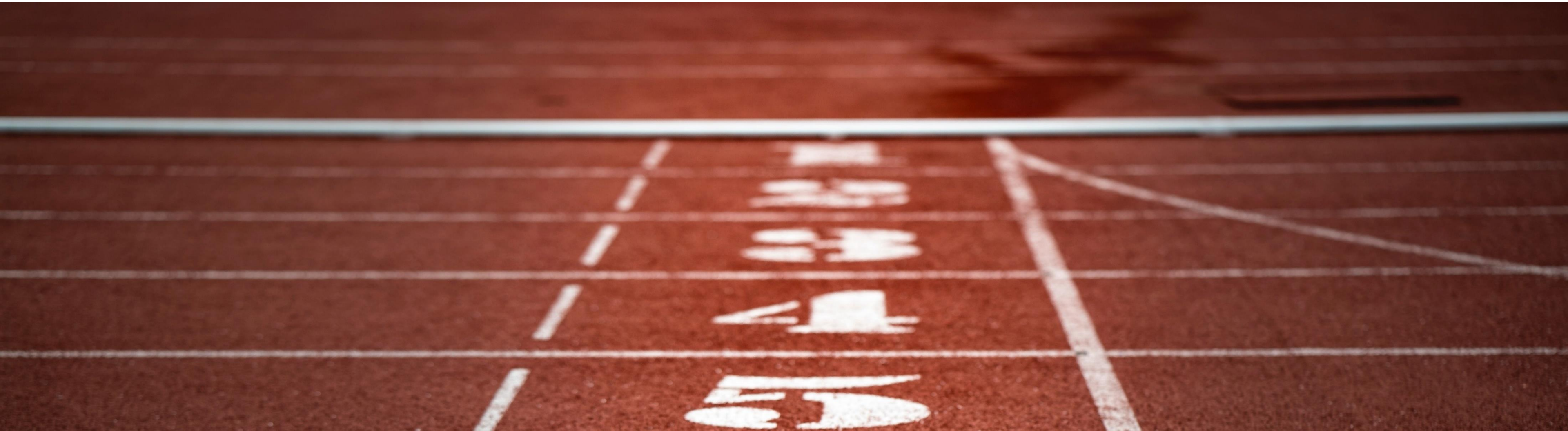
This is a document by which the Trustee accepts new contributions of assets into the Trust.

Letter of wishes

This is a letter addressed to the Trustee, written either by the Settlor or the Beneficiaries, with the purpose of providing the former with non-binding instructions on the administration of the Trust fund and/or on the manner of distribution to the Beneficiaries.

Governing law

The governing law is the law applicable to a given trust and may be freely elected in the Trust instrument.



Assets in Trust

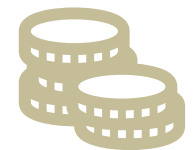
To establish a Trust, the settlor transfers ownership of assets and rights to the Trustee. Any assets or rights subject to economic valuation may be placed in the Trust from time to time during the lifespan of the Trust. Below are some examples of assets that can be segregated:



Real estate assets



Registered movable
goods



Liquidity



Benefit of policies



Financial assets



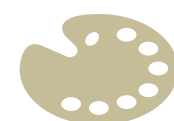
Credits



Equity investments

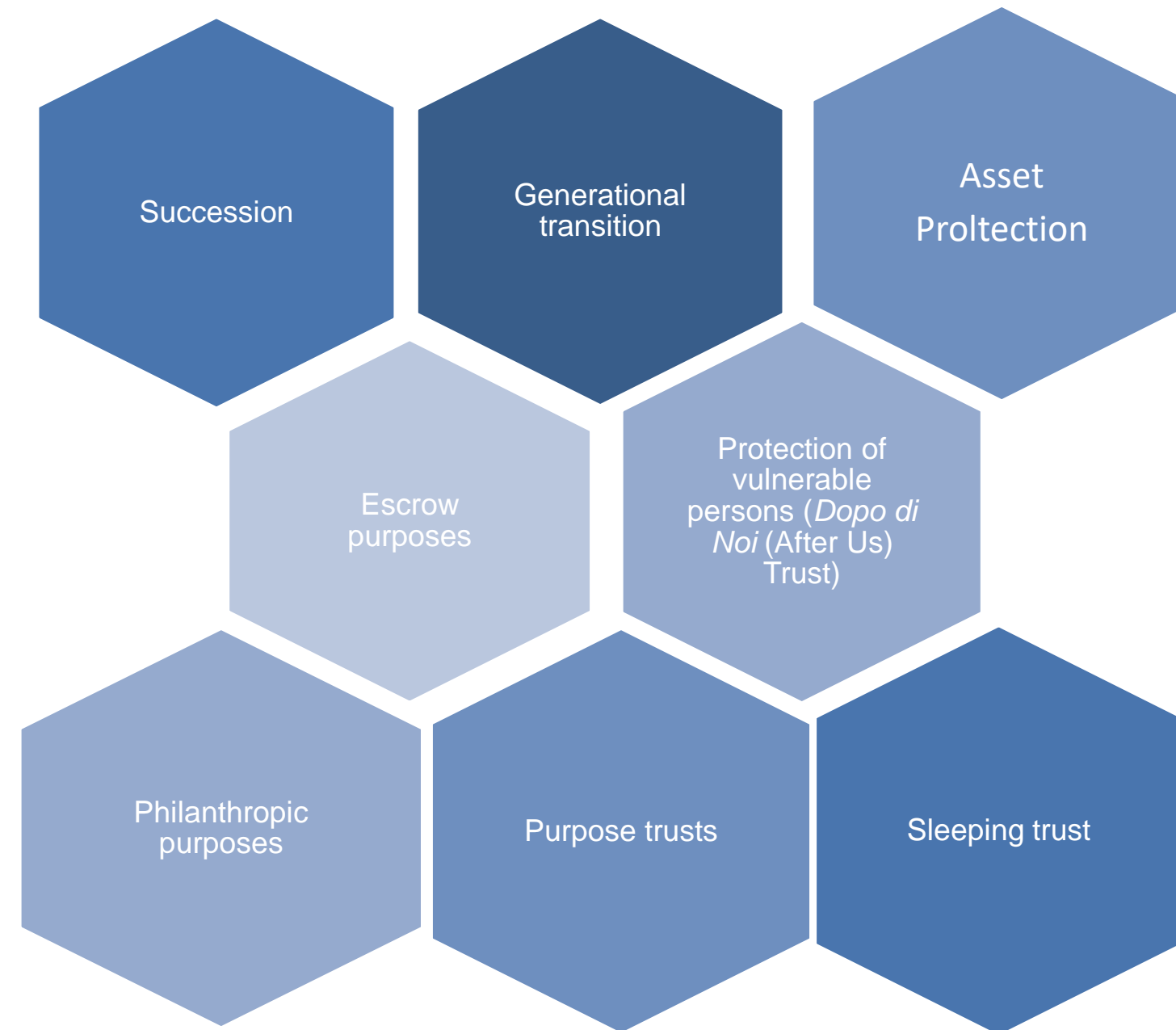


Intellectual property



Arts and other Collectable

Why set up a trust?



Types of trusts

Family
Trust

Sleeping
Trust

Charitable
Trust

"After Us"
Trust

Warranty
trusts

Governance
Trust

The Italian perspective

Italy ratified the Hague Convention of 1 June 1985 with Law No. 346 dated 9 October 1989, thus recognising the Trust and its regulatory laws. The legislator subsequently identified the main elements for defining the tax treatment of the institution.

Trust features

- ✓ **Consolidated tax legislation**
- ✓ **Established case law**
- ✓ **Absence of an Italian law on trusts**
- ✓ **Transparency: single register of beneficial owners (*Registro Unico Titolari Effettivi* - R.U.T.E.) to come into force in 2021**

AML Regulation

In Italy, Trustees must comply with due diligence obligations under anti-money laundering legislation (Legislative Decree 231/2007) as interpreted by the Fifth Anti-Money Laundering Directive currently in force. These provisions are in line with current European regulations and the FATF Recommendations and focus on the importance of constant monitoring of the parties involved in the Trust and its activities.

Automatic exchange of information

Italian Trustees must comply with national regulations on tax compliance and anti-money laundering and must also comply with international provisions, including the automatic exchange of information between tax authorities, complying with the reporting requirements of the US Foreign Account Tax Compliance Act (FATCA) and the OECD Common Reporting Standard (CRS).

Our services

PROFESSIONAL TRUSTEE

With over a decade of experience, Trust & Wealth Srl operates in Italy as a sole professional trustee or in tandem with other operators for a number of Trusts.

ADMINISTRATOR

Thanks to the strong know-how recognised by the market, Trust & Wealth assists Trustees in order to support tax compliance and other regulatory and practice requirements. The service is frequently provided in favour of trustees operating in foreign jurisdictions.

unique in order to reorganise the instrument and/or carry out the activities leading to its termination, all in full compliance with the relevant regulatory law and the applicable tax regime

PROFESSIONAL PROTECTOR

The role of the Protector has a fundamental function of bridging the sensitivities of the Family and the needs of the Trustee. Performing the task of Protector today, however, also means being in compliance with an ever-changing regulation. Here, a professional Protector can be an ideal solution to protect Settlers and Beneficiaries, in line with what is defined in the Founding Deed.

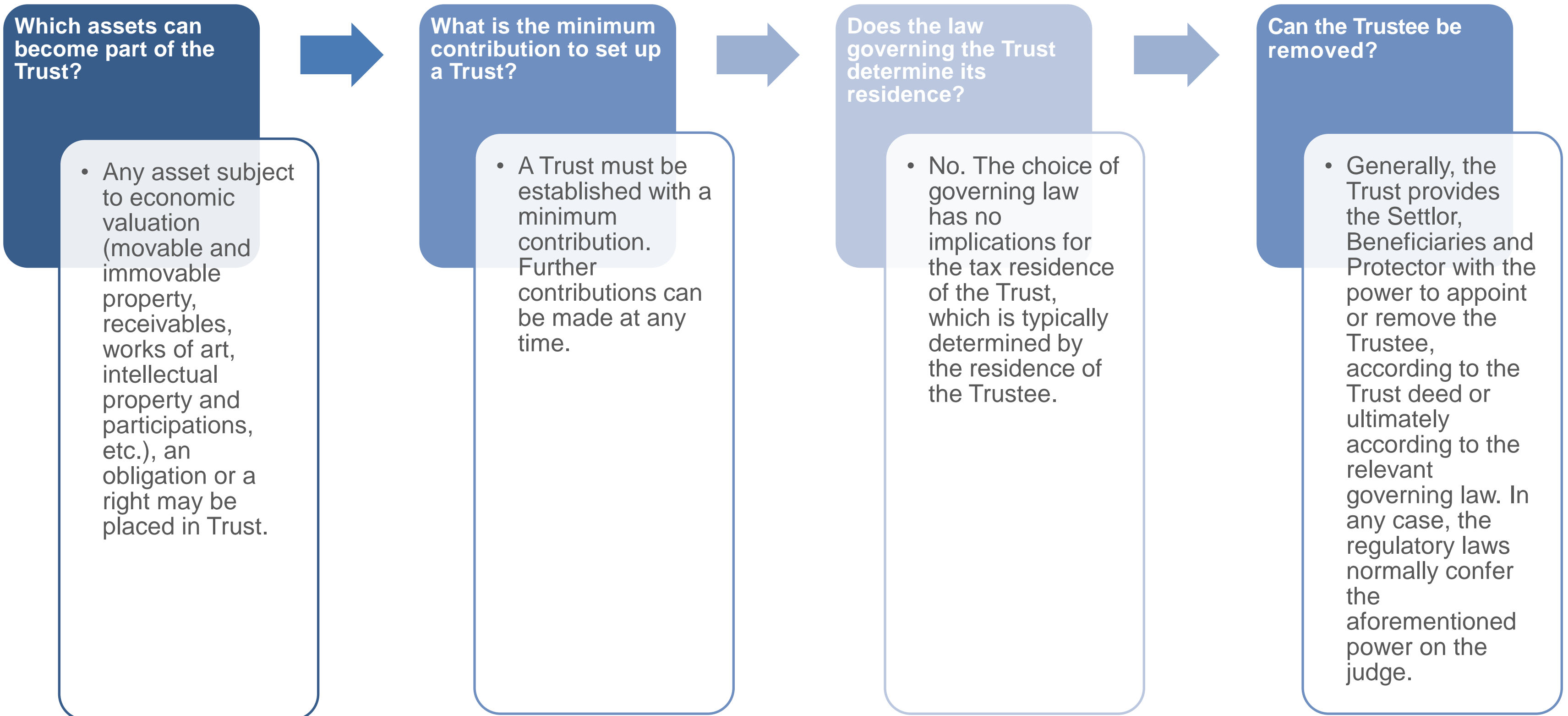
TRUST - DESIGN

Trust & Wealth Srl, thanks to its network of professionals, can assist customers who intend to set up a Trust in the entire set-up process and, therefore, in the choice of the most suitable governing law and in the drafting of the trust deed.

RESTRUCTURING/TERMINATION

Trust & Wealth Srl, thanks to its network of professionals, can assist the Trustee and/or take over the task of Trustee.

Questions and answers



The Trust Company in Italy

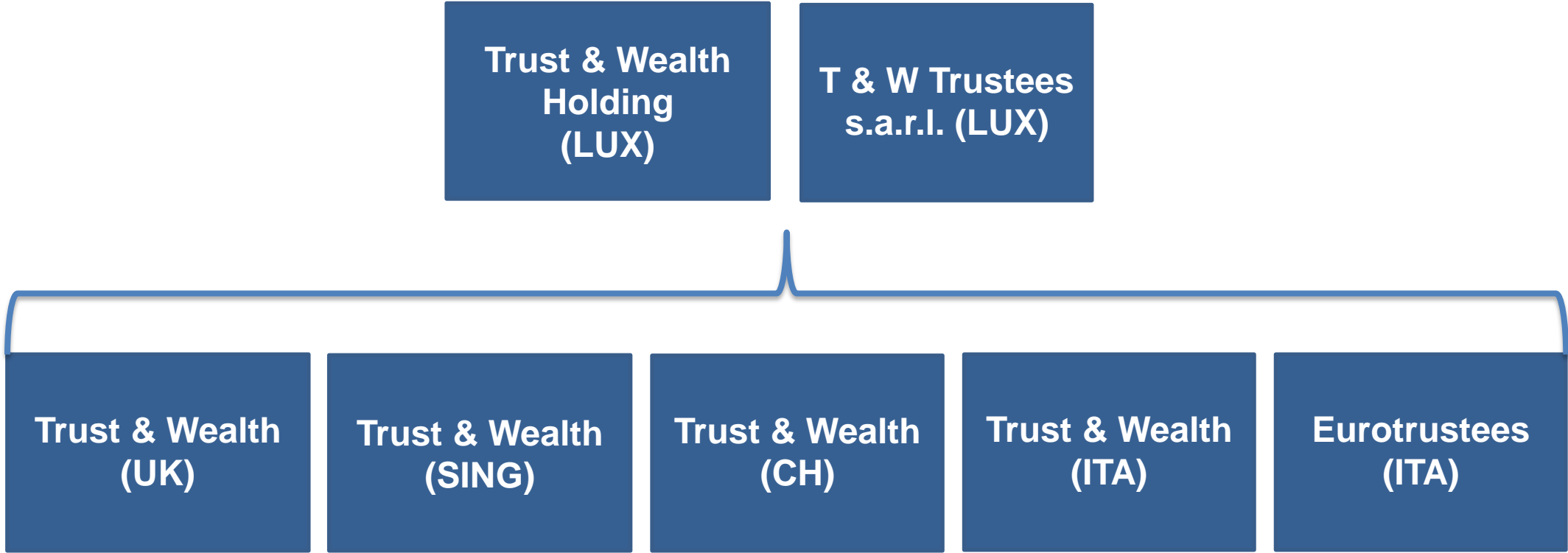
The company acts via a Board of Directors, which operates with the support of the Scientific Committee, the Risk and Compliance Committee, the Audit Committee and the Trust Committee.



Trust & Wealth is a limited liability company under Italian law that carries out its activities within the Italian regulatory framework.

Trust & Wealth: the group

Trust & Wealth Srl is an Italian Trust company that is part of an international group specialising in assisting individuals, families and managing their family office.



Independence 

Professionalism 

www.trustandwealth.net

Passion 

Experience 

International vocation 



Contact details

for the family wealth

TRUST & WEALTH SRL

Via Andegari 4

20121 Milan

Italy

Tel. + 39 02 365 69 657

Fax +39 02 365 69 829

amministrazione@trustandwealth.net



Trust&Wealth
Bespoke Professional Solutions



www.trustandwealth.net



Trust and Wealth (Bespoke Solutions)