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# Factsheet concerning the trust enterprise (Art. 932a §§ 1 to 170 of the Liechtenstein Persons and Companies Act (“PGR”) respectively §§ 1 to 170 of the Liechtenstein Trust Enterprise Act (“TrUG”))

## 1. Terminology and legal nature

The trust enterprise is a company with its own assets that is managed or operated under its own name or own company name by one or more trustees (as trust holders) on the basis of trust articles and that is a legally independent, organised company engaged in activities of a commercial nature or serving other purposes.<sup>1</sup>

The trust enterprise may be structured in the manner of a foundation or in the manner of a corporation. The most common trust enterprise type in Liechtenstein has neither members nor partners or shareholders, and therefore has no capital divided into shares. However, the trust enterprise recognises beneficiaries, that is to say persons who can derive economic benefits from the trust enterprise.

A distinction is made between trust enterprises with legal personality and trust enterprises without legal personality, whereby the latter rarely exists in practice.

It is mandatory for the trust enterprise to be entered in the Commercial Register.<sup>2</sup>

## 2. Setting up the trust enterprise

A trust enterprise may be set up by one or more natural persons or legal entities. In order to set up the trust enterprise, the trust articles must be prepared in writing and must be signed by the settlor or the trustee or trustees, and the signatures must be authenticated.<sup>3</sup>

## 3. Organisation of the trust enterprise

### 3.1 Parties to the trust enterprise

Unless otherwise stipulated by law or by the articles, the parties to the trust enterprise are the settlor<sup>4</sup>, the trustee or trustees and the beneficiary or beneficiaries, including prospective beneficiaries.

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<sup>1</sup> § 1 TrUG

<sup>2</sup> § 7 Para. 1 TrUG

<sup>3</sup> § 9 TrUG

### 3.2 The settlor

In case of doubt, the settlor is the person who makes or assures the trust fund of a pecuniary contribution.<sup>5</sup> The settlor may not exert a continuous and exclusive influence on the organisation or the trust management of the trust enterprise.

### 3.3. The board of trustees and the members of the board of trustees

The trustees appointed in accordance with the trust regulations form the board of trustees, which may consist of one or more members, unless otherwise provided for in the trust articles.<sup>6</sup> All members of the board of trustees are jointly responsible for the management, unless the trust regulations or the law provides otherwise.<sup>7</sup> The members of the board of trustees may assign the management to individual members of the board of trustees or to third parties.<sup>8</sup>

### 3.4 The audit authority

If a trust enterprise engages in activities of a commercial nature, an audit authority must be appointed, unless a review is waived (details see below under Fig. 10).

### 3.5 The representative

In addition, a representative must also be appointed, insofar as no domestic service address is designated.<sup>9</sup> The representative is authorised to receive declarations, communications and notifications and to represent the legal entity in dealings with public authorities.

### 3.6 The beneficiaries

Unless otherwise specified, the beneficiary is understood to be the person who under the trust regulations derives any present or future benefit from the trust enterprise, such as a share in the income or trust assets or both.<sup>10</sup>

## 4. Trust articles (articles of association) of the trust enterprise

The trust articles of the trust enterprise must contain the information that is required by law. (For further details, see *Guidelines for the New Registration of the Trust Enterprise*).<sup>11</sup>

The trust articles can also contain further details, for example on the organisation or more detailed regulations concerning the beneficiaries. In addition, further rules may be set out in regulations (by-laws).<sup>12</sup>

## 5. Registered domicile of the trust enterprise

Unless the trust articles stipulate otherwise, the registered domicile of the trust enterprise shall be at the place where the trust enterprise has the centre of its administrative activities. Provisions concerning registered domiciles within an international context remain reserved.<sup>13</sup>

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<sup>4</sup> § 39 Para. 1 TrUG

<sup>5</sup> § 49 Para. 1 TrUG

<sup>6</sup> § 61 Para. 1 TrUG

<sup>7</sup> § 62 Para. 1 TrUG

<sup>8</sup> § 64 Para. 1 TrUG

<sup>9</sup> § 5 Para. 1 TrUG in conjunction with Art. 239 of the Liechtenstein Persons and Companies Act ("PGR")

<sup>10</sup> § 78 Para. 1 TrUG

<sup>11</sup> § 9 Para. 2 TrUG

<sup>12</sup> § 10 Para. 1 TrUG

## 6. Purpose of the trust enterprise

A trust enterprise may have any specific, reasonable and possible purpose that is not unlawful, immoral or subversive.<sup>14</sup>

The purpose of the trust enterprise must clearly state, however, whether or not it is engaged in **activities of a commercial nature**.<sup>15</sup> The investment and management of assets or the holding of participations or other rights does not constitute an activity of a commercial nature, unless the nature and size of the enterprise requires commercial operations and orderly accounts.<sup>16</sup>

## 7. Capital of the trust enterprise (trust fund)<sup>17</sup>

The minimum capital (minimum value of the trust fund) of the trust enterprise is **CHF 30,000.00**. If the capital is registered in euros or US dollars, the minimum capital (minimum value of the trust fund) is either EUR 30,000.00 or USD 30,000.00. The minimum capital must be **fully paid up or contributed** at the time of foundation.

The trust fund may be successively raised or reduced. Each year, after the end of the calendar year, in the event of an increase or decrease in the trust fund, the managing trustees must submit to the Office of Justice a statement of changes in the trust fund during the year for the purpose of correcting the entry.<sup>18</sup>

## 8. Liability and responsibility

Only the **assets of the trust enterprise** are liable for the liabilities of the trust enterprise.<sup>19</sup>

The managing bodies of the trust enterprise are liable in accordance with the general liability provisions.<sup>20</sup>

Further detailed liability provisions are set out in §§ 36 et seq. TrUG.

## 9. Rendering of accounts and bookkeeping obligations

Trust enterprises that engage in activities of a commercial nature are obliged to **render proper accounts**.

Trust enterprises that do not engage in activities of a commercial nature must, taking into account the principles of **proper accounting**, keep records appropriate to the financial circumstances and retain documents from which the course of business and the development of the assets can be traced.<sup>21</sup>

Trust enterprises that do not engage in activities of a commercial nature and whose purpose pursuant to their articles does not permit this either must submit a declaration pursuant to Art. 182b PGR to the Commercial Register within six months of the end of the financial year. This

<sup>13</sup> § 5 Para. 1 TrUG in conjunction with Art. 113 Para. 1 and Art. 232 Para. 1 PGR

<sup>14</sup> § 3 TrUG

<sup>15</sup> Art. 3 Persons and Companies Ordinance of 19 December 2000 (Verordnung vom 19. Dezember 2000 zum Personen- und Gesellschaftsrecht); (LGBl. 2000 No. 281)

<sup>16</sup> § 5 Para. 1 TrUG in conjunction with Art. 107 Para. 3 PGR

<sup>17</sup> § 22 TrUG

<sup>18</sup> § 22 Para. 2 and 3 TrUG

<sup>19</sup> § 36 Para. 1 TrUG

<sup>20</sup> § 5 Para. 1 TrUG in conjunction with Art. 218 et seq. PGR as well as § 36 Para. 4 TrUG

<sup>21</sup> Art. 1045 Para. 3 PGR

obligation shall not apply if other legal provisions require the annual financial statements to be submitted annually to the Tax Administration.<sup>22</sup>

## 10. Audit and review obligations

Insofar as annual financial statements have to be prepared for trust enterprises, they must be reviewed by an audit authority or audit company.<sup>23</sup>

Trust enterprises that engage in activities of a commercial nature and are classified as micro-companies may waive the audit review<sup>24</sup> (for further details, see *Guidelines for the New Registration of a Trust Enterprise*).

## 11. Legal principles

- *Persons and Companies Act (Personen- und Gesellschaftsrecht – “PGR”) of 20 January 1926 (Liechtenstein Law Gazette (“LGBI”) (1926 No. 4))*
- *Commercial Register Ordinance (Handelsregisterverordnung – “HRV”) of 11 February 2003 (LGBI. 2003 No. 66)*
- *Persons and Companies Ordinance of 19 December 2000 (Verordnung vom 19. Dezember 2000 zum Personen- und Gesellschaftsrecht); (LGBI. 2000 No. 281)*
- *Ordinance of 11 February 2003 concerning Land Register and Commercial Register Fees (Verordnung vom 11. Februar 2003 über die Grundbuch- und Handelsregistergebühren) (LGBI. 2003 No. 67)*

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<sup>22</sup> § 5 Para. 1 TrUG in conjunction with Art. 182b Para. 2 PGR; the declaration obligation pursuant to Art. 182b PGR was repealed on 1 August 2022. Similar declaration obligations must now be fulfilled to the Tax Administration instead (Art. 64 Para. 4 SteG). This will apply for the first time to financial years beginning as of 31 December 2022.

<sup>23</sup> Art. 1058 Para. 2 PGR

<sup>24</sup> Art. 1058a PGR