

Trust deed – Can it be trusted?

Workshop

Provisional content

- 1 What should my trust deed stipulate after the coming into operation on 1 April 2023 of sections 1 to 8 of the General Laws (Anti-Money Laundering and Combating Terrorism Financing) Amendment Act no 22 of 2022?
- 2 To which trusts does the new regulatory framework apply and why?
- 3 To what extent is Recommendation 25 of the international watchdog, the FATF, compulsory to follow and what is the effect of this on, for example, ordinary testamentary trusts in South Africa?
- 4 What are the new amendments to the TPC Act, 1988? We'll discuss the good, the bad, and the ugly.
- 5 Who are "foreign trustees" and what are the new requirements for them? Should your trust deed provide for it?
- 6 Why are foreign offshore trust deeds (and even local deeds) often invalid in South Africa?
- 7 When and why are beneficiaries required for the variation of trust deeds?
- 8 What should a trust deed stipulate in respect of resolutions by trustees? Are all trustees required to participate in resolutions taken by them? What happens if some do not want to or cannot vote?
- 9 What is the possible solution for valid resolutions in the event of quick successive resignations by nominees of company trustees or even vacancies caused by death of a nominee?

- 10 When is a trustee deemed to have resigned to administer a trust – also in respect of reporting requirements in re beneficial ownership purposes?
- 11 If a trust deed is silent on it, can actions by trustees be ratified? Are there any exclusions?
- 12 What are the new disqualifications for trustees to be authorised by the Master?
- 13 What are some of the strange and even bad clauses and drafting errors in trust deeds?
- 14 Which are the most common errors made with trust deeds and what are the solutions?
- 15 How can a vesting/bewind trust be recognised from its wording?
- 16 Which stipulations in a trust deed should you avoid in order to prevent the trust from becoming someone's alter ego? What else may also be required?
- 17 What is necessary for the drafting of a testamentary trust to enjoy all the benefits of a "special trust"?
- 18 What else, other than merely stating it, is necessary in a trust deed to allow trustees complete and full discretionary powers?
- 19 What are all the new statutory duties of trustees and is it necessary to stipulate it in the trust deed?
- 20 What should a trust deed not stipulate when the trustees are still members of a close corporation?