

## **MEMORANDUM**

### **Purpose Trusts**

#### **1. The nature of a Purpose Trust:**

- 1.1 A Purpose Trust is for purposes rather than persons. Samoan Trust Law provides for this.
- 1.2 Such a purpose can be charitable or non-charitable and in this context we are concerned with non-charitable Purpose Trusts.
- 1.3 Even if there is a non-charitable Purpose Trust, it can also provide for charitable purposes and persons.

#### **2. The Enforcer:**

- 2.1 Every non-charitable Purpose Trust must have an Enforcer.
- 2.2 If the Trust was for persons, such Beneficiaries can enforce the Trust and look after their interests. If the Trust is for charity, the Attorney-General can enforce the charitable purpose for the benefit of charity. With a non-charitable purpose, there would be no one to enforce the purpose, unless there is an Enforcer.
- 2.3 Anyone of full age and capacity can be an Enforcer. An Enforcer can also be corporate. The role and duty of an Enforcer is to enforce the non-charitable purpose.

#### **3. Protection of an Enforcer:**

An Enforcer is protected under Samoan Trust Law similarly to a Trustee.

#### **4. Other provisions of a Purpose Trust.**

- 4.1 It is necessary to provide in the Trust what happens to the trust property, if the non-charitable purpose ceases. By Samoan Trust Law provision can then be made for such property to be given to or held for other purposes, charitable or non-charitable and for persons.
- 4.2 Non-charitable Purpose Trusts are often similar to Discretionary Trusts. They can have a Protector as well as an Enforcer. The Protector may be given power not only to remove and appoint Trustees but also to remove and appoint Enforcers.

**NOTE:** This Memorandum is provided for your assistance but you should always take professional advice before acting. Circumstances and needs differ considerably from one person and family to another.

**This Memorandum was last updated on 30<sup>th</sup> July 2015**