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The following text is an excerpt from the LCG-brochure "Business Liechtenstein Company Formation".

May 2013

Your LCG Team

Trust Enterprise (Trust reg.) in Liechtenstein

I. Legal structure of the trust enterprise (trust reg.)

1. Concept

The Liechtenstein trust enterprise, frequently referred to as trust reg., is an Anglo-Saxon company form that has become a part of Liechtenstein law. Under Liechtenstein law, the trust enterprise can be with or without legal personality; the latter, however, almost never occurs in practice. In as much as the articles of association do not contain a clear rule about whether a trust enterprise with or without legal personality has been formed, it shall be irrefutably assumed that it is a trust enterprise without legal personality.

Assets separated under a separate name or company with own legal personality constitute the Liechtenstein trust enterprise with legal personality. Only the trust fund is liable for the liabilities of the Liechtenstein trust enterprise

2. Purpose

The purpose of a Liechtenstein trust enterprise it may provide for the pursuit of commercial or non-commercial activities as long as it is not illegal or immoral. The purpose of a trust enterprise in Liechtenstein may consist of the arrangement for the planning of an estate or the trade with assets. What is mandatory, however, is that the intended purpose of the Liechtenstein trust enterprise has to make clear whether it is a company that engages in commercial activities or not. A company engaged in commercial activities is especially not given if the purpose of the Liechtenstein trust enterprise is the investment and management of assets or the holding of investments or other rights.

3. Formation

The formation of the Liechtenstein trust enterprise is effected by means of the submission of the written articles of association that have been signed by the settlor and the trustee(s) to the responsible authorities. A natural or juridical person suffices for the formation of a Liechtenstein trust enterprise.

Unlike the Liechtenstein foundation, the Liechtenstein trust enterprise with legal personality is always to be entered into the Commercial Registry (Public Registry) and can be engaged in commercial activities without limitations.

4. Minimum capital (trust fund)

The minimum capital of the Liechtenstein trust enterprise (trust fund) amounts to CHF/EUR/USD 30,000; it is mandatory that it be contributed with the formation in cash or as contribution in kind. The trust fund can be segmented into shares, with or without securities character, as well as gradually increased or decreased.

5. Company name

The Liechtenstein trust enterprise can choose the company's name freely in any language and can use imaginative names. Special permission must be obtained if one is intending to use national and international state or place names in a company name.

6. Organisation

6.1. Governing body

The supreme authority of the Liechtenstein trust enterprise is the settlor, i.e. the person who supplies the trust fund with assets or warrants them.

Both Liechtenstein practice and case law has more and more approximated the settlor, as to his position in the Liechtenstein trust enterprise, with the founder of a Liechtenstein establishment and granted him so-called settlor's rights similar to the founder's rights of the Liechtenstein establishment. Settlers may transfer, for instance, their settlor's rights to third parties. This development has the consequence that the typological differentiation between the trust enterprise (trust reg.) and the establishment becomes more and more blurred.

6.2. Administrative body

The trustees appointed in accordance with the articles of association constitute the board of trustees that is the administrative body of the Liechtenstein trust enterprise Both the management and the outward representation of the Liechtenstein trust enterprise are incumbent on the board of trustees. Inasmuch as the Liechtenstein trust enterprise is not engaged in any commercial activities within Liechtenstein, at least one member of the board of trustees must have his law office address in Liechtenstein and be in possession of certain professional qualifications. Within the framework of the law and the articles of association, the assignment of the management to individual trustees or third parties is possible.

6.3. Auditors or control agency

It is mandatory that Liechtenstein trust enterprises that are companies engaged in commercial activities or having the possibility of such activities laid down in their articles of association appoint auditors. Trustees, trust companies with a trustee concession, auditing firms and chartered accountants can act as auditors for the Liechtenstein trust enterprise.

6.4. Representative

The representative of a Liechtenstein trust enterprise acts as the official postal addressee of the company and as a connecting link with the authorities.

6.5. Beneficiaries

A beneficiary of the Liechtenstein trust enterprise is the person who, pursuant to the articles of association or the by-laws, is allowed to draw any present or future advantage from the Liechtenstein trust enterprise, either as share in the income or in the assets of the trust fund. The beneficial interest can be conditional, temporary, tied to a restriction or other requirement or be designated for impersonal purposes. It also can be revoked at any time inasmuch as the beneficial income was granted free of charge. Since the beneficiaries of the Liechtenstein trust enterprise are frequently listed in the by-laws, which other than the articles of association are not entered into the Commercial Registry or registered with a court, they are inaccessible to the public. If the articles of association or by-laws do not specify any beneficiaries, the settlor is considered beneficiary of the Liechtenstein trust enterprise.

The beneficiary rights, however, are in their entirety or partially transferable and heritable and they can be encumbered and pledged, insofar as this is not precluded in the articles of association of the Liechtenstein trust enterprise or an inviolable right exists.

7. Declaration

If the Liechtenstein trust enterprise is not a company engaged in commercial activities and its purpose as laid down in the articles of association does not provide for such a business, it shall draw up a statement of assets and liabilities every year.

8. Liquidation

The liquidation of the Liechtenstein trust enterprise can be initiated at any time after the conclusion of the liquidation process. The deletion in the Commercial Registry is effected no earlier than at least six months after the third call to creditors.

II. Fiscal structure of the trust enterprise (trust reg.)

Liechtenstein trust enterprises are subject to an annual income tax, amounting to 12.5% of the taxable net income, at a minimum however of CHF 1,200. Liechtenstein trust enterprises that were granted the status as private wealth structure (Privatvermögensstruktur, PVS), provided by the tax law that took effect on 1 January 2011 in Liechtenstein, are taxed only with the minimum income tax of CHF 1,200 annually. The PVS tax status is usually granted to companies that are not commercially active.

III. Effective structure of the trust enterprise (trust reg.)

The Liechtensteiner trust enterprise is versatile. It can be structured like a corporate body or assume features similar to a foundation. Depending on the organisational form, the Liechtenstein trust enterprise can be an instrument for commercial purposes or for asset management. In Liechtenstein, such trust enterprises are most frequent that have neither members nor participants nor shareholders, so the capital is also not segmented into shares. The company form of the Liechtenstein trust enterprise offers itself especially in cases in which the purpose of the company has not been fixed yet and a commercial purpose is perhaps to be pursued later.

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