

Appendix
**Reserve Powers Statutory Framework in Other Common Law
Jurisdictions**

Some other common law jurisdictions expressly allow a wider scope of Reserve Power as follows:

1. Cayman Islands

(a) As to the Cayman Islands, Section 14(1) of the Trusts Act (2021 Revision) provides that a settlor can reserve or grant certain powers and this will not invalidate the trust. These powers include:

- (1) a power to revoke, vary or amend the trust instrument;
- (2) a power to pay income or capital from the trust fund;
- (3) a limited beneficial interest in the trust fund;
- (4) a power to act as director of any company owned by the trust;
- (5) a power to give binding directions to the trustee concerning the purchase, holding or sale of trust property (for example, investments);
- (6) a power to appoint, add or remove any trustee, protector (if any) or beneficiary;
- (7) a power to change the governing law and the forum of administration of the trust; and
- (8) a negative power of veto over any trustee powers or discretions.

2. Jersey

(b) As to Jersey, Article 9A of the Trusts (Jersey) Law 1984 expressly states that the reservation or grant of a beneficial interest in the trust property or the following list of powers by a settlor shall not affect the validity of the trust:

- (1) to revoke, vary or amend the terms of a trust or powers;

- (2) to advance, appoint, pay or apply income or capital of the trust property or to give directions for the making of such advancement, appointment, payment or application;
- (3) to act as, or give directions as to the appointment or removal of, an officer of any corporation in which the trust holds an interest;
- (4) to give directions to the trustee in connection with the purchase, retention, sale, management, lending, pledging or charging of the trust property or the exercise of any powers or rights arising from such property;
- (5) to appoint or remove any trustee, enforcer or beneficiary, or any other person who holds a power, discretion or right, or who acts in connection with the trust or in relation to trust property;
- (6) to appoint or remove an investment manager or investment adviser;
- (7) to change the proper law of the trust; and
- (8) to restrict the exercise of any powers or discretions of a trustee by requiring that they shall only be exercisable with the consent of the settlor or any other person specified in the terms of the trust.

3. **Bermuda**

(c) As to Bermuda, Section 2A of the Trusts (Special Provisions) Act 1989 provides that the reservation by a settlor of or the grant to any other person in a trust instrument any limited beneficial interest in the trust property or the following powers will not invalidate the trust:

- (1) power to revoke the trusts in whole or in part;
- (2) power to vary or amend the terms of a trust instrument or any of the trusts, purposes or powers;
- (3) a general, intermediate or special power to advance, appoint, pay, apply, distribute or transfer trust property or to give relevant directions;
- (4) power to act as, or give binding directions as to the appointment or removal of, a director or an officer of any company wholly or partly owned by the trust or to direct the trustee as to the manner of exercising voting rights;
- (5) power to give binding directions in connection with the purchase, retention, holding, sale or other commercial or investment dealings with trust property

or any investment or reinvestment thereof or the exercise of any powers or rights arising from such trust property;

- (6) power to appoint, add, remove or replace any trustee, protector, enforcer or any other office holder or any advisor including any investment advisor or any investment manager;
- (7) power to add, remove or exclude any beneficiary;
- (8) power to change the governing law and the forum for administration; and
- (9) power to restrict the exercise of any powers, discretions or functions of a trustee by requiring that they shall only be exercisable with the consent, or at the direction of, any person specified in the trust instrument.

4. British Virgin Islands

(d) As to the British Virgin Islands, Section 86 of the Trustee Act as amended by the Trustee (Amendment) Act, 2021 provides that the reservation by the settlor of or the grant to any other person of any limited beneficial interest in the trust property or the following powers will not invalidate the trust:

- (1) power to revoke the trusts in whole or in part;
- (2) power to vary or amend the terms of a trust instrument or any of the trusts, purposes or powers arising thereunder in whole or in part;
- (3) a general, intermediate or special power to advance, appoint, pay, apply, distribute or transfer trust property (whether income or capital or both) or to give directions for the making of any such advancement, appointment, payment, application, distribution or transfer;
- (4) power to act as, or give binding directions as to the appointment or removal of, a director or an officer of any company wholly or partly owned by the trust or to direct the trustee as to the manner of exercising voting rights;
- (5) power to give binding directions in connection with the purchase, retention, holding, sale of or other commercial or investment dealings with trust property or any investment or reinvestment or any powers or rights arising from such trust property;
- (6) power to appoint, add, remove or replace any trustee, protector, enforcer or

any other office holder or any advisor, including any investment advisor or any investment manager;

- (7) power to add, remove or exclude any beneficiary;
- (8) power to change the proper law of the trust or specify exclusive or nonexclusive jurisdiction of the court; and
- (9) power to restrict the exercise of any powers, discretions or functions of a trustee by requiring that they shall only be exercisable with the consent, or at the direction, of any person specified in the trust instrument.

5. Singapore

- (e) As to Singapore, Section 90(5) of the Trustees Act 1967 also provides that no trust or settlement of property is invalid by reason only of reserving to the settlor all or any powers of investment or asset management functions under the trust or settlement.

Therefore, except for Singapore where only the reservation of powers of investment or asset management functions by the settlor are expressly provided for, other common law jurisdictions have made amendments to their statutory provisions in relation to trust to provide a wide scope of Reserve Power by settlor, which commonly include the powers to:

- (a) revoke, vary or amend the trust deed;
- (b) distribute income or capital;
- (c) appoint directors or officers of companies;
- (d) direct investments;
- (e) appoint or remove trustees or protectors;
- (f) add or remove beneficiaries;
- (g) change the governing law or forum; and
- (h) veto or give consent to a proposed act of the trustee.

Moreover, the statutory provisions also expressly allow the grant of the above powers to other persons, such as the protectors or appointers, without invalidating the trust. This provides flexibility as to the management of the powers in the trust arrangement and provides certainty as to the range of persons and the scope of the powers that may be given or reserved in the trust.

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