HERCULIS TRUSTEES

Wealth & Investment Boutique

Swiss Experience

Wealth Management & Family Office Services

HERCULIS GROUP

Herculis Partners SA

(Porrentruy & Geneva) @2009, SRO SAAM

Herculis Trustees AG

(Zürich) @2014, SRO SAAM

Herculis Guardians SA

(Porrentruy) @2016

- ✓ **Team of twelve professionals in finance, law and tax.**

1. Onshore and offshore structures

- Incorporation, Administration, Management

2. Tax & Legal & Succession Planning Advice

3. Compliance Search & AML Reporting

4. CRS & FATCA Reporting

3. Accounting & IFRS Consolidation Reporting

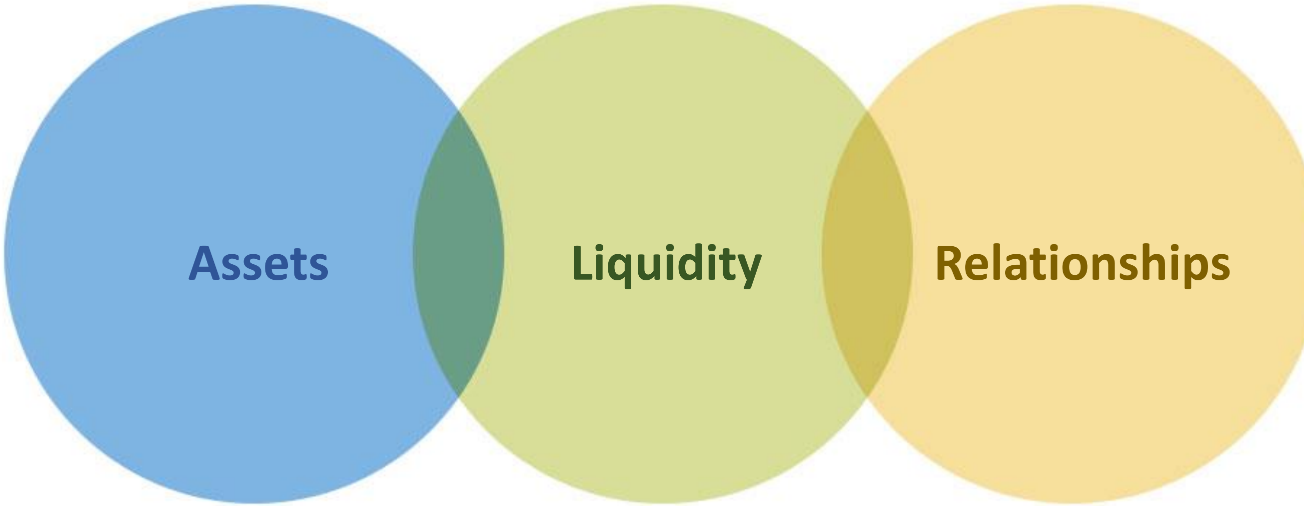
4. Migration and Re-domiciliation Support

- Switzerland, Monaco, Dubai

EXISTING AND PROSPECTIVE CHALLENGES

- **Planning for current and future generations -** often protecting individuals from wealth; determining who gets what, how and when; educating children and young adults on the responsibilities that come with wealth
- **Orderly succession** - preventing disputes over multinational estates; avoiding problems with conflicting laws
- **Living internationally** - tackling the practical burden that comes when living and moving between jurisdictions
- **Global compliance** - staying on the right side of constantly-evolving legislation worldwide; tax filing and planning
- **Legitimate protection of assets** - preparing for what can go wrong; minimizing dangers of wealth destruction
- **Safeguarding privacy** - where possible, avoiding unwanted publicity and public disclosures in courts
- **Governance of family businesses** - handling and planning transitions between generations; applying best practice
- **Securing business relationships** - the need for written agreements and neutral custodians
- **Wealth preservation** - strategic allocation of liquid assets; setting, implementing and monitoring investment strategy
- **Management and oversight** - taking care of administration; managing cash flows and liquidity needs; handling yielding and non-yielding assets
- **Effective charitable giving** - establishing objectives, setting a strategy and help with administration

ADDRESSING THE CHALLENGES



WHAT DO I HAVE?

- Business assets
- Lifestyle assets
- Financial assets
- Liquid & illiquid
- Yielding & non-yielding

HOW AM I ALLOCATING IT?

- Retaining in business
- Spending
- Investing
- Giving away

WHO MATTERS TO ME?

- Business and personal
- Family & non-family
- Current & future
- Robust & vulnerable links

HOLISTIC AND SPECIFIC PLANNING

Transition

Preparing for a successful succession

- Determining who gets what, how and when
- Protecting individuals and families from the adverse impact of their wealth
- Documenting and communicating rights and obligations towards each asset type

Areas to address include

- **Clear objectives** – defining the kind of legacy you want to leave; letter of wishes
- **(Re)structuring of wealth:**
    - For tax efficiency
    - To minimise risk of disputes
    - To avoid problems with conflicting laws
- **Next generation**
    - Planning for income needs
    - Education and mentoring programmes
    - Business buy-out and buy-in procedure

Governance

Securing more control and stability

- Reviewing and improving governance of business, family and assets
- Evaluating checks and balances, potential conflicts, sources of risk and mechanisms for handling disputes

Areas to address include

- **Family governance** – formal councils and constitutions; defining who is and is not considered as family; preparation and training for future leaders
- **Business governance** – shareholders agreements; new corporate governance and ethical standards; consolidating holding companies
- **Investment governance** – overall allocation of wealth; setting, implementing and monitoring investment strategy; defining approach to philanthropy

Protection

Guarding against what often goes wrong

- Stress-testing existing arrangements to assess vulnerability
- Safeguarding assets and legitimate privacy

Areas to address include

- **Asset protection** – Robust Plan B to cover worst-case scenarios and improve diversification
- **Privacy** – where possible, avoiding unwanted publicity and public disclosures in courts
- **Compliance** – applying best practice for a world of transparency across borders
- **Wealth allocations** – minimising dangers of wealth destruction

OUR APPROACH

Understand the client

- What is important? What do you want to achieve?
- Defining purpose of planning and nature of legacy
- Notion of family, values and vision
- Establishing time horizon and role of future generations
- Understanding rights and responsibilities towards business and non-business assets
- Discussing and setting objectives
- Gaining 360 degree view to develop suitable overall plan A straightforward process

Assess the challenges

- Judging key person risk and the effectiveness of checks and balances
- Evaluating risks and potential conflicts – inside and outside the family
- Reviewing development of wealth since initial structures were established
- Stress testing – including for economic and political upheaval
- Checking appropriateness of planning for today's tax and regulatory world

Formalize solutions

Strategic planning

- Tackling big issues of transition, governance and protection
- Legal asset structuring and tax planning

Fiduciary and administration

- Making it easier to live, work and invest internationally
- Holding and administering the full range of assets
- Safeguarding wealth across generations

Investment governance

- Bringing more clarity and control to investing
- Appointing partners and managing assets
- Active monitoring, oversight and reporting

WEALTH ALLOCATION MODEL

Retain it

Business-linked

- Source of wealth creation; generates yields for other categories
- Some liquidity retained to provide buffer for business demands
- Excessive cash levels are common; opportunity to optimize

Spend it

Lifestyle

- International living, travel and education need financing
- Physical assets purchased for enjoyment. Some depreciate; all cost money to maintain

Invest it

Direct investments

- Venture capital; taking active stakes in other businesses
- Training ground for developing talent in next generation
- Potential source of wealth creation and yield

Real assets

- Physical assets purchased as investments
- Appreciating assets. Split between yielding (real estate, land) and non-yielding (precious metals, art, wine)

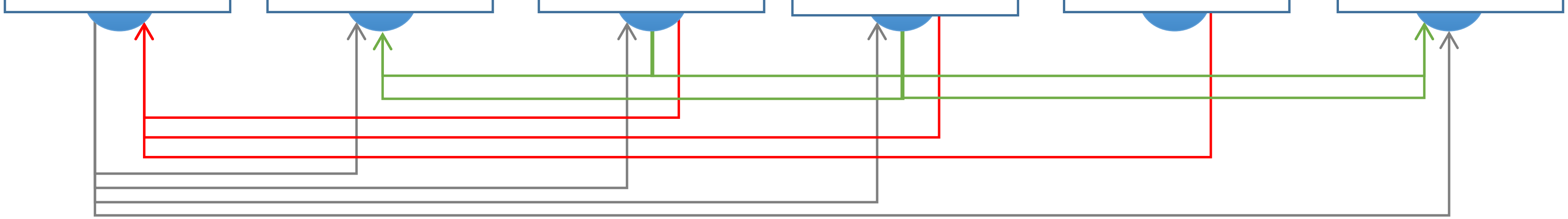
Financial assets

- Investing capital in financial markets
- Need for a nest egg portfolio focused on wealth preservation
- Investments need to be accessible with reasonable liquidity, to fund unexpected business, succession or family needs

Give it away

Philanthropy

- Conventional approach: conservative investment portfolio generates yields to fund distributions
- Alternative and more entrepreneurial approaches are becoming more popular



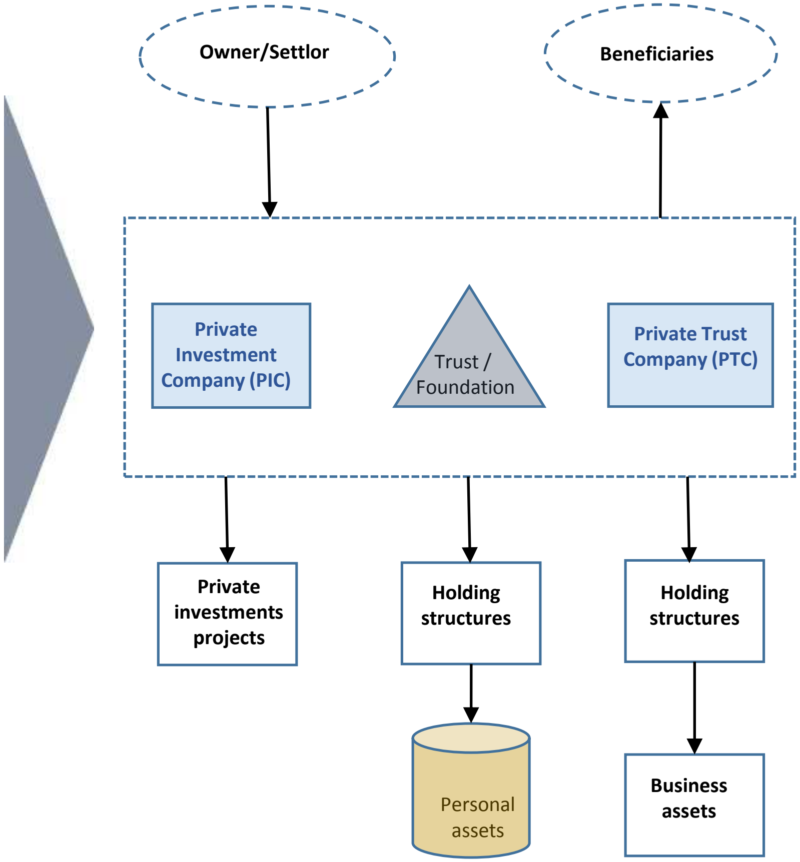
Notes

- Arrows represent example distributions, highlighting interdependence. Grey = primary flows. Green= subsequent flows. Red = emergency flows
- Without an operating business, wealth owners need dependable sources of income. Invested assets become the source of yield, funding other categories
- After a business sale, entrepreneurs typically seek new challenges and outlets for their skills. Direct investments should be seen through this lens

FIDUCIARY STRUCTURES (TRUST/FOUNDATION) AS FAMILY PLANNING INSTRUMENTS

Fiduciary structures distinguish between legal and economic interests (the latter standing for the right to derive benefits from the assets)

- **Excellent support for Family Governance Structure**:
  - **Transition**:
    - Supporting the legacy the wealth owner wishes to create and preserving family wealth for the next generations (building a family dynasty);
    - Contingency and succession planning: assets do not fall into the settlor's estate (not "frozen" during a probate period); flexible distributions among beneficiaries, who are not necessarily relatives of the settlor (subject to AML restrictions);
    - Avoidance of dispute risks between heirs through clear succession (subject to forced heirship rules).
  - **Governance:**
    - Setting ownership and control rights over wealth and income;
    - Complementing formal mechanisms for the family governance framework – such as family councils and constitutions (can be very valuable in bringing order, strengthening relationships and introducing healthy checks and balances);
    - Minimizing and managing conflicts between family members;
    - Enabling sensible overall long-term investment strategy including generating and allocating income.
  - **Protection:**
    - Protecting individuals and families *from* the negative consequences of being wealthy (fraudulent 3rd parties and advisors, "wrong" investments, spendthrift lifestyle, spouses – gold diggers, destroying ambitions of young family members);
    - Legitimate privacy protection: preserving the privacy of the settlor, his/her family and their wealth from public disclosures.
- **Assets consolidation and access to the expertise and exclusive services of a professional corporate trustee:**
  - Asset control and management: overall supervision of asset structure, identifying areas for improvements, strategic planning, etc.;
  - Continuity and consistency: the continuous and consistent administration for the entire lifetime of the trust;
  - Access to unique trustee's resources, favorable investment and custodial arrangements;
  - Impartiality: transmission of important discretionary trust decisions without putting personal family relationships at risk (i.e. where siblings are treated differently).



TYPICAL TRUST STRUCTURE

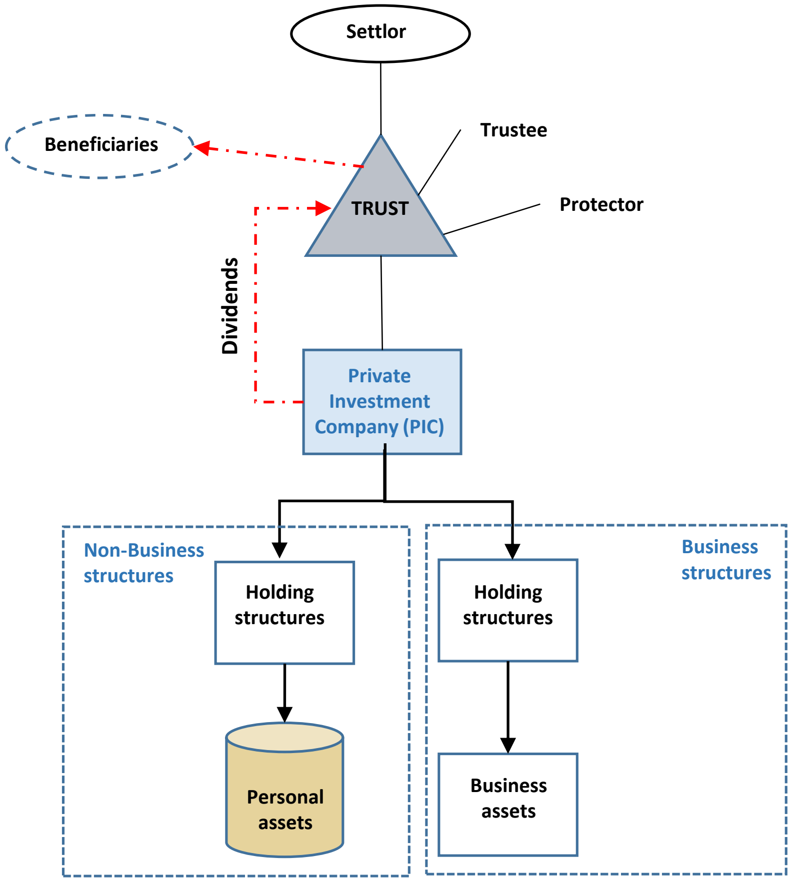
LEGAL NATURE AND PARTIES

- The trust is not a legal entity, but a legal arrangement formalized by the trust instrument between the following parties:
  - **Trustee:** an independent professional licensed provider bound by the trust instrument/Letter of Wishes and fiduciary duties
  - **Settlor:** individual creating the trust, either mentioned in the trust instrument or not (declaration of trust)
  - **Beneficiaries**: receive distributions and other benefits from the trust structure
  - **Protector:** usually appointed by a settlor to supervise the activities of the trustee with veto powers and sometimes even positive powers obliging the trustee

- **Types of the trusts** (most common types):
  - Non-discretionary: the trustee is bound by the trust instrument, which specifies the beneficiaries, the amounts and procedure to make distributions (ex: life interest trust where the trustee is obliged to pay the income of the trust to a life tenant or several of them)
  - Discretionary: the trustee has discretion to determine which beneficiary receives distributions and/or the amount of such distributions
  - Revocable: the trust can be revoked in full or in part so that the transfer to the trustee of the revoked assets is cancelled
  - Irrevocable: the assets have irrevocably been transferred to the trustee (the trustee can still distribute them to beneficiaries)

- **Irrevocable fully discretionary trusts** – the highest degree of assets protection

- **Typical jurisdictions for setting-up**: mostly common law jurisdictions (Great Britain, Guernsey, Jersey, BVI, Cyprus, Cayman Islands, Bermuda, etc.)



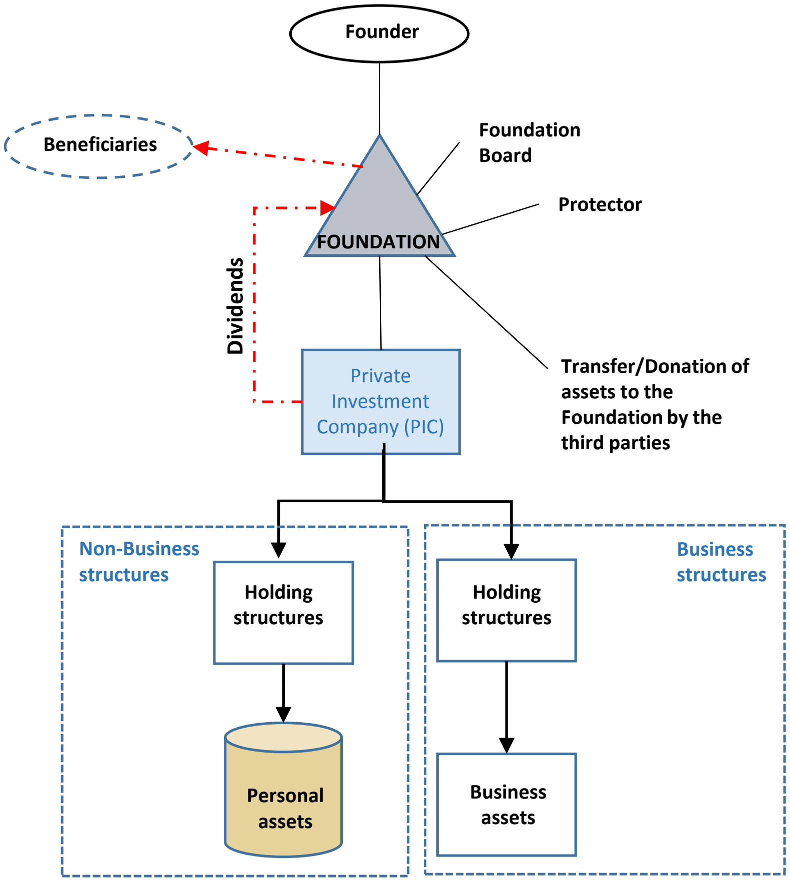
LEGAL NATURE AND PARTIES

- A legal entity registered in the relevant commercial registry to which title to the property is transferred; the equivalent to trusts in civil law jurisdictions with the following parties:
  - **Foundation Board ("FB"):** acting as its executive body of the legal entity bound by the foundation's statutes and by-laws
  - **Founder:** the instructions applicable to the FB are normally set out in by-laws, defining the procedure for distributions, circle of beneficiaries, etc.
  - **Beneficiaries**: receive distributions and other benefits from the foundation
  - **Protector:** supervisory powers over the FB

- **Distinction from the trust**:
  - Legal entity vs. legal arrangement
  - Relocation is complex and sometimes even impossible
  - Clearer structure for continental (civil law) jurisdictions
  - Asset are owned by the foundation, not the trustee
  - Beneficiaries have no formal possibility to control the assets
  - The FB has no fiduciary duty to act in the best interest of the beneficiaries but has instead a duty to the foundation itself

- **Tax optimization:** due to the divestment of his assets into a discretionary, irrevocable Foundation the founder is no longer the legal owner of the assets (**CFC-rules!)**

- **Typical jurisdictions for setting-up**: civil law but also modern offshore common law jurisdictions (Liechtenstein, Panama, Austria, Guernsey, Jersey, Bahamas, etc.)



FREQUENTLY ASKED QUESTIONS (Part 1)

What do I need to do to set up a Foundation?

- ✓ Personal meeting so that we could understand your requirements and recommend a solution.
- ✓ You will need to provide us with due diligence documentation and pass our screening process.
- ✓ Enter into the appropriate agreement.
- ✓ Transfer assets into the Foundation or underlying company(ies).

Do I still own the assets once they have been transferred to the Foundation?

- No, the assets become the property of the Foundation.

What if my circumstances change once the Foundation has been set up?

- The Foundation has flexible instruments, for example they dictate how the beneficiaries and members of the Council are appointed and removed. Your needs can therefore be accommodated by the Foundation instruments.

Who can benefit from the assets of the Foundation?

- Whoever the Founder or the Council decides.

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FREQUENTLY ASKED QUESTIONS (Part 2)

? **Can I be a beneficiary of the Foundation?**

- Theoretically yes, but for various reasons, mostly tax related, we strongly advise against it.

? **I am uncomfortable about giving my assets to a third party, what assurances do I have that my assets are in safe hands?**

- The services are provided by a licensed trust and corporate service provider and as such are subject to strict regulations and codes of conduct. The Council must preserve and enhance the assets in a way that benefits the beneficiaries in accordance with the terms of foundation instrument.

? **Are there any other safeguards that I can put in place to ensure that the assets are looked after in accordance with my wishes?**

- In addition to a letter of wishes, you can also appoint a Curator to the Foundation. This may be a family member, friend or professional. Depending upon the terms of the foundation agreement the Curator may have the power to remove and appoint members of the Council and also may have the ability to veto certain decisions of the Council. For example, the consent of the Curator may be required to sell an asset or take out loan.


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1.

Family Office Services

2.

Wealth and Assets Management

3.

Private Equity and Alternative Investments

4.

Trustee Services
(Domiciliation, Administration and Accounting)

5.

Safe Boxes and Precious Metals