

Why Hong Kong as a Trust Jurisdiction?

New Modern Trust Law

Following the enactment of amendments to the Trustee Ordinance and the Perpetuities and Accumulations Ordinance in 2013, Hong Kong now has a modern and competitive common law trusts regime, making it one of the most attractive destinations for trusts planning in Asia.

The main features of Hong Kong's new trust law are:

- Reserved Powers to the Settlor – Settlers of Hong Kong trusts will be able to reserve the power of investment and management of the trust assets to themselves, and to manage the trust assets in the manner they deem fit.
- Perpetual Trusts permitted – Hong Kong trusts can continue indefinitely with no perpetuity period, or Settlers can still choose to specify a fixed perpetuity period – a feature that many other jurisdictions do not offer.
- Forced Heirship Protection-The forced heirship rules of a foreign jurisdiction will not affect the validity of any settlements of any moveable assets into a trust made by settlors during their lifetime.
- Enhancement of Trustee's Default Powers - When the trust deed is silent, the trustees may rely upon the Trustee Ordinance to provide them with enhanced default powers of management and control.
- More Protection for Beneficiaries – New provisions provide for improved protection for beneficiaries and their interests.

Legal System and Judiciary

- Hong Kong's legal system is based on English common law.

- Hong Kong's trust legislation dates back to 1934 and is based on the English trust law.
- Hong Kong has a robust and independent judicial system first established under the British rule. The common law is constitutionally protected.
- The Hong Kong courts continue to apply and follow the case law and judicial precedents of Commonwealth jurisdictions.
- Hong Kong is an attractive jurisdiction from which to administer trusts, with a judiciary experienced in trust law and professionals experienced in public trusts and private client wealth management services. This ensures a high level of domestic know-how and experience, and is a reflection of a transparent and efficient legal framework, competitive pricing, and extensive asset protection functionalities.

Chinese and English as the Official Languages of Hong Kong

Chinese and English are both official language of Hong Kong. Most civil legal proceedings are conducted exclusively in English.

Stable Legal Environment

- China's "One Country, Two Systems" policy for Hong Kong is constitutionally protected under the Basic Law, guaranteeing Hong Kong a high degree of judicial independence and protection of private property rights.
- Hong Kong has constitutionally integrated the International Covenant on Civil and Political Rights into the Basic Law, and is a signatory to most major international conventions on human rights.

A Major Financial Centre

- Hong Kong is one of the three major international financial centres in the world, along with London and New York.
- Hong Kong has access to a wide range of world class banks.
- Hong Kong has one of the world's major stock exchanges.
- Hong Kong benefits from robust and transparent market regulation, anti-money laundering, and anti-corruption regimes.
- Unlike many other trusts jurisdictions, Hong Kong is

party to numerous comprehensive double tax treaties. Hong Kong actively participates in OECD-driven international taxation initiatives, including the AEOI/CRS and BEPS, and is therefore not subject to any material 'blacklisting' risk.

Sophisticated Investment Infrastructure

- Availability of a large pool of investment expertise.
- Hong Kong is a major centre for investment funds, innovative investment vehicles, and IPO's in Asia, and in that regard has a thriving ecosystem of professional trustees and fund services providers.
- Hong Kong is strategically and geographically positioned to take advantage of the enormous growth prospects in the Greater Bay Area and Asia regions in the coming years.

International Business and Investment Hub

- Because of its central geographic location, Hong Kong is the gateway to China and a hub of international business in Asia.
- Hong Kong has one of the best international airports in the world, which makes for convenient and efficient business travel.

International Standard Professionals

- Every area of professional services required by corporations, intermediaries and businesses (in accountancy, law, banking, finance, investment, trust, fund services and other areas) is catered for in Hong Kong, and each profession is subject to close regulation and highly exacting standards.

Strong Anti-Corruption Laws

- Money laundering and terrorist financing are criminal offences in Hong Kong.
- Hong Kong is a member of The Financial Action Task Force on Money Laundering ("FATF").

Information provided by
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("HKTA")

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为何以香港作为信托 司法管辖区

新的现代化信托法

随着《信托人条例》及《财产恒继及收益累积条例》的修订于2013年通过实施，香港现时具备一套现代化及具竞争力的普通法信托体制，使香港成为亚洲最具吸引力的信托规划目的地。

新信托法有下述几个特点：

- 委托人权力的保留 – 香港信托的委托人可保留投资及管理信托资产的权力，并以他们认为合适的方式管理信托资产。
- 允许永久性的信托 – 香港信托可在没有恒继期的情况下无限期存续，或委托人仍可选择设定一个恒继期作为期限。很少信托司法管辖区拥有这项特点。
- 强制继承的保护 – 外国司法管辖区的强制继承规定并不影响委托人于在世时将任何可动资产转移至信托安排的有效性。
- 受托人预设权力的提升 – 如信托契约没有提及受托人的权力，受托人可依据信托人条例所赋予，行使新例提升了的预设管理和控制权。
- 更多对信托受益人的保护 – 新的法律条文为信托受益人及其利益提供了更大的保护。

法律制度及司法制度

- 香港的法律制度建基于英国的普通法。
- 香港对信托的立法始于 1934 年并建基于英国的信托法。
- 香港拥有完善和独立的司法制度，而且是依据英国的规定而建立的，普通法受宪制保护。
- 香港法院仍然以英联邦国家的案例及司法判例作为依据。
- 就管理信托而言，香港是一个吸引的司法管辖区，既拥有具信托法经验的司法制度，又具备公营信托和私人客户财富管理服务的专才，从而确保高度的本地专长和经验、体现透明高效的法律框架、具竞争力的价格及广泛资产保护等功能。

中文及英文作为官方语言

中、英语均为香港的官方语言，大部份民事法律程序则广泛采用英语进行。

稳定的法律环境

- 中国对香港实施的「一国两制」政策受基本法的宪制保障，确保香港拥有高度司法独立及私有财产的保护。
- 香港已将“公民与政治权力国际公约”的条文融入基本法，且是众多重要的国际人权公约的缔约者。

主要的金融中心

- 香港与伦敦和纽约并列世界三大主要的国际金融中心。
- 香港对接大多数世界级的银行。
- 香港的证券交易所是世界主要的证券市场之一。
- 香港得益于稳健及透明的市场法规、反洗钱及反贪污等制度。
- 有别于其他信托司法管辖区，香港是众多双边税务条约的缔约方。香港积极参与OECD推动的国际税务措施，包括AEOI/CRS及BEPS，因而并无被列入税务黑名单地区的重大风险。

完善的投资基础设施

- 拥有大量的投资专才。
- 香港是投资基金、创新投资工具及首次公开招股活动在亚洲的主要中心，形成拥有专业受托人及基金服务人员的生态圈。
- 香港的战略及地理位置有利于受惠未来大湾区及亚洲地区强劲增长的前景。

国际商务及投资枢纽

- 由于其位于中央的地理位置，香港成为连接中国的通道和亚洲国际商务的枢纽。
- 香港国际机场是全球最佳的国际机场之一，使商务旅程更便捷及有效率。

国际级的专才

- 所有企业、中介及商务所需的专业服务(会计、法律、金融、投资、信托、基金服务及其他范畴)均可于香港找到，每个专业亦备受规管及符合高标准要求。

强而有力的反贪污法

- 在香港，洗黑钱活动及向恐怖份子提供资金活动属刑事罪行。
- 香港是国际金融反洗钱特别工作小组 (The Financial Action Task Force on Money Laundering (“FATF”))的成员。

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