TRUSTEES

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Trustees

PRIVATE TRUST - BLIND TRUST ARRANGEMENT.

Blind Trust as defined by the Black's Law Dictionary is "a trust in which the Settlor places investments under the control of an independent trustee, usually to avoid a conflict of interest." It further defines it as a "financial arrangement in which a person, such as a high-ranking elected official, avoids possible conflict of interest by relegating his financial affairs to a fiduciary who has sole discretion as to their management.

A blind trust is a special type of trust that gives complete trading and management authority to a third-party entity. This separate party is held to a fiduciary standard, which means it must act solely in the best interest of the beneficiary regardless of all other circumstances or conflicts of interest. The trading party has virtually unlimited authority and discretion to manage the assets in the trust, similar to the manner in which a parent or guardian would manage a custodial investment account for a small child. The beneficiary is not permitted to have any knowledge of anything that happens inside the trust. The beneficiary may only know the third party is managing the assets according to the wishes of the Settlor.

A blind trust is one that is designed to mask the Trust assets from the person or persons designated to receive the proceeds (beneficiaries). It is most often associated with High Net worth Individuals (HNIs), politicians, and corporate organizations. Blind trusts serve a narrowly defined function of giving HNI's and corporate organizations an option of better financial management, provide protection from taxation as well as clear control of the dispensation of assets; it also gives political figures an effective way to sidestep allegations that their personal finances will influence decisions they make while in public office. As such, blind trusts can play a vital role in allowing the person to navigate the potential chasm between private wealth and public life.

How Does Blind Trust Work?

Under a blind trust arrangement, a settlor transfers assets to a third party who has complete discretion in how to use or invest the assets. In the typical blind trust scheme, the settlor may be also the beneficiary; thus, the trustee is managing the assets for the benefit of the settlor. However, the settlor/beneficiary can't give any instruction to the trustee about what to invest in and how to invest; he has absolutely no knowledge of how the trust assets are invested. He relies solely on the fiduciary obligations owed to him by the Trustee.

For instance, to avoid potential conflicts of interest, a public official might set up a blind trust to manage private assets that he or she and his/her spouse and dependent children own. Since a perceived or real conflict of interest could arise if that official is involved in legislation that affects his or her investments, placing those assets in a blind trust, especially an irrevocable one, will allow the official to act impartially and in the best interests of the office.

Another situation where a blind trust is useful is when a corporation or a corporate executive wants to avoid illegal insider trading. The executive can place all the company shares he or she owns into the blind trust, thus giving complete control and knowledge over when and how much of the stock is sold to a trustee. This strategy removes the restrictions on when the stock can be sold, since it's no longer held by an insider, which can result in better investment outcomes. The trustee can manage the assets to improve the executive's asset diversification and risk profile and does not have to worry about the window periods or blackout periods that affect insiders.

Blind trust is particularly different from other types of trust because of the level of discretion handed over to the trustee and the identity of the various parties to the trust as well as the total relinquishment by the Settlor of the control and transparency of assets placed in trust. The Bottom Line is that Blind trusts create a layer of separation between the grantor's assets and professional or political activities that helps to eliminate real or perceived conflicts of interest and accusations of wrongdoing. Individuals who receive a windfall can also use them to maintain financial privacy. But if you're thinking about establishing a blind trust, you need to carefully consider whether the benefits of independence and removal of oversight outweigh the drawbacks of loss of control and information, especially if the blind trust will be irrevocable.

MERITS OF BLIND TRUST

There are many types of trust used in estate planning, retirement planning, and other forms of financial management, however, blind trust provides an extra layer of protection from estate tax as well as clear control of the dispensation of assets upon the death of the Settlor. This type of trust is suitable for financial planning during an individual/corporation's lifetime as well as after demise.

- The Primary Advantage of Blind Trust is that it provides standard estate planning benefits and also enables the Settlor efficiently manage estate taxes. It protects the trust assets (for corporations/ corporate executives) from creditors, or any potential loss of those assets to creditors (if the business is no longer a going concern).
- It ensures the avoidance of probate upon the death of the Settlor by transferring the assets to trust while the Settlor is still alive.
- It confers power on the trustee to manage the trust assets in good faith should the Settlor become unable to oversee them him/herself.
- Ensures that your assets are transferred to the intended beneficiaries and fosters provision for children or family members who lack the financial know how to manage the assets.

MERITS OF USING A PROFESSIONAL TRUSTEE

The choice of appointing an individual or institution (Professional trustee) to be responsible for investing and managing or distributing an estate is one of the most important business decisions in executing an estate plan and preserving one's family heritage. The following are the benefits of selecting a Professional trustee to manage your assets and estate on your behalf:

A Professional trustee is better equipped with requisite skills to manage your investment, tax, and interpersonal issues.

Professional trustees have continuity because the company as a business entity does not rely on an individual's life span, but continues to administer the settlor's estate or interest long after the contracting parties may have passed away.

Professional trustees are better placed to make future amendments to the declaration of the trusts that could be necessary to achieve the objects of the trust.

RESPONSIBILITIES OF THE TRUSTEE/TRUST FIDUCIARY IN A BLIND TRUST ARRANGEMENT

A trustee/trust fiduciary, has a duty to manage the assets of the trust in a way that upholds the interests of the Settlor/beneficiary. A trustee has a fiduciary duty to act in the best interests of both current and future beneficiaries of the trust and can be held personally liable for any breach of that duty.

Generally, in a blind trust, the Trustee has a duty to invest and manage property held in a fiduciary capacity in accordance with the "Prudent Investor" standards established under the laws of the state that governs the trust. In contrast to the old "Prudent Man" rule, with its emphasis on preserving trust principal at all costs, the new Prudent Investor rule gives Trustees much broader authority to make investments. The emphasis on a Trustee's duty of caution and avoidance of speculation in the old Prudent Man rule has been replaced by a more modern approach to trust investment in which the Trustee's central concern is balancing acceptable risk against increased returns, based upon the overall purposes of the trust. The Prudent Investor rule reflects the trend in the law of fiduciary investment in response to changing economic conditions, modern investment vehicles and strategies, modern portfolio theory and an evolving regulatory environment for fiduciaries.

CONSEQUENCES FOR BREACH OF THESE DUTIES BY THE FIDUCIARIES

A failure to abide by these duties usually result in negative consequences for the fiduciaries. The Securities and Exchange Commission (SEC) has the power to suspend and sanction defaulting CMOs (Trustees) and has utilized these powers on several occasions [http://sec.gov.ng/suspensions-and-penalties/]. Section 174(1)(a-b) of the ISA particularly vests on the Commission the power of cancelation and suspension of the registration of anY CMOs (Trustees) who is in breach of their duties.

Beyond these regulatory consequences, there is also the negative impact on the reputation of these CMOs (Trustees) and their executives. However, settlors/investors are usually the worst hit when losses arise from the breach of these duties, thus, it is important that potential settlors/investors aware of the duties of fiduciaries and must ensure that their trustees are vetted and have a reputation of integrity.

SOURCES

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SAMTL NIGERIA EUROBOND (USD) INVESTMENT

SAMTL NIGERIA EUROBOND (USD) INVESTMENT (SNEI)

The SAMTL Nigeria Eurobond (USD) Investment is an investment focused on US dollar denominated securities issued by Nigerian and Foreign entities such as corporate and Sovereign Eurobonds.

The product is aimed at providing investors with bias for dollar denominated securities.

Minimum start-up contribution: $5,000
Minimum Additional Investment: $1000
Base Currency: USD

Customer Benefits

- The product will enable investors earn returns on their foreign currency holdings
- Serve as a hedge to currency fluctuations
- Diversify investors investment portfolio

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