

REPUBLIC OF SAN MARINO

TRUST ACT*

WE, GOVERNING CAPTAINS
The Serenissima Republic of San Marino,

Promulgate and send to publication the following law approved by the Great and General Council from the session of March 17, 2005.

PART 1 GENERAL CLAUSES

Art. 1 (Definitions)

1. With this present law, the following shall be referred to as:
 - a) <<Judicial Authority>>: the Judicial Authority of San Marino;
 - b) <<Vigilance Authority>>: the Central Bank of the Republic of San Marino;
 - c) <<goods>>: any right, power, faculty, or interests susceptible to economic valuation;
 - d) <<trust property>>: goods which constitute the object of trusts;
 - e) <<settlor>>: one who institutes the trust;
 - f) <<domicile>>: the place where the person has established the centre of his civil life;
 - g) <<law>>: the present law and successive modifications or integrations;
 - h) <<residence>>: the place in which a person has his customary abode;
 - i) <<Court>>: the Tribunale Unico referred to by the Law of October 30 2003 n.145 and subsequent modifications and integrations;
 - j) <<trust with beneficiary>>: the trust enacted in the interest of one or more beneficiaries;
 - k) <<purpose trust>>: the trust enacted to fulfill one or more purposes;
 - l) <<authorized trustee>>: the authorized trustees in conformity with article 19 of the law;
 - m) <<qualified trustee>>: the trustees identified according to article 19, clause 4, of the law;
 - n) <<foreign trusts>>: a trust whose applicable law is a law on trusts of foreign nation state;
 - o) <<guardian>>: is the subject who exercises control on the actions of the trustee.

Art. 2 (Notion of a Trust)

1. There is a trust when a trustee is holder of properties in the interest of one or more beneficiaries, or for a specific purpose.
2. It isn't incompatible with the existence of a trust in which circumstance the settlor holds the office of trustee, or reserves certain prerogatives to himself.
3. The settlor and trustee can be beneficiaries of the trust, but the trustee cannot be the only beneficiary of the trust.
4. The same trust act may institute trusts with beneficiaries and purpose trusts.

* This is not an official text, and the Central Bank of the Republic of San Marino assumes no liability for any errors or omissions. The official text of the Laws of the Republic of San Marino can be found in the *Bollettino Ufficiale* or on the Internet website, www.consigliograndeegenerale.sm.

Art. 3

(Sphere of application of the law)

1. The law applies only to trusts enacted by will of the settlor.

Art. 4

(Regulating law and the recognition of foreign trusts)

1. The individuation of the regulating law and the recognition of foreign trusts created by will of the settlor and put down in writing are governed the Hague Convention of July 1 1985, referring to the law applicable to trusts and to their recognition.

Art. 5

(Jurisdiction of The Republic of San Marino in matters of trust)

1. The jurisdiction of the Judicial Authority in matters of trusts exists when the defendant has his domicile, residence or legal seat in San Marino, the trustee is an authorized trustee, or the trust is administered in San Marino, or the law applicable to the trust is the law of the Republic of San Marino.
2. The jurisdiction of the Judicial Authority can be derogated by a foreign judge if the possibility of derogation is indicated in the trust act, or if it has been stipulated in writing.

**PART II
TRUSTS**

Title I

TRUST ENACTMENT, DURATION, AND INVALIDITY

Art. 6

(Enactment of the trust)

1. The trust is enacted with a written act. Whenever the act is *inter vivos*, the form of the public or written act is required with the authenticated signature of a notary public, who will thus assert its legality.
2. The elements of the trust which must result from the trust act are:
 - a) the will of the settlor in enacting the trust;
 - b) the identification of the authorized or qualified trustee;
 - c) the identification of trust property or the criteria which lead to the same end;
 - d) in the case of a purpose trust, the purpose must be determined, and the guardian identified, or the criteria which lead to the same;

- e) with a trust including beneficiaries, the beneficiaries must be identified, or the criteria which lead to the same;
 - f) the criteria regarding the distribution of goods and properties upon the termination of the trust for reasons other than the revocation of the trust.
3. Whenever the trust act fails to identify the trustee, or fails to stipulate the criteria which leads to his identification, the Court shall see to the appointment of one upon the motion of anyone with vested interest.
4. Unless otherwise indicated in the trust act, the trust is irrevocable.

Art. 7
(Purpose Trust)

1. The trust act of a purpose trust must contain:
- a) the identification of a determinate purpose or aim, possible to be carried out and not contrary to mandatory law, public order or common decency;
 - b) the appointment of a guardian who is under the obligation of respecting the provisions contained in the trust act, or the criteria which lead to the same.

Art. 8
(Abstract of the trust act)

1. Within fifteen days of the date in which he receives the trust act, the trustee must draw up an abstract containing:
- a) the denomination of the trust chosen by the settlor, or, in his place, by the trustee;
 - b) the indication of the trust's revocability or irrevocability;
 - c) the indication of the trustee and the eventual limitations placed upon his powers;
 - d) the date of the trust act and the duration of the trust, if stipulated in the trust act.
 - e) the regulating law of the trust;
 - f) one of the following indications:
 - "it is a trust act with beneficiaries";
 - "it is a purpose trust act";
 - "it is a purpose trust act with beneficiaries";
 - g) the description of the purpose trust.
2. The abstract is to be signed by the trustee with the authenticated signature of a notary public.

Art. 9
(Registration of trusts by the Republic of San Marino)

1. A Trust Register of the Republic of San Marino is to be instituted. The Register is kept in the Office of the Trust Register under the supervision of a judge delegated by the Executive Magistrate.
2. The Trust Register is open to the public and certification regarding its results may be issued. A Decree issued by the Governing Captains (Capitani Reggenti) within one hundred and twenty days from the date in which the law comes into effect establishes formalities and registration effects, as well as the holding and consultation of the Trust Register.
3. The notary public who authenticated the signature of the abstract of the trust act shall attend to the deposit within ten days from the date of the authentication at the Office of the Trust Register.

4. The Office manages the registration of the trust in the Register transcribing the abstract and presents the notary public with the certification attesting to the registration of the trust.
5. If the notary public omits the deposit regarding the abstract within the terms indicated in clause 3, the trustee will provide it autonomously within the next successive 10 days.
6. The trustee must request the cancellation of the trust from the Register within twenty days:
 - a) from the attribution of trust properties to the subjects entitled, following the termination of the trust;
 - b) from the modification of the regulating law of the trust, the provisions of article 58 nevertheless remaining in force;
 - c) from the discovery of a nullifying cause regarding the trust act, or from its nullification.
7. The limitations placed upon the powers of the trustee stipulated in the trust act which have not been registered in the Register are not demurrable to third parties acting in good faith.
8. The unsuccessful cancellation of the trust is not demurrable to third parties, unless the latter are knowledgeable of the existence of the cause which required the cancellation of the trust.
9. A sanction penalty of 2.000,00 Euro is exacted on the notary public and trustee who have not seen to the registration of the trust within the terms respectively indicated in clauses 3 and 5. The trustee who omits requesting the cancellation of the trust from the Register with recourse to the conditions indicated in clause 6 is to be subjected to the same pecuniary sanctions.

Art. 10

(Duration of trust)

1. The trust comes into effect from the moment in which the trust property is entrusted to the trustee, and cannot last more than one hundred years from the date of the trust act, unless it is a purpose trust.
2. If the trust act with beneficiaries does not determine its duration, or establishes a duration superior to one hundred years, the duration of the trust shall be one hundred years.

Art. 11

(Nullity of the trust)

1. The trust is null and void when:
 - a) the trust act is contrary to mandatory law, public order or common decency;
 - b) the trust act is not in accordance with the forms requested by article 6, clause 1, of the law;
 - c) the requisites indicated in article 6, clause 2, lett. a), b), c), d), e), of the law are missing or are indeterminate;
 - d) the requisites of article 7 of the law are missing;
 - e) the trust act has been simulated, or the transferral of property to the trustee has been simulated.
2. In the preceding cases, the nullity may be revoked when its cause has been removed.
3. The trust is further nullified when trust property or a part of it has been used, or is destined to be used, in an act which constitutes a crime, or represents the price, product or profit of such crime.
4. The nullity of the trust can be invoked by anyone concerned, and can also be proposed autonomously by the Court. The relative action is non precriptible.
5. The nullity of the trust does not compromise the position of third parties who in good faith have onerously acquired rights from the trustee after the registration of the trust in the Register referred to in article 9.

6. The nullity of single provisions leads to the nullity of the entire trust act if it emerges that the settlor would not have enacted the trust without the provision of the trust act affected by the nullity.
7. The nullity of single provisions does not lead to nullification of the trust act when the nullified provisions are replaced by law with mandatory norms.
8. It is possible to nullify the trust in the instances foreseen by San Marino law as causes of invalidation of acts characterized by a patrimonial content.

Art. 12

(Trust property)

1. Any property or goods in accordance with the present law can be an object of trust.
2. Objects of trust is that property of which the trustee becomes titular in the exercising of his office, including those deriving from:
 - (I) operations put into effect by the trustee, including those regarding investments and disinvestments;
 - (II) proceeds and income generated from aforesaid properties.
3. Trust property is also that which represents the profit attained by the trustee owing to acts or omissions eventually carried out in violation of his obligations.
4. A trustee may accept from any interested parties any goods or property that may be added to the trust property without them becoming settlors.

Art. 13

(Patrimonial separation and binding destination)

1. Trust property is to be kept separate from the personal goods and properties of the trustee and from those pertinent to other subjects or other trusts. In particular:
 - a) trust property cannot be subject to any actions on the part of personal creditors of the trustee;
 - b) in the case of a concurrence of creditors, or concurring procedures of the trustee, trust property is to be separated from the other goods of the trustee and are excluded from the concurrence of his personal creditors;
 - c) trust property is not included among those to which the patrimonial regime of the family applies and is not included in the succession of the trustee.
2. The trustee manages and administers trust property in the interest of one or more beneficiaries or for one or more purposes. The trustee is obliged to execute every formality useful to protect the effective character of the binding destination.

Title II

Modification, Revocation and Termination of the Trust

Art. 14

(Modification of the institutive act of the trust)

1. The trust act may foresee that provisions herein contained and the choice of a regulating law are modifiable in the interests of the beneficiaries or for the advancement of the purpose of the trust. Whenever such powers have been discerned, the modification is under the power of the subject identified in the trust act upon hearing the opinions of the guardian, where indicated by the law or by the same trust act; in case such identification is lacking, the modifications fall upon the trustee.

2. The trust act with beneficiaries cannot be modified with the result of transforming it into a purpose trust and, likewise, the trust act of a purpose trust cannot be modified with the result of transforming it into a trust with beneficiaries.
3. The modification of the trust act requires the prescribed form relative to article 6, clause 1, of the present law.
4. The trustee will communicate with an authentic copy any modifications of the trust act to the Trust Register Office with regard to the elements indicated in the abstract pursuant article 8, within fifteen days from the moment in which they take effect or have been received. The office will see to the relative margin annotations of the abstract. Failing this, they are to be non-demurrable to third parties in good faith.
5. The appointment of a new trustee is communicated according to the previous clause by the outgoing trustee or by the remaining trustees. If such communication is lacking, the newly appointed trustee shall request the authorization of the Court to perform said communication .
6. A penalty sanction of 2.000,00 Euros shall be exacted upon the trustee who does not perform the communications in the terms indicated in the preceding clauses.
7. The modification of the trust act does not affect the efficacy of the acts which the trustee validly completed before such modification.

Art. 15
(Revocation of the trust)

1. The trust act may indicate that the trust is revocable in its entirety or only in part.
2. The revocation occurs in conformity with the forms required for the modification of the trust act.
3. In the case of partial revocation, which leads to the attribution of property to a specific subject, the trustee sees to the transfer observing the cautionary procedures indicated in clause 2, 3, 4 and 5 of article 17, while guaranteeing the efficacy of the ongoing operations on such properties.
4. Upon the total revocation of the trust, articles 16 and 17 shall be applied. In such a case, save for a different disposition of the trust act, the trustee shall see to the transfer of trust property to the settlor or his successors.
5. The revocation does not compromise the efficacy of acts carried out in conformity with the law and the trust act by the trustee prior to the communication of the revocation.

Art. 16
(Termination of trust)

1. In addition to the causes indicated in the trust act, the trust terminates:
 - a) upon expiration of the trust terms;
 - b) upon its complete revocation;
 - c) upon the attainment of a purpose, or due to the unexpected impossibility to carry it out;
 - d) due to the absence of beneficiaries, or subjects who may become so according to the criteria indicated in the trust act;
 - e) due to the termination of the trust on the part of the beneficiaries in accordance with article 52, clause 3.
2. The termination does not compromise the efficacy of the acts previously completed by the trustee in conformity with the trust act and the norms of applicable laws.
3. When the trust terminates due to the absence of beneficiaries or subjects that may become so according to criteria indicated in the trust act, and successors to the settlor prove to be absent, trust property is transferred to the Republic of San Marino.

Art. 17

(Distribution of Trust Property)

1. Once a cause for termination of the trust has been realized, the trustee will eventually complete any ongoing operations and will not undertake new operations.
2. Once the inventory regarding trust property and the representation of the patrimonial situation has been drawn up on the date of the terminating cause, the trustee will transfer the trust property to the rightful subjects, according to the criteria established in the trust act. Whenever the trust act does not specify such criteria, the trustee will transfer the residual trust property to the settlor or to his successors, unless the purpose of the trust requires that residual property be destined for analogous purposes.
3. In order to eventually deal with existing liabilities, and with those that will likely manifest after the transfers indicated in the preceding clause, and though he may be uncertain as to their nature and amount, the trustee has the right to retain some trust property, or obtain a suitable guarantee on the part of the subjects to whom he must transfer said property.
4. After the trust property has been transferred to the rightful subjects, creditors with claims of credit unpaid for reasons inherent in the trust can oppose their claims to the trustee, up to the value of the trust property as on the date of its transfer to the beneficiaries.

PART III

SUBJECTS OF THE TRUST

TITLE I

ON THE TRUSTEE

SECTION I

ON THE APPOINTMENT AND PRACTICING AUTHORIZATION OF THE OFFICE

Art. 18

(On the acceptance and rejection of the appointment to the office of trustee)

1. The trustee who is appointed by the trust act may enter his office through an either expressed or tacit acceptance. The acceptance is expressed when it is contained in a written act, or when the appointee takes on the title of trustee in relation to third parties. The acceptance is considered tacit when the appointee carries out an act which necessarily presupposes his will to accept the office.
2. He who intends not to fulfil the office of trustee may refute it explicitly with a written statement addressed to the settlor, or to his successors, or to the trustee who already occupies the office.

Art. 19

(Authorized trustees and qualified trustees)

1. To be able to practice the office of trustee requires the authorization of the Vigilance Authority, and is subjected to the supervision of the same Authority.
2. Authorization is granted exclusively to banking firms, holding and trust companies, whose company structure can be identified by the Vigilance Authority, and that has its legal and administrative seat in the Republic of San Marino.
3. The Vigilance Authority establishes under its own provisions:
 - a) the conditions and formalities to obtain authorization;
 - b) the requirements of honourableness and professionalism that must characterize the subjects who carry out administrative, management or supervision functions in the companies or firms which practice the office of trustee;
 - c) the requirements of honourableness that must characterize the shareholders of the companies practicing the office of trustee;
 - d) the provisions regarding the supervision of the companies which practice the office of trustee, the duties of communication, even in relation to the proxy of functions;
 - e) the formalities pertaining to the renunciation of authorization;
 - f) the causes of revocation and suspension of authorization;
 - g) the formalities pertaining to the holding and consultation of the register of authorized trustees.
4. If no person among the beneficiaries, the settlor, or the guardian of the trust has their residence, domicile, citizenship or legal seat in the Republic of San Marino, or if the purpose of the trust needs not to be realized there, the carrying out in San Marino of acts or operations inherent to the trust is permitted only to the following subjects, having legal and administrative seat outside the borders of the Republic, operating in a regime of reciprocity:
 - a) banks;
 - b) trust companies;
 - c) other investment enterprises, provided that they are:
 - subject to prudential supervision;
 - bound to respect anti-laundering laws;
 - not constituted or administered in nations identified in a special provision by the Vigilance Authority.
5. Notwithstanding that indicated in the preceding clauses, if the trust has a plurality of trustees and at least one of these is an authorized trustee, or, on the grounds of existing presuppositions, a qualified trustee, the office of the trustee may also be held by a physical person. In such a case, the trustees undertake their deliberations unanimously and operate jointly.

Art. 20

(Appointment of a new trustee)

1. The appointment of a new trustee occurs in accordance with the provisions of the trust act, or, in absence of these, on the part of the Court.
2. Save for a provision of the trust act indicating otherwise, whenever the trust has a plurality of trustees, the new trustee is appointed unanimously by the trustees who hold the office. In the case of disagreement, the Court shall see to the appointment.
3. The appointment of the new trustee must be communicated by abstract, with an act formally authenticated to be presented to the Trust Register within fifteen days from the said appointment.

SECTION II ON THE OBLIGATIONS OF THE TRUSTEE

Art. 21

(In good faith and diligence in execution)

1. The trustee fulfils his obligations and exercises the powers inherent in the office according to good faith and with the diligence of a good *paterfamilias* ('head of the family') who acts and looks after the interests of others.
2. With respect to authorized trustees, or qualified trustees, or other subjects in possession of professional competencies, diligence is assessed with respect to the professional nature of the activity practiced.

Art. 22

(Tutelage of the integrity of the trust property)

1. The trustee must ascertain that the trust property is within his titularity. He protects the integrity and the possession of trust property, carrying out all necessary or useful acts to fulfill such end.
2. The trustee must conserve trust property separate from any other good or property in his possession, including those pertaining to other trusts.
3. The trustee must deposit bearer stocks in banks and other deposit places authorized as custodians of values, which are subject to prudential supervision and held in accordance with anti-laundering laws. Clauses 2 and 3 of article 36 are to be applied.

Art. 23

(Management of trust property)

1. Save for provisions of the trust act which indicate otherwise, the trustee manages trust property with the objective of preserving and increasing its value.
2. Acting in compatibility with the provisions of the trust act, the trustee will pursue such objectives diversifying the investment of the trust property and appraising periodically the value of its composition.
3. Prior to proceeding to invest, the trustee will evaluate the opportunity to be advised by subjects equipped with specific professional competencies in matters of patrimonial management.
4. The trust act may limit or exclude the power of the trustee in investing trust property.

Art. 24

(Conflict of interest and patrimonial advantage)

1. Prior to accepting his charge, the appointed trustee must inform the settlor with a *inter vivos* written act of the eventual sources of conflict of which he is aware among his interests under any title with those of the beneficiary, or with the purpose of the trust.
2. The trustee appointed in a will who finds himself in a conflict of interests shall promptly inform the Court, which will take the provisions necessary to protect the interests of the beneficiary, or those of the trust's purpose.
3. Save for provisions of the trust act attributing specific rights or powers to the trustee, the trustee cannot act under a conflict of interest with the beneficiary, or with the purpose of the trust. In any case the trustee cannot, even through a third person:
 - a) acquire the judicial position of beneficiary or accept it as a guarantee;
 - b) stipulate acts relative to trust property with himself, with the exception of cases in which he acts as trustee of another trust and this is permitted by the trust act;
 - c) enter into competition to further his own interests or those of third parties in any activity he performs as trustee;

4. The trustee cannot obtain, for himself or for others, whether directly or indirectly, a patrimonial advantage owing to his office, save for provisions of the law or the trust act which permit otherwise.

Art. 25

(Obligations regarding impartiality)

1. Compatibly with the trust act, if the trust has more than one beneficiary or more than one purpose, the trustee must act impartially.

Art. 26

(Obligation of discretion towards third parties)

1. Save for the dispositions of the law or the trust act, the trustee must not reveal to third parties at any time information of which he is in possession for reason of his office, nor employ it for his own advantage or for that of others.

Art. 27

(Accounting and inventory)

1. The trustee keeps the annual accounting records regarding administrative facts which interest trust property and records the results annually in the Book of Events and evaluates its market value according to the formalities and in application of criteria established by a special ordinance of the Capitani Reggenti (Governing Captains) to be issued within 120 days from the date in which the law comes into force.
2. The annotation must take place by March 31 of the following year.
3. The trustee draws up the inventory of trust property, together with a report containing the summary and description of the main modifying events with regard to the consistency and composition of trust property.

Art. 28

(Communication)

1. The inventory and the report indicated in article 27 are to be sent to the guardian of the purpose trust and to the guardian of the trust with beneficiaries, wherein one has been nominated.
2. Regarding a trust with beneficiaries, the trustee is obliged to communicate with each beneficiary, regardless of the nature of his right:
 - a) news regarding the existence of the trust, of the name and domicile of the trustee, and of the provisions of the trust act which involve such right;
 - b) news of all the acts or facts which modify or terminate such right;
 - c) upon the request of said beneficiary, within a congruous term, an inventory limited to trust property with respect to which the beneficiary claims a right and the appraisal of its market value in proportion to the right claimed by the beneficiary.
3. In the trust whereby the determination of the beneficiaries is entrusted to the discretionary power of the trustee, the trustee attests to the existence of the trust upon request of the potential beneficiaries specifically identified in the trust act and communicates to them the provisions of the trust act, or eventually further acts, which pertain to a possible benefit.
4. The potential beneficiary who acquires a determined right as a result of the exercise of the

discretionary powers indicated in clause 3, shall likewise receive the communications indicated in clause 2.

5. The forms of communication indicated in the preceding clauses does not take place with subjects who represent conceived and unborn children, unless otherwise indicated in the provisions of the trust act.

Art. 29
(Book of Events)

1. The trustee enacts, updates and conserves the Book of Events of the trust, in which he registers in chronological order the acts and events relative to the trust. The following must in all cases be present in the Book of Events:
 - a) the trust act;
 - b) the description of events regarding the beneficiary and the purpose;
 - c) the description of trust property;
 - d) the attributions carried out in conformity with the trust act;
 - e) the acts of proxy;
 - f) the procedures of which the trustee is part in the capacity of his office;
 - g) dissent manifested according to articles 31 and 54;
 - h) the annual inventory of trust property;
 - i) the variations regarding trustees, co-trustees and guardians;
2. The Book of Events is numbered progressively on every page and authenticated on every page by a notary public. With a regent ordinance issued within one hundred and twenty days from the date in which the law comes into effect, the formalities relative to the authentication are established.
3. The Book of Events is to be exhibited, upon request, to the guardian, and to the Judicial Authority, and moreover to the Vigilance Authority according to the provisions regarding supervision in article 19, clause 3, lett.d).
4. The trust act can attribute the right to consult the Book of Events to other subjects.

Art. 30
(Requirements of publicity)

1. The trustee will carry out acts that imply requirements of publicity in his role as trustee.

Art. 31
(Obligations of the co-trustees)

1. Each trustee has the right to participate in decisions that require a unanimous or majority vote.
2. If the trust has more than one trustee, unless otherwise stated in the provisions of the trust act, they shall make decisions jointly and unanimously, although each has the power to carry out urgent actions in order to protect the preservation of trust property.
3. If the trustees have the faculty to reach decisions based on a majority vote, the dissenting trustee must annotate his dissension in the Book of Events of the trust.
4. In the case in which the trust may be administered disjointedly, each operation relative to trust property must be communicated in advance to the other trustees. If these latter dissent with respect to the act that the single trustee wishes to carry out, they must annotate such dissent in the Book of Events of the trust.

SECTION III
POWERS OF THE TRUSTEE

Art. 32

(Powers of the trustee)

1. The trustee will exercise on the trust property the powers attributed to the holder of the right to manage property and goods in the exclusive interest of others, or in order to pursue a determinate purpose. Save for the provisions regarding article 9, clause 7, the trustee arranges trust property without limitations of kind, and without ever having to justify his powers.
2. The trustee is legitimized to act and to be summoned in court in his role as trustee.

Art. 33

(Powers of consultation)

1. The trustee can seek professional consultation relative to the acts to be carried out in relation to the trust and may confer upon them the task of performing professional services.
2. The trust act may include the possibility for the trustee to consult or obtain the consensus of another subject prior to exercising a specific power.
3. A subject does not become trustee by having only been consulted, or having merely offered services or by refusing his consensus in accordance with the preceding clause.
4. With the presentation of a motivated motion, the trustee who finds himself in a state of uncertainty as a result of the performance of an action inherent in his office, may request the Court to adjudicate on it. Whenever a motion is found to be unsubstantiated, the Court may prohibit that the costs of the procedure be charged on the trust property.

Art. 34

(Powers of proxy)

1. Unless otherwise stated in the law or provisions of the trust act, the trustee may delegate his powers with regard to the carrying out of actions or operations relative to the administration of trust property. The following powers may not be delegated under any circumstances:
 - a) the power to decide according to which formalities and timing trust property can be attributed;
 - b) the power to appoint a new trustee;
 - c) the power to delegate.
2. In administering the trust, the trustee may delegate the decisions regarding investments exclusively to banks and to investment enterprises subject to prudential supervision, instituted and administered in nations not included in the provisions regarding Vigilance of article 19, clause 4 of the law, and that will proceed to select the investments according to criteria specified by the trustee in a pertaining document.
3. Proxy granted to more than one subject is to be considered as a joint proxy.
4. Whomever is delegated to exercise powers according to the present article is obliged to respect the same obligations imposed on the trustee according to Section II and III of the present Title.
5. The trustee cannot delegate powers to the beneficiary.
6. The trustee supervises the actions carried out by the delegate and is responsible for the instructions and directives imparted to the latter.
7. The beneficiary or the guardian can act directly against the delegate.
8. If more than one trustee is nominated, each trustee may delegate the execution of his office to other co-trustees, provided that there are at least two. The duration of this delegation can not last beyond one hundred and eighty days and does not take effect if it has been made in order to allow or facilitate the violation of the obligations deriving from the trust on the part of the other trustees.

Art. 35

(Form and content of the act of delegating)

1. The delegation, under penalty of nullity, must:
 - a) be in writing and have a specific date;
 - b) identify the delegate;
 - c) identify the trust;
 - d) specify delegated powers;
 - e) specify the date in which it comes into effect and the period, or occasion, to which it refers.
2. The trustee cannot grant delegations which include:
 - a) the possibility of the delegate to appoint his own substitute;
 - b) the exemption of responsibility of the delegate towards the trustee or beneficiary;
 - c) the irrevocability of the delegation;
 - d) the possibility for the delegate to act in a conflict of interest with the beneficiary, or the purpose of the trust;
3. If the trust has only one trustee, he is to communicate in writing the delegation, without delay, to the subject who has the power to appoint new trustees.

Art. 36

(Power to deposit the trust property)

1. With the exception indicated in article 22, clause 3, the trustee may deposit trust property exclusively in banks and investment enterprises subject to prudential supervision, instituted and administered in nations not included in the provisions of the Vigilance Authority relative to article 19, clause 4 of the law.
2. The contract must be in written form under penalty of nullity;
3. The trustee cannot stipulate contracts which include:
 - a) the right of the depositary to appoint its own substitute;
 - b) the exoneration of responsibility of the depositary towards the trustee or beneficiary;
 - c) limitations on the capacity of the depositor in obtaining the restitution of deposited goods at any moment;
 - d) the power of the depositary to act in a conflicts of interest with the beneficiary, or with the purpose of the trust.

Art. 37

(Powers of insuring trust property)

1. The trustee may insure trust property. Insurance premiums and indemnity may be applied to capital or revenue, as determined by the trustee.

Art. 38

(Powers of making advance payments on behalf of the beneficiary)

1. Save for different provisions of the trust act, whenever the trust property is mainly constituted by money, or by easily liquidated goods, the trustee may make advance payments on behalf of a beneficiary in order that the latter may properly confront relevant events of his or her own life.
2. In any case, the trustee must take note of all advances already performed when proceeding to further attributions on behalf of said beneficiary.

Art. 39

(Powers of accumulating revenues and proceeds)

1. With the exception indicated in article 10, the trust act may attribute the trustee with the power to accumulate the revenue and proceeds deriving from trust property in its entirety or only in part, for a determined period.
2. Except for different dispositions of the trust act, the trustee may use the revenues and proceeds deriving from trust property for the maintenance, education or in any case for the advantage of the beneficiary who is a minor.

Art. 40

(Compensation, costs and expenses of the trustee)

1. The compensation of the trustee is determined by the trust act and is to be drawn from property trust. The trustee carries out his charge for free whenever the trust act does not foresee or indicate the attribution of compensation to the trustee and the modalities of its determination.
2. The amounts necessary for the payment of expenses and costs sustained by the trustee in the exercise of his office are to be drawn from trust property.
3. The trustee shall pay off the credit accrued for the compensation, expenses and costs due to its office with priority relative to the beneficiary.

SECTION IV

(CESSATION OF THE TRUSTEE AND TRANSFER OF TRUST PROPERTY)

Art. 41

(Cessation of the office of trustee)

1. Other than for the reasons indicated in the trust act, the trustee ceases his office due to:
 - a) removal;
 - b) renunciation;
 - c) substitution by provision of the Judicial Authority;
 - d) concurrence of creditors or subjection to other concurring procedures;
 - e) revocation of the authorization relative to article 19;
 - f) death of or unsuitability of the person to exercise the office for reasons of health;
 - g) liquidation;
2. The unsuitability of the person to execute this office for reasons of health is ascertained by a specialized medical college according to the trust act, or, in its absence, by the Court. The college ascertains the unsuitability in presence of an impediment not merely temporary, and such that compromises the ability of the trustee to operate in a lucid and effective manner.
3. The renunciation of his office made by the trustee in order to allow or facilitate the violation on the part of other trustees of obligations deriving from the trust will not have effect.
4. After the emergence of the cause of cessation of the trustee's office, the trustee conserves trust property for the only purpose of attending to its integrity until its transfer to the new trustee.
5. Notwithstanding the preceding clause, the trustee substituted by order of the Judicial Authority, whose authorization indicated in article 19 has been revoked, or deemed unsuitable, shall cease from his office immediately and to all effect.

6. In cases where there are more than one trustee, each one may renounce his office by way of a written communication with a clear and specific date to the remaining trustees. In a trust with beneficiaries, the renunciation of the one and only trustee occurs by way of written communication with a clear and specific date sent to the subject that has the power of appointing new trustees. In a purpose trust, the renunciation of the one and only trustee occurs by way of written communication with a clear and specific date to the guardian.

7. If no authorized or qualified trustee remains, the trustee who fills the office without being so qualified may perform only those acts necessary to preserve the integrity of the trust property, until the collegiate character of the trust has been reinstated with the appointment of a trustee who is authorized, or eventually qualified, in accordance with article 19.

Art. 42

(The transfer of trust property)

1. With the emergence of a cause for his cessation from office, the trustee must without delay carry out the actions necessary in order to give up his title and the possession of trust property to the other trustees, or remaining trustee.
2. In the case of death, or cessation of the trustee from his office due to unsuitability, the heirs, the legal representative, or those who assist him will attend without delay to carrying out the actions indicated in clause 1.
3. In the case of the appointment of a new trustee, the outgoing trustee or the other trustees will carry out without delay the necessary actions which permit him to exercise his rights and powers.

Art. 43

(Delivery of acts and documents)

1. Having left his office, the trustee shall deliver without delay all the acts and documents pertaining to the trust to the remaining trustees or to the new trustee.
2. In the event a trustee dies or is deemed unsuitable, the heirs, the legal representative, or the people who assist him shall carry out the actions indicated in clause 1.
3. In the event of the appointment of a new trustee, the other trustees shall transfer to him without delay the acts and documents pertaining to the trust.

SECTION V (RESPONSIBILITIES OF THE TRUSTEE)

Art. 44

(Not fulfilling obligations required by the law and the trust act)

1. If he is unable to prove that the loss was determined by events not attributable to him, the trustee not fulfilling his obligations must compensate for any damage.
2. The damage compensation includes loss of profit and accruing damage.
3. The trustee is not exonerated from responsibility even though the damage may have been compensated in full or in part from profits derived from the non fulfilling of his obligations, unless the profit has been produced with the same act from which the damage derived.
4. The trustee is not responsible for violations committed by others prior to his appointment. He must, in any case, adopt all the appropriate measures to repair any damage deriving from violations which come into his knowledge.

5. Except for the provisions of article 34, clause 6, the trustee is not responsible for the failure of delegated subjects to carry out their office, where the delegation has been conferred in good faith and with the required diligence.

Art. 45

(Responsibility of co-trustees)

1. The trustees are held jointly responsible for damage deriving from the violation of laws and of the trust act committed during the practice of their office.
2. The trustee cannot be held responsible for damage caused by a co-trustee when he has transcribed his dissent in the Book of Events of the trust and has immediately communicated this to the subject eventually identified in the trust act, or, in absence of this, to the beneficiary and guardian.
3. In any case, the trustees are held jointly responsible if, upon having knowledge of the violation, they have not done all that they could to impede such action, or eliminate it, or mitigate the damaging consequences.

Art. 46

(Joint responsibility of the beneficiary)

1. The beneficiary who has instigated, requested or authorized the defaulting of office of a trustee is to be held jointly responsible with him.

Art. 47

(The exoneration of responsibility)

1. The provisions of the trust act and the pacts which exclude or limit in advance the responsibility of the trustee for reasons of malice or gross negligence are null and void.
2. The beneficiary, who is capable to act and in full knowledge of the facts, may exonerate the trustee from responsibility for damages made towards him.
3. Given the same conditions, the beneficiary may take upon himself the debit of the trustee responsible for violations committed without malice or gross negligence.
4. The Court may exonerate, even partially, the defaulting trustee from responsibility if he acted in good faith and according to the diligence required, if, when all circumstances have been brought to light, his failing is excusable.

Art. 48

(Prescription)

1. The right to compensation for damages incurred is prescribed in five years from the moment in which the beneficiary may exercise the corresponding claim.
2. If the beneficiary is a minor or temporarily incapacitated, the prescription has effect from the moment in which he becomes of age, or with the cessation of the incapacity.
3. The prescription is interrupted with an injunction or request of payment communicated in writing, or through the recognition of right. The prescription is suspended towards a beneficiary who is a minor or incapacitated, and in the case in which there has been willful and malicious injury of reasons deriving from the trust, until the malice has been disclosed.

Art. 49

(Responsibility of the trustee regarding obligations contracted towards third parties)

1. In assuming obligations towards third parties, the trustee expressly declares to be acting in his capacity as a trustee of a trust; with such surmise, the trustee limits his responsibility to the value of trust property on the date on which the obligations were assumed.
2. In the case in which the trustee, in assuming obligations towards third parties, acts without the declaration indicated in the preceding clause, his responsibility is nonetheless limited to cases of intended malice and gross negligence.
3. With regard to the present article, the settlor, trustee, beneficiary and guardian are not considered to be third parties.

Title III
ON THE BENEFICIARY

Art. 50
(Notion)

1. The beneficiary is the subject in whose interest the trust is instituted.
2. If the trust includes a plurality of beneficiaries, none of whom exist at the moment of the institution of the trust, at least one of these must come to exist within 30 years from the moment in which the trust comes into effect.
3. The trust act may indicate that one or more subjects may be added or excluded from the judicial position of beneficiary, through an act in accordance with the forms indicated in the trust act.
4. The trust act may subject the judicial position of one or more beneficiaries to certain conditions or terms, or may limit or exclude the transfer, be it onerous or free of charge.

Art. 51
(Rights of the beneficiary)

1. In addition to the means of communication indicated in article 28, the beneficiary has the right to a statement of accounts issued at least annually, and may seek access and make copies of acts and documents relative to his rights at any time.
2. The trustee is not obliged to reveal to the beneficiary the reasons as to why he exercised a discretionary power entrusted to him in a certain way, or to communicate acts or documents clarifying such reasons, unless the revelations or communication have been imposed by a judicial decision.

Art. 52
(Renunciation, deferment of attribution and termination of the trust on behalf of the will of the beneficiaries)

1. The beneficiary may renounce his judicial position in its entirety or only in part with an act carried out according to the forms indicated in the trust act. The renunciation comes into effect and is irrevocable from the moment in which it is received by the trustee.
2. Except for that stated in different provisions of the trust act, the beneficiary may request in writing the deferment of the transfer of trust property in his favour, or may require that it be carried out in favour of the subject that he indicates.

3. If all the beneficiaries are of age and endowed with acting capacity they may, following a unanimous decision, require the termination of the trust and the transfer of trust property in their favour.

Art. 53

(Acts of disposal of the judicial position of beneficiary to third parties)

1. Except for a different provision of the trust act, the beneficiary may alienate, offer as a guarantee or in any case dispose of his judicial position in its entirety or in part with an act performed according to the forms indicated for the institution of the trust act. Such acts come into effect towards the trustee from the moment that they have been notified to him.
2. Acts pertaining to clause 1, which are contrary to the trust act, are to be considered null and void.
3. If the beneficiary carries out more than one act of disposal towards diverse subjects, the act first notified to the trustee will be effective, even though it may have a posterior date.

Title III On the Guardian

Art. 54

(The office of the guardian)

- 1 The trust act of a purpose trust sees to the office of the guardian.
- 2 The trust act of a trust with beneficiaries may see to the office of the guardian.
3. The guardian fulfills his obligations and exercises the powers inherent in his office in accordance with good faith and with the diligence associated with a good *paterfamilias*. Whenever he has professional competencies to fulfill, his diligence shall be determined with regard to the professional nature of the activities exercised.
4. The trust act may include the remuneration of the guardian. The guardian has the right to the reimbursement of expenses and costs accrued for reasons inherent to his office, save for provisions of the trust act which indicate otherwise.
5. The trust act may confer to the guardian determinate powers, such as the power to:
 - a) appoint a new trustee, or add a new trustee to those already existing;
 - b) appoint a new guardian, eventually in addition to himself;
 - c) remove the trustee from office;
 - d) veto the exercising of certain powers of the trustee;
 - e) add or remove beneficiaries;
 - f) modify the regulating law of the trust;
 - g) verify the statement of accounts of the trust;
6. The exercising of powers listed in clause 5 do not confer upon the guardian the office of trustee.
7. The guardian cannot be a beneficiary of the trust.
8. Save for provisions of the trust act indicating otherwise, if there is more than one guardian of the trust they must reach decisions with a majority vote. Each guardian has the right to participate in decisions to be reached either unanimously or with a majority, and must be adequately

informed of the object of each decision. The dissenting guardian must annotate his dissension without delay in the Book of Events of the trust.

9. Save for a provision of the law or trust act indicating otherwise, the guardian may not disclose to third parties, under any circumstance, information of which he is in possession for reasons of his office, nor employ them for his own advantage or for that of others.

10. Save for a provision of the trust act indicating otherwise, the outgoing guardian is to appoint his successor. In case he fails to do so, the new guardian shall be appointed by the Court.

11. Articles 41 and 43 of the law are to be applied to the guardian, insofar as they compatible.

PART IV POWERS OF THE COURT

Art. 55 *(Powers of the Court)*

1. In addition to the other powers conferred to the Court by the law, the trustee, the beneficiary and the guardian may address a motion to the judge in order to obtain a provisional order regarding:
 - (I) the fulfillment of an obligation or the exercising of a power relative to the office of trustee or of the guardian;
 - (II) the substitution of the trustee or guardian who has committed a grave violation of the law or the trust act;
 - (III) the appointment of a new trustee or new guardian;
 - (IV) administrative or provisional acts regarding trust property;
2. The trustee, when he surmises to be appropriate, addresses a motion to the judge in order to be authorized to carry out a useful act not included among his general powers. The Court adjudicates accordingly, establishing relative conditions and terms.
3. The subject designated trustee addresses a motion to the judge in order to obtain the provisions indicated in article 24, clause 2.
4. In appointing or substituting a trustee, the judge decides in relation to the custody and transfer of trust property, as well as to pertaining acts and documents.
5. Save for an order from the judge indicating otherwise, the appointed trustee and guardian, in accordance with the present article, have the same rights, obligations and powers as those indicated by the trust act.
6. The judge decides upon the expenses of legal proceedings.

Art. 56 *(Cautionary actions)*

1. The beneficiary and the guardian who have reason to believe that the trustee is about to omit an obligatory act, or commit an act that violates the law or the trust act, may go to the Court as a cautionary measure to obtain cautionary provisions regarding such action.
2. The introduction of a legal cause upon the subject does not suspend the effects of the cautionary provisions adopted by the Court.

Art. 57 *(Actions regarding separation)*

1. Whenever a trustee has confused trust property with other goods, the trustee who is not responsible for the confusion, the beneficiary or the guardian, have the right to obtain separation. The claim extends to goods or property of any kind with which the original trust property has been eventually substituted, and their proceeds.
2. The actions regarding compensation of damage in conformity with article 44 are to remain secure under any circumstance, as well as any other action available to protect the trust.
3. The action of separation is not to be prescribed.

PART V PROVISIONS APPLICABLE ONLY TO FOREIGN TRUSTS

Art. 58

(Forms of trust acts and registration of foreign trusts in the Trust Register of the Republic of San Marino)

1. The trust acts of foreign trusts carried out by subjects who are residents or have their domicile in San Marino or by bodies having their administrative seat in San Marino, are subjected to the same requisites of forms indicated in article 6, clause 1, of the law.
2. Foreign trusts with their administrative seat in San Marino must be registered in the proper section of the Trust Register. Article 8 is to be applied, as well as clauses 3,4, 5, and 6 of article 9.

PART VI PENAL CLAUSES

Art. 59

(Unauthorized practicing of the office of the trustee)

1. Whosoever practices the office of trustee without the authorization of the present law, and outside the cases provided in article 19, clauses 4 and 5, is punishable with second degree arrest or with a fine of 8.000,00 up to 12.000,00 Euro. The violation of article 19, clauses 4 and 5, leads to the same sanctions applied to the non-authorized practice of the office of trustee, save for the application of the subsequent penal provisions.

Art. 60

(Misappropriation or misapplication of trust property)

1. If the trustee misappropriates or in any case misapplies trust property for his own profit or for that of others, the provisions of article 197, clause 3, of the Penal Code shall be applied, substituting for the fourth degree interdiction from the profession or art with the fourth degree interdiction from the office of trustee.

Art. 61
(Conflicts of interest)

1. The trustee who, in order to obtain an unjust profit for himself or for others, acts in a conflict of interest and brings about patrimonial damage to the beneficiaries of the trust or to subjects destined to receive an advantage from the realization of a purpose trust, is punished with prison confinement of the second degree or with a fine by days of the third degree and a second degree interdiction from the office of trustee.

Art. 62
(Violation of the duty to keep proper statement of accounts)

1. The trustee who omits to keep, entirely or in part, the accounting relative to trust property is punished, whenever such omissions cause patrimonial damage to the beneficiaries of the trust or to the subjects destined to receive an advantage from the realization of a purpose trust, with second degree arrest and second degree interdiction from the office of trustee.

Art. 63
(False book entries relative to the trust)

1. The trustee who, with regard to the accounting or inventory relative to trust property, or with book entries relative to the trust which is indicated by the law on the taxation of trusts which are in turn regulated by the law of the Republic of San Marino and administered by authorized trustees, puts forth dates or facts which do not correspond entirely or in part to the truth, or conceals entirely or in part true facts and dates, is punished with second degree prison confinement and with a fine by days as well as with a second degree interdiction from the office of trustee.

PART VII
FINAL CLAUSES

Art. 64
(Requirements on the registration and deposit of acts)

1. While the provisions of article 52 of the Decree of April 26 1995 n. 56 remain in full force, acts drafted or authenticated abroad, before being used in the Republic for the purposes of the present law, must be deposited and conserved by a notary public practicing in the Republic, within thirty days from the date of the act. With the statement of the deposit, the notary asserts its legality.

Art. 65
(Coming into force)

1. The Convention recalled in article 4 of the law has immediate effect only internally from the coming into force of the present law.
2. The present law comes into force on the fifth day from its legal publication.

Dated from our residence, March 22 2005/1704 d.F.R

THE GOVERNING CAPTAINS
Giuseppe Arzilli – Roberto Raschi

STATE SECRETARY FOR
INTERNAL AFFAIRS
Rosa Zafferani