Trusts, Holding Structures and the Variable Capital Company: practical consequences

Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland and Germany),
Solicitor (England & Wales and Hong Kong)
Of Counsel, KGP Legal LLC
alexander.ressos@kgplegal.com.sg
www.ressos.com.sg

The choice of vehicle follows from the purpose of the structure. A family that wants succession planning and protection against foreign forced heirship rules will choose a Singapore trust with a licensed trust company or a PTC as trustee. A family that also wants its investments managed professionally in Singapore will add a single family office and a VCC, while a regional group will use a holding company with real staff and decision-making in Singapore. Advisers should test any structure against the following questions:

- Purpose: is the structure needed for succession, protection, governance or investment, and does each layer serve one of these purposes?
- Governing law: is Singapore law adequate for the trust, given the 100-year perpetuity period and the absence of purpose trusts, or does part of the structure need another law?
- Settlor control: are the powers reserved to the settlor limited to investment and asset management, and does the settlor's conduct match the deed?

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- Trustee: is the trustee a licensed trust company, an exempt bank or a PTC that has engaged a licensed trust company for its anti-money laundering compliance?
- Fund vehicle: does the VCC have a licensed or exempt manager, and does it meet the conditions of the section 13O or 13U incentive in each year?
- Substance: do the holding company and the fund vehicle have staff, premises and decision-making in Singapore sufficient for section 10L and for the principal purpose test of the relevant treaties?
- Corporate services: are directors and company secretaries appointed through a registered corporate service provider, and are the registers of controllers complete?
- Reporting: has the structure been classified for the Common Reporting Standard and FATCA, and do the beneficiaries know that their countries of residence will be informed?
- Exit: can the structure be unwound or moved without triggering tax in Singapore or abroad, and has the 60-day deregistration deadline been planned for any re-domiciliation?

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Author contact: Dr Alexander Ressos, TEP · contact@ressos.com

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