

Forensic Trust Services



Are you a trustee responsible for a complex portfolio of businesses facing significant challenges and demands from stakeholders?

Do you act for parties to a trust that is involved in a dispute?

Are you involved in a trust where investment performance is an issue?

Introducing Forensic Trust Services

In an increasingly demanding business environment, with pressures from regulatory bodies and stakeholders in trust activities (beneficiaries, settlors, protectors and other interested parties), the focus on trustees has never been greater. The legal, commercial, financial and professional risks to trustees who are responsible for complex portfolios of business continue to increase. More sophisticated beneficiaries and settlors are demanding greater transparency from trustees and placing trustees' performance and decisions under greater scrutiny. To meet the needs of trustees and their lawyers, Deloitte has established a multi-disciplinary team

made up of professionals with a breadth of specialities including forensic and dispute consulting, tax, valuations and corporate finance. Our team works closely with the trustees and their lawyers to find the right solution to any situation trustees may face. Led by forensic specialists with access to deep industry expertise, our Trust Services team provides independent assistance and advice to trustees and their counsel when faced with issues that could lead to potential disputes with other parties. These issues often arise when the risks faced by trustees have been heightened through a change in circumstances of the trust.

We can assist with:

New Client Relationships

- **For a new trust structure:**
 - Assess client risk profile and perform other due diligence as required.
- **For an existing trust:**
 - Assessment of trust structure and history including trust activities, governance structures and tax issues.
 - Initial status review, including:
 - Assess client risk profile;
 - Forensic investigation and analysis of the historical performance of the trust;
 - Review of operational and reporting structures;
 - Review of roles and responsibilities of management and key players; and
 - Provision of options and recommendations for structures, processes and activities.

Change in Circumstances

Where a fundamental change occurs in the trust's situation, such as an injection of funds, restructuring, sale of an asset, death of a Patriarch or settlor, or disputes between family members we can:

- Reassess client risk profile as required; and
- Reassess the trust's status focusing on any changes in the objectives of the trust and how they impact the current activities, review any new and ceased activities of the trust and evaluate any options.

Dispute Consulting

We have significant experience in providing assistance and advice at all stages of any litigation, arbitration or other form of dispute resolution process.

- **Discovery, assessment and investigation**

At the outset of any form of dispute, it is crucial to have the right team of professional advisers who are familiar with the workings of the legal process and can perform their work to the standards required by the courts. Working closely with lawyers and shareholders, Deloitte can provide assistance with:

 - Initiating steps at the outset of threatened litigation;
 - Collation and review of evidence;
 - Investigation of structures and issues; and
 - Assisting litigators with electronic disclosure.
- **Clarification of issues and quantification of damages**
 - Distilling and presenting complex financial issues; and
 - Quantifying loss.

- **Provisions of expert evidence**

Deloitte has extensive experience in providing expert testimony whether as single joint expert, client side expert or determining expert. Although our advice usually takes the form of a written report, we attend in court as required in order to provide oral testimony.
- **Assistance in negotiations**
 - Maximising the client's chance of negotiating a favourable early settlement or award in disputes by obtaining and analysing information quickly and collaborating with client negotiating teams; and
 - Providing behind-the-scenes advice to lawyers and clients throughout the entire dispute cycle.
- **Disputes involving investment performance**
 - We are also experienced in assisting lawyers and trustees to assess, benchmark and monitor trust portfolios and assist in litigation where portfolio performance is in dispute.

Financial Reporting

- **Trust accounts**
 - Review, restatement, or preparation of trust accounts.
- **Independent analysis**
 - Other financial reporting and review of the trust's financial activities where an independent and objective analysis is required.

Assessment and Review of Investment Management Performance

Deloitte can provide services to ensure a trustee is in a position to make and justify strategic portfolio decisions:

- **Investment objectives and portfolio benchmarking**
 - Analysis of investment objectives, risk tolerance and investment restrictions to create an appropriate risk profile; and
 - Creation of a realistic benchmark that suits the investment requirements and clarifies the performance expectations.
- **Investment manager search and selection**
 - A methodical selection programme, including manager interviews and scrutiny of investment management companies;
 - Effective fee negotiation with investment managers; and
 - Establishing a clear investment mandate, incorporating defined objectives and benchmarks against which performance will be measured.
- **Ongoing performance monitoring**
 - Professional monitoring of investment managers to help secure optimum performance;
 - Analysis of value delivered and risk taken; and
 - Evaluation of investment performance under the given investment mandate.

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