

## **Federal Law No. (19) of 2020 Concerning Trust**

**We Khalifa bin Zayed Al Nahyan**                      **President of the United Arab Emirates,**

- Upon reviewing the Constitution.
- Federal Law No. (1) of 1972 concerning the Ministries Competencies and Ministers Powers, as amended.
- Federal Law No. (3) of 1983 concerning the Federal Judicial Authority, as amended.
- Federal Law No. (5) of 1985 Promulgating the Civil Transactions Law, as amended.
- Federal Law No. (3) of 1987 Promulgating the Penal Law, as amended.
- Federal Law No. (11) of 1992 Promulgating the Civil Procedure Law, as amended.
- Federal Law No. (10) of 1993 Issuing the Law of Evidence in Civil and Commercial Transactions, as amended.
- Federal Law No. (18) of 1993 concerning the Commercial Transactions Law, as amended.
- Federal Law No. (35) of 1992 Promulgating the Penal Procedure Code, as amended.
- Federal Law No. (4) of 2000 concerning the Emirates Securities and Commodities Authority and Market, as amended.
- Provisions of Federal Law No. (8) of 2004 concerning Financial Free Zones.
- Federal Law No. (28) of 2005 concerning Personal Status, as amended.
- Federal Law No. (1) of 2006 concerning Electronic Transactions and E-Commerce.
- Federal Law No. (4) of 2013 Regulating the Profession of Notary Public, as amended.
- Federal Law No. (2) of 2015 concerning Commercial Companies, as amended.
- Federal Decree by Law No. (9) of 2016 on Bankruptcy, as amended.
- Federal Law No. (7) of 2017 concerning Tax Procedures.
- Federal Decree by Law No. (14) of 2018 concerning the Central Bank and Organization of Financial Institutions and Activities.

- Federal Decree by Law No. (26) of 2019 on Public Finance.
- And pursuant to the proposal of the Minister of Finance and the Cabinet's approval,  
**Have promulgated the following Decree by Law:**

## **Chapter One**

### **General Provisions**

#### **Article (1)**

#### **Definitions**

In application of the provisions of this Decree by Law, the following words and expressions shall have the meanings ascribed thereto unless the context requires otherwise:

- State** : The United Arab Emirates.
- Minister** : The Minister of Finance.
- Person** : Natural or legal person.
- Trust** : Allocation of property under the trust instrument to realize an interest of the beneficiary or a charitable or private purpose in accordance with the provisions identified in this Decree by Law, and it shall be considered an original in-kind right.
- Settlor** : A person who creates the trust and provides its property in accordance with the provisions of this Decree by Law.
- Trustee** : A person appointed in accordance with the provisions of this Decree by Law, to whom the authorities and powers identified in the trust instrument and in the provisions of this Decree by Law are transferred to achieve the interest of the beneficiary or the purpose of trust. This shall include the professional trustee and professional legal person.
- Trustee Professional** : A natural person licensed to carry out the duties of the professional trustee according to the provisions of this Decree by Law or the

legalisation in force in the State.

**Professional Legal Person:** : A legal person licensed to carry out the authorities and powers of the professional trustee according to the provisions of this Decree by Law or the legalisation in force in the State.

**Trust Instrument** : A written or electronic document executed by the settlor for creating the trust and regulating its terms and conditions.

**Terms of the Trust Instrument** : Terms stipulated in the trust instrument that express the will of the settlor and how to enforce the trust. This includes, without limitation, the requirements of enforcement of such terms as indicated by the circumstances and the conclusions of the competent court, as the case may be.

**Trust Property** : Any movable or immovable property, including the requirements related or deemed a part thereof and any existing or possible right, inside or outside State.

**Dividends of the Trust** : All returns, interest, revenue and any profit resulting from an investment or use or disposal of any of elements of the trust property.

**Beneficiary** : A person entitled to a personal right under the trust instrument, including the person which the trust instrument stipulates is included, or possibly included, as obtaining dividends or property of the trust; in addition to any person whom the trustee has the power to grant the dividends of the trust, including the arrangement of a security right in his favour on its property.

**Register** : A register for registering and documenting the trust instrument and

any amendments thereto.

**Purpose of the Trust** : The purpose for which the trust is created.

**Charitable Trust** : A trust created for a humanitarian purpose in accordance with the rules mentioned in this Decree by Law.

**Special Trust** : A trust whose purpose is to invest or use property through some types of trusts that are identified and regulated according to the rules and terms mentioned in this Decree by Law.

**Foreign Trust** : A trust created according to the legislation of a foreign state.

**Trust Protector** : A person appointed to protect the trust created for the interest of the beneficiary, in accordance with provisions of this Decree by Law.

**Interested Party** : This includes the settlor, trustee, beneficiary or the legal representative of the beneficiary. It also includes the trust protector within the powers thereof, in accordance with provisions of this Decree by Law.

**Competent Court** : A court having the competence according to the rules of jurisdiction provided in the Civil Procedures Law.

## Article (2)

### Scope of the Law

The provisions of this Decree by Law shall apply to every trust created thereunder, except for the Financial Free Zones if they have legislation to regulate and apply the trust created therein.

### **Article (3)**

#### **Legal Nature of the Trust**

The trust shall acquire a legal personality and have financial and administrative independence and the right to litigation and shall be represented by the trustee.

### **Article (4)**

#### **Law Applying to Foreign Trusts**

Provisions of this Decree by Law shall apply to the foreign trust created in the State in the following cases:

1. If this is stipulated by the trust instrument.
2. If this is permitted by the legalisation under which the foreign trust is created.
3. If the terms and conditions of the foreign trust contradict the governing provisions provided in this Decree by Law or conflict with public order.

## **Chapter Two**

### **Creation of the Trust**

#### **Article (5)**

#### **Means of Creating the Trust**

A trust shall be created through the following means:

1. Executing a trust instrument.
2. Through a will or any procedures resulting from death, provided this does not violate public order. The will shall be deemed a trust instrument, taking into account the condition that it be registered in the register as stipulated in this Decree by Law.
3. Transfer of property from an effective trust to another trust. Upon transfer of property, the trust shall be subject to the terms stipulated in the trust instrument to which the property is transferred.
4. The competent court may order the creation of a trust according to the provisions of this Decree by Law if the property owner does not have the capacity required to create the trust, provided that this is based on a request from the guardian or custodian to achieve

the interest of this person. In this case, it is required that this person is the beneficiary from the trust. The competent court shall appoint a trustee and identify the terms of the trust instrument. The decision of the competent court in this case shall be deemed a trust instrument, taking into account the condition that it be registered in the register as stipulated in this Decree by Law.

## **Article (6)**

### **Terms of Creating the Trust**

1. Taking into account the condition of registration in the register stipulated in this Decree by Law, it is required for creating the trust that:
  - a. The settlor has the capacity of agency according to the provisions of the aforementioned Civil Transactions Law, if he is a natural person. If he is a legal person, a decision shall be issued from the competent authority to dispose of his property according to the legislation applicable in the State.
  - b. The settlor be the owner of the trust or be entitled to dispose thereof according to the provisions of this Decree by Law and relevant legislation.
  - c. The trust beneficiary is determined according to the provisions of this Decree by Law.
  - d. The trust purpose is determined, whether charitable or private.
  - e. The trustee is designated, or may be designated, to act as a trustee upon his appointment.
  - f. The property allocated for the trust is disposable and is not associated with an inalienable right for a third party, unless the right holder accepts as such in writing.
  - g. The property allocated for the trust is identified, or clearly identifiable. It may also be something that will be realised in the future.
2. If any of above terms is not realised, the trust shall be deemed void.

## **Article (7)**

### **The Trust Instrument**

1. It is required that the trust instrument be registered in the register according to the provisions of this Decree by Law and that it is written. It must also include the following:

- a. Declaration of the settlor's will to create the trust.
  - b. Clarification of the purpose of the trust.
  - c. Determination of the beneficiary of the trust, or it is possible to determine him upon creating the trust if he is not in himself identifiable, taking into account the provision of Article (32), Clause (5) of this Decree by Law.
  - d. Determination of the trust property or clarification of its description in a manner that enables it to be identified.
  - e. Determination of the trust period and, in the event the period is not determined, the trust shall be deemed for life unless otherwise established from the circumstances as assessed by the court.
  - f. Determination of the name by which the trust is known.
  - g. Determination of the authorities and powers of the trustee.
2. In the event of the absence of any of the data mentioned in the previous Paragraph, the trust instrument shall be void.
  3. The trust instrument may include:

Detailed data on determining the beneficiary and the portion allocated for each beneficiary, if they are more than one, or the power of the trustee to accommodate the interest of beneficiaries when distributing the trust property to them.

    - a. Determination of the business terms for the trust property.
    - b. Method of appointment, dismissal and replacement of the trustee and any resulting effects.
    - c. Effects resulting from the termination of the trust.
    - d. Any other matters with regard to implementation of duties of trustee or regulation of relationship between him and each settlor, beneficiary and trust protector.
    - e. Method of appointment of the trust protector and his powers.
    - f. Any other matters that may be included in the trust instrument according to the provisions of this Decree by Law.
  4. The terms of the trust instrument shall be final, enforceable and binding upon all interested parties according to the provisions of this Decree by Law. If it is found that a term may hinder the interest of the beneficiary or lead to the purpose of the trust not

being achieved, any interested party may request the competent court to issue a decision to amend or cancel this term.

5. If any term of the trust instrument terms violates the provisions of public order, the term shall be nullified and the trust shall be valid, unless the nullification of such term affects the validity of other terms of the trust instrument.
6. The trust instrument and any document related thereto shall be executed in Arabic or in any other language, provided it is accompanied by a certified legal translation into Arabic. And in the event of conflict, the original language in which the trust instrument was originally drafted shall supersede.

## **Article (8)**

### **Purpose of the Trust**

1. The trust must aim at achieving the interest of the beneficiary or achieving charitable or private purposes according to the provisions of this Decree by Law.
2. The trust purpose is required:
  - a. To not violate the law or public order.
  - b. To be possible and clearly identifiable.
3. If it is not possible to determine the beneficiary, the trust purpose must be determined as to whether it is charitable or private.
4. If trust purposes are multiple, and some of them are illegitimate, the trust shall be void if it is not possible to separate these purposes. The competent court may rule the validity of this trust with regard to the legitimate purposes if it is possible to separate such purposes.
5. The settlor may stipulate in the trust instrument that, upon termination of the trust, the trust purpose becomes a charitable purpose, provided that a decision for this is issued from the competent court.
6. If no specific charitable purpose is stipulated in the trust instrument, or the mechanism to determine it is not stipulated, the competent court may determine one of more of these purposes as appropriate for the trust purpose.

## **Article (9)**

### **Increasing the Trust Property**

1. The settlor may add funds to the trust property to achieve the trust purposes or interest of the beneficiary, provided that the trustee accepts this and unless the trust instrument stipulates otherwise.
2. The dividends of the trust shall be attached to the trust property.

## **Article (10)**

### **The Trust Period**

1. The beginning or end of the trust period may be linked to an incident or a legitimate, specified and feasible reason, provided this is expressly stated in the trust instrument.
2. If a period is set for the charitable trust and such period ends with it not being possible to verify the will of the settlor over what will happen to the trust property thereafter, the competent court may terminate the trust or issue a decision to allocate the trust for any charitable purpose matching the purpose of the trust for the period it determines.

## **Chapter Three**

### **The Settlor**

## **Article (11)**

### **Terms of the Settlor**

1. Anyone fulfilling the terms of capacity of agency, in accordance with provisions of the aforementioned Civil Transactions Law, may be a settlor.
2. The provisions of Article (11) of the aforementioned Civil Transactions Law shall be taken into account when determining the capacity of the foreign settlor.
3. If the settlor is a legal person, a decision shall be issued from the competent authority to dispose of his property according to the legislation applicable in the State.

## **Article (12)**

### **Multiple Settlers**

1. If there are multiple settlers, they shall take the decisions unanimously, unless the trust instrument stipulates another mechanism.
2. If there are multiple settlers, each one of them shall be a settlor with regard to his contribution from his property. He may carry out the powers of a settlor on his part of the trust property, provided that this does not affect the rights of other settlers, unless the trust instrument stipulates otherwise.
3. A settlor may delegate any of the powers to another person according to the provisions of this Decree by Law, unless the trust instrument stipulates otherwise.

## **Article (13)**

### **Obligations of the Settlor**

1. The settlor shall be committed to:
  - a. Transfer the property to the trust and transfer the authorities and powers to the trustee within not more than six (6) months from the date of registering the trust in the register, unless the trust instrument stipulates otherwise.
  - b. Deliver all documents, instruments and data related to the trust property to the trustee within the period stipulated in the previous Paragraph.
2. The trustee or beneficiary may request the competent court to oblige the settlor to fulfil his obligations stipulated in Clause (1) of this Article, they may also obtain a judgement from the competent court, unless the trust instrument stipulates otherwise.

## **Article (14)**

### **Powers of the Settlor**

1. A settlor may keep for himself certain powers related to trust, provided that this is expressly stated in the trust instrument. This shall not prejudice the independence of the trustee in carrying out his authorities and powers according to the provisions of this Decree by Law.

2. The trust instrument must stipulate the following powers if the settlor keeps them for himself:
  - a. Termination of the trust or revoking it in whole or in part, unless the trust is irrevocable.
  - b. Amendment or change of the trust purposes. In this case, it is permissible to stipulate suspending the authority of making an amendment or change for a certain period; the settlor may make an amendment or change after this period ends, provided this takes place during his life.
  - c. Amendment of any of terms of the trust instrument in whole or in part.
  - d. Addition of a new beneficiary or the exclusion of any beneficiary from the trust, amendment of the rights of any beneficiary or the development of terms related to determining beneficiaries or their entitlement to dividends of the trust, permanently or temporary. It is permissible to stipulate in the trust instrument who has the right to carry out this power and any other related terms.
  - e. Appointment or dismissal of the trustee, trust protector or any other person appointed or given authorities or powers under the provisions of this Decree by Law with respect to the trust, unless the appointment of this person is by a decision from the competent court.
  - f. Change of the trustee's obligations as stipulated by the trust instrument. Restriction of the trustee carrying out any of his authorities or powers and the registration thereof by written consent from the settlor or any other person determined in the trust instrument.
  - g. Issuance of instructions to the trustee with regard to the management, disposal, method of use, exploitation or investment of the trust property, or the appointment or assignment of any person to do so.
3. In case of the amendment of any of the authorities and powers stipulated in Clause (2) of this Article, this shall not come into force with regard to the trustee except from the date he is notified thereof in writing. Any action carried out in good faith before receiving such notice shall be deemed valid.

## **Chapter Four**

### **Trustee**

#### **Article (15)**

##### **Terms of Appointing the Trustee**

1. If the trustee is a natural person, he must meet the following requirements:
  - a. To have the capacity of agency according to the legislation applicable in the State.
  - b. To be of good character and conduct and to have never been convicted of a crime or misdemeanor against honor or integrity, unless he has been rehabilitated.
2. If the trustee is a legal person, he must meet the following requirements:
  - a. To adopt one of the commercial company forms according to the legislation applicable in the State.
  - b. To be licensed as a professional trustee according to the provisions of this Decree by Law.
3. The Cabinet, upon a proposal of the Minister, shall issue a decision to determine the controls, procedures, fees and terms for practising the activity of professional trustee for natural and legal persons; in addition to the terms for trustees.
4. If the professional legal person is appointed as a trustee, he may carry out his duties as a professional trustee, bearing all responsibilities provided in this Decree by Law or legislation applicable in the State. The professional legal person shall have the power of selecting the professional trustee appointed by him and shall hold the full responsibility imposed by law and other relevant legislation on the appointed professional trustee.
5. Cases shall be filed by or against the trust under the name of the trust and the trustee in his capacity as trustee.
6. The trustee shall represent the trust before the courts, governmental authorities or third parties.
7. It is permissible to combine the capacities of settlor and trustee.

## **Article (16)**

### **Multiple Trustees**

1. The trust may have one trustee or more as stipulated by the trust instrument.
2. In the event the number of trustees is not determined, the trust shall have one trustee. The settlor may retain the right to add one trustee or more if so stipulated in the trust instrument. He may also grant this power to the trust protector. The competent court may, upon a request from any interested party, increase or decrease the number of trustees and select them on this basis.
3. In the event of multiple trustees, the trust instrument may stipulate the following:
  - a. Distributing the authorities and powers of the trust among more than one trustee.
  - b. Appointing one of trustees as a first trustee to undertake the authorities and powers stipulated in the trust instrument or in this Decree by Law.
  - c. Each trustee shall be responsible for his actions or disposals within the authorities and powers determined in the trust instrument.
4. If there are multiple trustees and the trust instrument does not stipulate the method of managing the trust property among them, then they shall work collectively. This is except for the cases where emergency action is required to protect the interest of the beneficiary or the trust purpose, or where the required procedure does not require the exchange of views such as receiving or settling a debt.
5. If there are multiple trustees and the trust instrument does not stipulate the duties of each, then they shall be jointly responsible for the damage caused to the trust when it results from a joint mistake by them.
6. In the event the capacity of one of the trustees is removed, other trustees shall carry out their usual duties until the appointment of a new trustee.
7. Trustees – if they are multiple – shall not be jointly responsible for the action of one of them if he exceeds his authorities and powers stated in the trust instrument or if he implements them arbitrarily.

## Article (17)

### Acceptance or Refusal of the Trustee's Appointment

1. The person nominated as trustee may accept his appointment under this capacity. It shall be deemed that he has accepted the appointment if any of the following are affected:
  - a. His signature on the trust instrument.
  - b. Transfer of the authorities and powers on the trust property to him and commencing to carry out his obligations as trustee.
  - c. Being aware of the appointment and not taking any action to express his refusal or acceptance to the appointment.
2. The obligation of the trustee shall not be deemed in effect unless he is enabled to carry out the authorities and powers on the trust property. Any person nominated as a trustee may refuse his appointment under this capacity. It shall be deemed that he has refused the appointment if he does not accept within the period determined by the settlor for accepting the appointment, or if he refuses expressly.
3. Refusal of appointment shall be sent via any written means to the settlor, including electronic means. In case of the settlor's death, the refusal of appointment shall be sent to any other appointed trustee carrying out his duties on the same trust or to any other person having the power to appoint a trustee as stipulated by the trust instrument or this Decree by Law.
4. The trust instrument may stipulate nominating an alternative trustee or the method of selection of an alternative trustee if the nominated trustee refuses to accept the appointment.
5. The person who refuses his appointment as a trustee – after the transfer of authorities and powers on the trust property – shall preserve the trust property till transferring such authorities and powers over the trust property to the settlor or to another trustee. He shall be entitled to compensation for all the costs he incurs, and he shall not bear any responsibility resulting from preserving the trust property delivered to him during this period.

## Article (18)

### The Trustee's Resignation or Suspension from Work

1. The trustee may resign or request to be released from being a trustee after accepting his duties.
2. The request to resign or be released shall be submitted under a written notice, including any means of information technology, to any person who has the power to appoint a trustee at least (20) working days prior to the date the request to resign or be released comes into effect.
3. The person having the power to appoint a trustee must respond to the resignation request within (10) working days from the date of being aware of the request. The resignation shall be deemed accepted if he does not notify him in writing (or via any means of information technology) of accepting it.
4. If the trust instrument does not regulate the terms and conditions for the trustee resigning or being released from his duties, or if the resignation or release is refused, the trustee may submit the resignation request to the competent court to issue a decision thereon.
5. If the competent court finds that the resignation aims at prejudicing the implementation of the trust, it shall issue a decision to refuse the resignation and to impose him to pay the value of the resulting damage.
6. Any party of interest may submit a request to the competent court to dismiss the trustee due to a discontinuance performance of his duties for a period exceeding three months, even though the discontinuance reasons are justified, unless the trust instrument stipulates otherwise.
7. If the trustee commits a deliberate mistake or violates his obligations stipulated in the trust instrument or this Decree by Law, the competent court may, upon a request from an interested party, order the suspension of the trustee from carrying out his authorities and powers or discharging his obligations for the period it determines, so that this does not damage the interest of the beneficiaries or the purpose of the trust.

## **Article (19)**

### **Dismissal of the Trustee**

The competent court may dismiss the trustee in the following cases:

1. If the terms of dismissing the trustee as determined in the trust instrument come into effect.
2. Upon a request from the settlor, the beneficiaries or any other appointed trustee, if they find that the trustee is acting in a manner that harms the interest of the beneficiaries or the trust purpose.

In all cases, the competent court may issue any decisions to preserve the trust property till appointing another trustee.

## **Article (20)**

### **Removal of the Capacity of Trustee**

1. The capacity of trustee shall be removed by his death or loss of his capability if he is a natural person, by liquidating his activity or bankruptcy if he is a legal person, by termination of his appointment period if his appointment period is determined in the trust instrument or by cancelling his license if he is a professional trustee. The trust shall be transferred to other trustees if they are multiple.
2. Subject to the terms of the trust instrument, in the event the capacity of trustee is removed and there is no trustee appointed to carry out the duties of the trust, the competent court shall temporarily assign the trust management to one or more professional trustees till the appointment of a new trustee, according to the provisions of this Decree by Law. The trustee shall remain till the new trustee assumes his duties.
3. In the event the capacity of trustee is removed and the trust instrument does not determine who has the right to replace the trustee or the mechanism for this, the competent court may – upon a request from an interested party – appoint a new trustee or enable the settlor to appoint one.
4. Any person appointed as an alternative trustee shall have all the authorities and powers which the replaced trustee had, unless otherwise stipulated in the trust instrument or in a decision of the competent court that appointed the alternative trustee.

5. The trustee whose capacity has been removed shall deliver all documents related to the trust to the new trustee.
6. Replacing the trustee shall not violate any obligation imposed by any other law on considering the dispositions made by the previous trustee on the trust.

## **Article (21)**

### **Effect of the Removal of the Capacity of Trustee**

1. If the capacity of trustee is removed for any reason and no other trustee is appointed, the trust shall be effective till the appointment of a new trustee according to the provisions of this Decree by Law, unless the trust instrument stipulates otherwise.
2. In case of the removal of the capacity of trustee for any reason other than death or loss of capability, he shall submit to the settlor, the beneficiaries, the trust protector or the competent court – if he is appointed by the competent court – a closing account for the trust that is audited and supported by all data, papers and documents related to the work he carried out for the trust. He shall be deemed a receiver on the trust property till delivering everything in his possession. He shall take the necessary procedures to transfer the rights over the trust property to the new trustee or other trustees, if they are multiple, as soon as possible, unless the competent court orders otherwise.
3. If the capacity of trustee is removed by death or loss of capability, the heirs of the trustee or their guardian shall notify the competent court or any of the other trustees, if they are multiple, of the death of their testator within forty (40) working days from the date of death or from being aware of the trust if they were not previously aware. The competent court shall notify the settlor, trust protector and beneficiary of the death of the trustee or the loss of his capability. It may take the measures necessary for protecting the trust till the appointment of a new trustee.
4. In case of the death of the trustee or the loss of his capability, his heirs or guardian shall be committed to transfer the trust property in their charge to a new trustee according to the provisions of the trust instrument or under a decision from the competent court.
5. If the trustee is a legal person and his capacity is removed, the competent court may decide for the person appointed by such legal person to continue as trustee.

6. If the heirs of the deceased trustee do not have legal capacity, the custodian or guardian must carry out the obligations stipulated in Clause (3) and Clause (4) of this Article.
7. If there are multiple trustees and the capacity is removed from one or more of them, the trustee who is continuing in his position shall have all authorities and powers over the trust property and he shall fulfil all the obligations till the appointment of the required trustee.
8. Removal of capacity of trustee for any reason shall not affect the continuation of the trust, unless the trust instrument stipulates otherwise, provided the new trustee undertakes – upon his appointment – all authorities and powers of the former trustee by rule of law without the need for any procedure, excuse or notice.
9. The new trustee shall take the procedures required to oblige any former trustee to return and deliver the trust property, unless the terms of the trust instrument stipulate otherwise. The new trustee shall claim compensation from the former trustee for any damage resulting from any violation during the period of undertaking such duty, or according to the provisions of this Decree by Law.

## **Article (22)**

### **Fees and Expenses of the Trustee**

1. The trustee shall not be entitled to fees for carrying out the duties determined in the trust instrument, unless otherwise stipulated therein.
2. The settlor may determine the fees for the trustee or increase or decrease them at any time after creating the trust, if he retains this right for himself in the trust instrument. If this is not stipulated in the trust instrument, the fees may be determined or amended under a written approval from all the beneficiaries or by a decision from the competent court.
3. If a professional trustee is appointed according to the provisions of this Decree by Law, he shall receive the fees determined by the trust instrument, by approval of all the beneficiaries or by a decision from the competent court.
4. The trust instrument may stipulate the trustee's fees on the basis of a percentage from the dividends of the trust gained throughout the year, after deducting all expenses and

fees.

5. Upon taking a decision on determining or amending the trustee's fees, the competent court shall take into account:
  - a. A change of the trustee's responsibilities from those determined at the time of the creation of the trust.
  - b. If the fees determined in the trust instrument are not commensurate with the volume of work undertaken by the trustee.
6. The trust instrument may stipulate the right of the trustee to recover the reasonable expenses he incurs due to the management of the trust directly from the trust property. If the trust instrument does not stipulate so, the trustee may apply to the competent court for a decision to dispose of the trust property in order to obtain an equivalent to such expenses.
7. The competent court may, upon a request from any interested party, issue a decision to reduce the fees or expenses entitled to the trustee due to the trustee violating the trust or failing to carry out his duties.

## **Article (23)**

### **Authorities and Powers of the Trustee**

1. The trustee shall have all authorities and powers over the trust property. He may manage, use and dispose of it in any way. He may open bank accounts in the name of the trust, unless such a right is restricted under the trust instrument, this Decree by Law or any other relevant legislation.
2. If the trust instrument includes a provision restricting the trustee from disposing of the trust property, the competent court may, upon a request from the trustee or the beneficiary, grant the trustee the power to dispose of the trust property. In this case, this shall be linked to the extent to which it realises the purpose of its creation and the interest of the beneficiary.
3. The trust instrument may expressly stipulate granting the trustee a discretion on determining the portion of each beneficiary from the dividends of the trust property, and the method and time of its distribution.

4. If the application of any of the terms of the trust instrument or any of provisions of this Decree by Law requires amending the authorities and powers of the trustee, the trustee may submit a request to the competent court for a decision. The competent court may issue the decision that realises the trust purpose or the interest of the beneficiaries.
5. The competent court may, upon a request from an interested party, set terms or restrictions on the practice of the trustee's authorities and powers if he violates the terms of the trust instrument or the provisions of this Decree by Law or if he practises authorities and powers in contrary to the requirements of good faith or the level of performance expected from him.

## **Article (24)**

### **Substitution or Delegation of the Authorities and Powers of the Trustee**

1. The trustee may not substitute or delegate another person to carry out any of his duties, whether this person is a trustee with him or a third party, save in the following cases:
  - a. If this is stipulated by the trust instrument.
  - b. If all beneficiaries agree and the trust instrument permits them to do this.
  - c. If substitution or delegation is required to enable the trustee to carry out his duties.
  - d. If the competent court agrees.
  - e. If it is not possible for any trustee to carry out his duties temporarily due to an urgent excuse, he may assign one of the other trustees to carry out such duties.
2. The scope and terms of substitution or delegation must be determined in line with achieving the interests, purposes and terms of the trust. The person substituted or delegated by the trustee shall fulfil the determined required obligations. He shall practise the authorities and powers of the trustee in a manner that achieves the interest of the beneficiaries and the trust purpose.
3. If the trust instrument permits the trustee to substitute or delegate any person for him without determining the character of the person substituted or delegated, the trustee shall not be personally held accountable unless for his mistake in selecting his delegate or his mistake in the instructions he issues for him.
4. The provisions stipulated in this Decree by Law with regard to responsibility of the

trustee for his acts and dispositions shall apply to the person substituted or delegated under this Article.

5. If the trustee substitutes or delegates another person to carry out some of his duties in violation to terms of the trust instrument, he shall be responsible for the work of the person substituted or delegated as if this work is carried out by him personally. In this case, the trustee and the person substituted or delegated shall be jointly responsible.

## **Article (25)**

### **Obligations of the Trustee**

The trustee shall be committed to:

1. Commence within a reasonable period from his appointment to complete the transfer of authorities and powers on the trust property to him and enable him to control it, taking into account the period determined in Paragraph (A), Clause (1) of Article (13) of this Decree by Law.
2. Perform his obligations and practice his authorities and powers in line with the terms of the trust instrument and the provisions of this Decree by Law.
3. Exert due diligence as a person keen on carrying out his authorities, powers and duties, safeguard the trust property and its value and dispose of it according to the terms of the trust instrument and the provisions of this Decree by Law.
4. Practise his duties to achieve the interest of the beneficiaries and the purpose of creating the trust; he shall keep, develop and dispose of the trust property in a manner benefiting the beneficiaries and the trust purpose.
5. Carry out all procedures and take all reasonable legal and financial dispositions to control the investments, retain and protect the trust property and any other rights related thereto.
6. Represent the trust interests and any legal requirements related to the trust before the public, including any authority competent with registering or recording any transaction related to the trust property.
7. Practise his duties to achieve the interest of the beneficiaries and the purpose of creating the trust if there are more than one beneficiary or one trust purpose, through retaining,

developing and disposing of the trust property in a manner that achieves the benefit for the beneficiaries and the purpose of creating the trust. Be neutral among the beneficiaries and not practise his authorities, **powers** and obligations stipulated in the trust instrument in a manner leading to achieve the interest of one of them over the other, taking into account the contents of the trust instrument.

8. Disclose his capacity as trustee and that the property, subject matter of disposition, is a trust property, including the contracts and transactions he concludes with third parties for the interest of trust.
9. Keep a complete record for the trust property and keep the trust property separate from his own property and any other property he manages. This shall facilitate distinguishing them from his property or any other property.
10. Keep, preserve and disclose the books and records according to the provisions of this Decree by Law.
11. Take the initiative to notify the settlor, beneficiaries or the trust protector if he becomes aware of any matter that would affect the value of trust property or its investments.
12. Disclose in writing any direct or indirect personal interest that contradicts the requirements of practising the duties of trustee. Disclosure shall immediately be made, once he becomes aware of this interest, to the settlor, beneficiaries, trust protector, other trustees and the competent court through which he is appointed. In this case, he shall refrain from participating in taking any decision with regard to the disposition marred by interest conflict. A professional trustee may be appointed to undertake the disposition under disclosure if the trustee is alone, taking into account the cases stipulated in the rules governing the private trust.
13. Respond to any inquiry directed by an interested party with regard to any matter provided in Article (27) of this Decree by Law.
14. Any other obligations stipulated in this Decree by Law or added by a resolution from the Cabinet upon a proposal from the Minister.

## **Article (26)**

### **Prohibitions of the Trustee**

Without prejudice to the provisions of the trust instrument, the decisions of the competent court and the provisions of this Decree by Law, the trustee must refrain from the following:

1. Use trust property for his interest and personal benefit or unduly becoming rich as a result of carrying out his obligations.
2. Cause or enable others to use the trust property or benefit or become rich from it, directly or indirectly, in violation to the trust instrument or in contrary to the requirement of transactions of the trust.
3. Use the capacity of trustee to damage the interests of beneficiaries or the trust purpose.
4. Burden on the trust any expenses other than the reasonable expenses required for managing the trust.

## **Article 27 Report**

The trust instrument may stipulate that the trustee is obliged to issue a report determining the data and information that it must include and persons to whom the report is submitted, provided the report includes the market value of trust property and any circumstances or facts that would increase or decrease this value. In addition to any matters or facts that would affect the rights of the beneficiaries, the terms of management or investment of the trust property, as well as an addendum of expenses and costs settled for managing the trust or keeping its property.

## **Article (28)**

### **Record Keeping and Disclosing**

1. The trustee shall hold and keep paper-based and electronic audited accounting books and records for the trust including the following:
  - a. All transfers of property, debts, acquisition, expenses and other transactions related to the trust and its property.
  - b. Complete and accurate information on the status and value of the trust property.
  - c. The financial position of the trust periodically every three months or as per the

period of the trust, whichever is less.

1. The trustee shall keep the trust accounts and records separate from the accounts and records of any other work he carries out.
3. The trustee shall be committed to keep all accounting records through any possible mean for 3 years. As for the professional trustee, he shall keep them for 10 years as of the date when the trust terminates or is terminated.
4. Subject to the legislation applicable in the State, the trust instrument may stipulate that the trustee is committed to appoint an external auditor for the trust. The competent court may decide this if the trust instrument does not stipulate as such, if this would achieve the interest of beneficiaries or trust purposes. The competent court may determine the required expenses.
5. The trustee shall be committed to keep a record containing the following information:
  - a. Full name, address and nationality of the trustee, the settlor, the beneficiary, and the trust protector.
  - b. Date of the trustee's appointment and date of his suspension from work, and any terms or restrictions on authorities and powers of the trustee.
  - c. Original copy of the trust instrument.
  - d. Copy of the trust registration in the record as stipulated in Article (48) of this Decree by Law.
6. Any interested party may request access to the trust accounts. The trustee shall provide them with an audited annual account on the trust property within three months from the beginning of the fiscal year following the date of the creation of the trust, unless otherwise required by the trust instrument, a subsequent agreement or the nature of dealing in the trust property.
7. Unless the trust instrument stipulates otherwise, the trustee may not disclose the reason for taking any of his decisions under his authorities and powers or carrying out a duty entrusted to him, or the way of carrying out such authorities and powers.

## **Article (29)**

### **Independence of the Trustee**

The trustee shall exercise his authorities and powers determined in the trust instrument and the provisions of this Decree by Law without intervention or direction from the settlor, unless the trust instrument stipulates otherwise.

## **Article (30)**

### **Responsibility of the Trustee**

1. The trustee shall be responsible for any loss or depreciation in value of the trust property due to his breach to the trust instrument, deliberate mistake or gross negligence in managing the trust. If more than one trustee contributes in violating the trust, the responsibility shall be joint.
2. If the trustee disposes of the trust property in a manner that contradicts the requirements of good faith and the alienee is aware, the disposition shall be void and both parties must restore the situation to as it was before the disposition, if possible.
3. If the trust instrument stipulates selling any part of the trust property within a specified term and the trustee extends this term for a reason he deems in the interest of the beneficiary, the trustee shall bear the burden of proving that the extension was for the interest of the beneficiary, unless he is owed compensation to the extent of the decrease in value of sale or the damage caused to the beneficiary.
4. The trustee shall be responsible for any damage to the trust that he causes due to deception, bad faith or gross negligence.
5. If damage is caused to the trust property for any of the reasons stipulated in Clause (1) of this Article, the trustee shall be obliged to compensate.
6. The trust property shall not be deemed part of the financial disclosure of the trustee and it is not permissible to have recourse against the trust property for charging a right of the trustee in person. The trust property shall not be calculated within his heritage, bankruptcy or liquidation of his activity. Creditors of the trustee shall not have the right of recourse against the trust property; however, it is permissible to attach the wage determined for the trustee within the part entitled to him in the trust.

7. The competent court may compensate the trustee from the trust property for any damages caused to him due to his work as a trustee.

### **Article (31)**

#### **Events of Lack of Responsibility of the Trustee**

The trustee shall not be responsible for any breach to the trust in the following cases:

1. If the breach is made by any other person before he is appointed a trustee.
2. If the breach is caused by another trustee, if there are multiple trustees, unless the trustee has contributed to the breach or is aware that the breach was carried out by another trustee and does not take the legal procedures to suspend the breach within reasonable time.
3. If he acts in good faith, sincerely and reasonably according to the trust instrument and this Decree by Law.
4. If the trust instrument stipulates granting the beneficiaries the right to exempt the trustee from responsibility or compensation due to the breach of the trust, and the beneficiaries agree. The condition of exemption shall not be considered if the breach attributed to the trustee involves forgery, bad faith or gross negligence.
5. Any cases stipulated in the trust instrument, provided that they do not violate public order.

## **Chapter Five**

### **Trust Beneficiary**

#### **Article (32)**

##### **Identification of the Beneficiary**

1. The trust beneficiary must be identified by name, capacity or by clearly indicating the kinship, whether present or may be present in future.
4. If the beneficiary is a natural person, he shall be identified by name or affiliation to a group, legal personality, category, kinship or so on or by linking them to a specific person, whether or not this person is still alive at the creation of trust, or by linking them to a category specified by its capacities that may be identified in the future.

3. The trust instrument may stipulate certain terms for entitlement or exclusion of beneficiary from getting the dividends of trust, whether temporary or permanently.
4. The beneficiary may not claim from the trustee any right he has in the trust property that is not added to the trust property.
5. If the beneficiary is not identified according to the provisions of this Decree by Law, the trust shall be void, unless the trust instrument stipulates a charitable purpose if the beneficiary is not identified.
6. Subject to Clause (7) of Article (15) of this Decree by Law, it is not permissible to combine the capacities of settlor, trustee and beneficiary together in one person for a specified trust. However, the settlor or trustee may be a beneficiary.

### **Article (33)**

#### **Right of the Beneficiary to the Dividends of the Trust**

1. The beneficiary shall have the right to the dividends of the trust and he may request the trustee to fulfil the obligations stipulated in the trust instrument and the provisions of this Decree by Law, and keep the rights of the beneficiary related to the trust property with any person, whether this person is aware or presumed to be aware of the trust.
2. If the trust instrument determines rights for the beneficiaries without determining the portion of each of them, the dividends of the trust shall be divided among them equally, taking into account any restriction provided on this in the trust instrument and the provisions of this Decree by Law.
3. The beneficiary's portion in the dividends of the trust – after he becomes entitled thereto – shall be a part of his financial disclosure, taking into account any restriction provided on this in the trust instrument and the provisions of this Decree by Law.
4. In the event there are multiple, or a succession of, beneficiaries and one of them has the right to use or exploit any part of the trust property according to the terms of the trust instrument, he must use or exploit it without causing the depreciation of the trust property or causing a sustainable defect thereto. If the trustee finds that the beneficiary is fails to comply with this, he shall take the procedures required to prevent this or its continuation.

5. The trust instrument may stipulate preventing the beneficiary from his portion in the dividends of trust or suspending it for a certain period or till the realisation of a certain event if the beneficiary becomes insolvent, bankrupt or if his property is subject to precautionary attachment in favour of his creditors, taking into account any restriction provided on this in the trust instrument and the provisions of this Decree by Law.
6. The trust instrument may stipulate the possibility of collecting the beneficiary's portion of the trust's dividends and delivering it to him by the end of a certain period or by the realisation of a certain event. If the trust instrument does not stipulate so, the trustee may request the competent court to allow the collection of the beneficiary's portion if this achieves the interest of the beneficiary and the trust purpose.

### **Article (34)**

#### **The Beneficiary's Waiver of his Right to the Trust Dividends**

1. The adult or authorised beneficiary may refuse or waive all or some of his rights established under the trust instrument or this Decree by Law, even if he has been delivered a part thereof. The waiver may be determined for a certain period or it may be a permanent waiver of the right. The waiver may not be revoked if the beneficiary has waived his right permanently.
2. If the trust instrument stipulates a certain period for accepting the trust created for his interest and such a period lapsed without it being accepted, this shall be deemed a refusal by the adult beneficiary.
3. If the beneficiary refuses his due dividends from the trust, the property collected from the dividends of the trust shall return to the settlor, unless the trust instrument stipulates otherwise.
4. The waiver of the beneficiary's right to the dividends of the trust must be in writing and submitted to the settlor or the trustee according to the terms of the trust instrument. The guardian or custodian may apply to the competent court to approve the waiver of the beneficiary if the beneficiary does not have legal capacity of agency.

## **Article (35)**

### **Rights of the Beneficiary's Creditors in the Trust Property**

Subject to relevant legislation, the rights of third parties shall be limited to the beneficiary's portion of the dividends of the trust and shall not extend to any other part of the trust property or any right against the trustee.

## **Chapter Six**

### **Trust Protector**

## **Article (36)**

### **Trust Protector**

1. The trust instrument may stipulate the method of appointment of the trust protector, determine his powers, give him the right to review the performance of the trustee, request him to carry out his duties and sue him if the trustee fails to comply with his duties and functions. Also, the trust instrument may stipulate granting the trust protector the power to appoint a trustee or add another trustee, dismiss the appointed trustee and appoint new trustee, and determine the fees of trustee or other powers.
2. It is permissible to stipulate in the trust instrument to obtain the consent of trust protector when the trustee carries out any of his authorities and powers. If the trust instrument stipulates so, the trustee shall not be responsible for any losses resulting from carrying out such authorities or powers.
3. The settlor may be appointed as a trust protector but the trustee may not be a trust protector.
4. The trust protector shall not be a trustee just for carrying out the powers stipulated in the trust instrument or this Decree by Law.
5. The trust protector shall be awarded fees for providing his services if the trust instrument so stipulates. The competent court may amend the value of the fees from time to time. It may determine fair fees and compensation for the expenses he incurs upon a request from the trust protector, even if this is not stipulated in the trust instrument.

## **Article (37)**

### **Prohibitions of the Trust Protector**

Subject to the provisions of this Decree by Law and the trust instrument or any decision issued from the competent court, the trust protector shall be prohibited from doing any of the following:

1. Putting himself in a position that contradicts the requirements of his duties.
2. Benefit or become rich, directly or indirectly, due to his appointment as a trust protector.
3. Enable or cause any other person to become rich from the trust, directly or indirectly.
4. Conclude deals with the trustee for his personal account or any transactions related to the trust property leading to his benefit or the benefit of the trustee, directly or indirectly.

## **Article (38)**

### **Removal of the Capacity of Trust Protector**

1. The trust protector may resign from his position under a written notice submitted to the person having the right to appoint him, as determined by the trust instrument. The resignation shall be deemed effective from the date it is submitted, unless the trust instrument stipulates otherwise.
2. If the trust instrument does not determine the person who has the right to accept the resignation of the trust protector, the resignation request shall be submitted to the competent court with a copy to the trustee. The competent court may accept or refuse the resignation as per the circumstances and interest of the trust and appoint a new trust protector.
3. The trust protector shall lose his capacity as a trust protector in the event that any of the following occurs:
  - a. If he is dismissed from his position by the competent court according to the provisions of this Decree by Law.
  - b. If his resignation is accepted.
  - c. If a term in the trust becomes effective which results in his dismissal from his position or losing his capacity.
  - d. If he accepts his appointment as a trustee.

**Chapter Seven**  
**The Competent Court**  
**Article (39)**

**Authorities of the Competent Court**

1. In addition to the authorities awarded to the court according to the provisions of the Law, the court may – in case of breaching the terms of the trust instrument or the provisions of this Decree by Law and upon a request from any interested party – order the taking of any of the following procedures:
  - a. Terminate the trust.
  - b. Dismiss the trustee and appoint an alternative.
  - c. Carry out any of the authorities and powers of the trustee or order the fulfilment of any of his obligations under this capacity.
  - d. Grant the trustee additional powers without contradiction to the trust instrument.
  - e. Dispose of the trust property in a manner that achieves the interest of the beneficiaries and purposes of the trust.
  - f. Take any decision to protect the rights of the beneficiaries.
  - g. Issue the decisions required for the validity of the terms of the trust instrument and how to apply them.
  - h. Accept the resignation of the trustee or the trust protector if the person who has the right to accept the resignation is not determined in the trust instrument.
  - i. Any other powers stipulated in this Decree by Law.
2. The competent court – upon a request from any interested party – may amend any of the terms of the trust instrument even if the terms are in line of the will of the settlor, in the following cases:
  - a. If the continuation of the trust with the existing terms is not sufficient for achieving the purposes of trust.
  - b. If the amendment of the terms of the trust instrument would achieve the interest of the beneficiaries for conforming with the trust purposes.
3. The competent court shall issue the required decisions within its powers according to the provisions of this Decree by Law without litigation, upon a request for a petition

submitted to the competent court from any interested party. It shall take into account the trust purpose and the interest of the beneficiaries.

## **Chapter Eight**

### **Revocation, Amendment, Nullification and Termination of the Trust**

#### **Article (40)**

##### **Revocation of the Trust and Amendment of its Terms**

1. The settlor, or whomever he delegates during his life, may revoke the trust in whole or in part, amend its terms or amend any authority or power granted in the trust instrument, provided that the right of the settlor in revocation or amendment is established in the trust instrument. Amendment or revocation of the terms of the trust instrument or carrying out any of the authorities and powers stipulated in the trust instrument shall not affect any legitimate action carried out by the trustee with regard to the trust before receiving the notice (with acknowledgement of receipt) concerning the amendment or revocation of the trust.
2. If the trust instrument stipulates the possibility of amending its terms, this shall not affect any of the authorities granted by this Decree by Law to the competent court.
3. It is not permissible to carry out the power of revocation of the trust or any part thereof if the trust is used to guarantee rights arising for a third party.

#### **Article (41)**

##### **Nullification of the Trust**

1. The competent court may, upon a request from an interested party or the law enforcement authorities, as the case may be, nullify the trust in any of the following cases:
  - a. Realisation of one of the nullification reasons stipulated in this Decree by Law.
  - b. If the goal of the trust is to achieve purposes in violation of the public order.
  - c. If the trust is created without being linked to a specific beneficiary or group of beneficiaries or if the purpose of its creation is not determined as specified in this Decree by Law.

- d. If a judgement is issued from the competent court ordering that the creation of the trust was due to forgery, coercion, mistake; or that it was created through fraud or deception, based upon invalid data, or in violation to the trust instrument and the provisions of this Decree by Law.
  - e. If the terms of the trust instrument or its purpose are not clear or are unverified, which make its implementation impossible, or the fulfilment of the obligations of trustee therein is not possible.
  - f. If it is proven that the purpose of its creation is for the settlor to avoid settling debts, taxes or any other payable obligations.
2. If the trust is created for more than one purpose and some of such purposes are illegitimate, the competent court may deem the trust valid with regard to the valid dispositions, if it is possible to separate the illegitimate dispositions from those that are valid. The trust shall be nullified if it is not possible to separate such dispositions, especially as they are essential for the continuation of the trust.
  3. In the event that nullification of the trust is ordered, the trust property shall be referred to the settlor or his heirs in case of his death, without prejudice to the third-party rights of good faith.

## **Article (42)**

### **Termination of the Trust**

1. The trust shall be terminated in one of the following cases:
  - a. In the event the settlor revokes the trust, if this permissible in the trust instrument.
  - b. If the trust period terminates.
  - c. Termination of the trust purpose, except for the charitable trust that is renewed as stipulated in the trust instrument.
  - d. Upon the agreement of the settlor, the trustee and the beneficiary who has the right to act on terminating the trust, under a written instrument certified according to the trust instrument.
  - e. If the trust instrument permits terminating the trust upon a written request submitted to the trustee from all existing beneficiaries, provided that the

beneficiaries have the capability of agency and have the full right in the trust property.

2. The trust may be terminated by a decision from the competent court upon a request from any interested party, in any of the following cases:
  - a. Occurrence of circumstances outside the settlor's expectations, so that the termination of the trust is made for the interest of the beneficiaries or for achieving the trust purposes.
  - b. If the trust property is not sufficient to cover the costs required for the continuation of the trust.
  - c. If there is no beneficiary or any person that is deemed a beneficiary from the trust according to terms of the trust instrument or if there is any purpose that could be achieved from the trust.

### **Article (43)**

#### **Effects Resulting from the Trust Termination**

1. The trust instrument may stipulate to give the trust property back to the settlor if he is alive or his heirs if he has passed away. Or it may stipulate the method of distribution of the trust property after its termination, provided this does not violate the public order in the State.
2. The trustee shall request the court to issue a decision on the termination of the trust in any of the two following cases:
  - a. If the trust instrument does not stipulate the method of distribution of the trust property.
  - b. If the trustee is not able to distribute the trust property according to the terms of the trust instrument for there is no beneficiary, it is not possible to determine a beneficiary, or the trust purpose is terminated.
3. The competent court may order the continuation of charitable trust and give the trust property back to the settlor or his heirs in case of his death. The trustee shall settle all the financial obligations on the trust before distributing the trust property. He may set aside some of the trust property for its sale or obtain suitable guarantees for covering any

expenses he incurred or may incur in future with regard to the trust management or for guaranteeing any responsibilities, whether current, future, conditional or unconditional, that may result on the trust.

4. In case of the termination of the trust, the competent court may, upon a request from an interested party, decide obliging the trustee to distribute or not the trust property or issue any decision required to maintain and keep the trust as per the case that require this.
5. If the right of a beneficiary to the dividends of the trust terminates, the effects of termination shall apply to such beneficiary without prejudice to the rights of the other beneficiaries.

## **Chapter Nine**

### **Trust with Specified Purposes**

#### **Article (44)**

#### **Types of Trust with Specified Purposes**

1. A charitable or private trust may be created.
2. Subject to the legislation applicable in the State, the terms and conditions of creating a charitable or private trust, its uses and authority for oversight shall be determined under a decision issued from the Cabinet upon a proposal from the Minister.

#### **Article (45)**

#### **Charitable Trust**

1. If a trustee is created and the terms of the trust instrument do not determine certain charitable purposes or the method of its determination, the competent court may select one or more charitable purposes in line with the will of the settlor.
2. The settlor of a trust with charitable purposes may be the trustee, taking into account the procedures required for implementing the trust.
3. A charitable trust shall have the protection provided for public property.

## **Article (46)**

### **Private Trust**

A trust may be created for private purposes, including the following:

1. The trust created for purposes of dealing in securities of all types recognised in the stock markets, including the ownership, trading and investment of securities.
2. The trust for purposes of establishing retirement funds or guaranteeing the provision of benefits to the beneficiaries in return of regular contributions paid for the private trust.

## **Chapter Ten**

### **Registration of the Trust**

## **Article (47)**

### **The Register**

A register shall be established for registering the trust. It shall be regulated by a decision from the Cabinet upon a proposal from the Minister, provided that this decision contains the authority managing the register, its work method and mechanism of regulation, applicable procedures and terms related to registration therein and its use, data to be listed therein, papers and documents issued therefrom, methods of making any amendment to the trust instrument, electronic mechanisms to use it and any other data necessary for achieving the purpose of registering the trust instrument.

## **Article (48)**

### **Registration of the Trust in the Register**

1. The settlor or the trustee, as the case may be, must apply to register the trust in the register, adhering to provide all information necessary for updating the register.
2. The trust and any amendments thereto shall come into force and be effective according to the provisions of this Decree by Law, once the procedures of registering the trust instrument in the register are completed, unless otherwise stipulated in this Decree by Law or the decisions issued by the Cabinet to apply it.
3. The authority managing the register shall issue an official certificate indicating the registration of the trust instrument in the register and a list of the property included in

the trust. The certificate and list issued under this Clause shall be deemed an official instrument according to the provisions of this Decree by Law.

## **Article (49)**

### **Registration of the Trust Property in the Official Registers**

Subject to Article (48) of this Decree by Law, if the trust property includes real estate located inside the State or movables which the legal dispositions made thereon are valid if they are registered in an official register for it, according to the federal or local legislation applicable in the State, the following shall be undertaken:

1. Obtaining a certificate from the register that indicates that the trust instrument is registered therein and the property to be registered is of the property included in the trust.
2. Request of the settlor, the trustee or any other person explicitly determined in the trust instrument to endorse that the added property is under a trust created according to the provisions of this Decree by Law.

The trustee shall have all the authorities and powers over the trust property, including any transfer disposition according to the trust instrument and the provisions of this Decree by Law. The trustee shall have the authority of signing the documents related to the trust property without the need for the intervention of the settlor or the beneficiary.

## **Article (50)**

### **Accessing the Register and Obtaining a Certified Certificate therefrom**

1. The settlor, trustee and trust protector, as the case may be, may access the register with regard to the trust and obtain a certified certificate from the data or information stated in the register, taking into account any related terms stipulated in the trust instrument and this Decree by Law.
2. The beneficiary may access the register within the limits of his portion in the profit of the trust, unless the trust instrument stipulates otherwise.
3. No data or information stated in the register may be disclosed in cases other than stipulated in Clauses (1) and (2) of this Article, unless this is for applying an order issued

from a competent court.

### **Article (51)**

#### **Confidentiality**

1. The trustee is prohibited from disclosing any data, information or documents related to the trust or its accounts to any person unless within the limits stipulated in the trust instrument or this Decree by Law, as required by nature of transactions related to the trust or upon a judicial order.
2. Subject to the provisions of Article (50) of this Decree by Law, the trustee may not refuse to disclose the information or documents mentioned in Clause (1) of this Article unless the request is submitted by an interested party.
3. Except for the provisions of Clause (2) of this Article, the trust instrument may stipulate terms and controls determining the scope of access of the beneficiaries or the trust protector to certain details in the trust, including the details of the method of distribution of the trust's dividends to the beneficiaries and controls of how the trustee takes his decisions.
4. The competent court may, upon a request from an interested party, decide to extend or limit the right of any of the beneficiaries or the trust protector to obtain information related to the trust, and it may decide what it deems appropriate in this regard.

### **Chapter Eleven**

#### **Penalties**

### **Article (52)**

Penalties stipulated in this Decree by Law shall not prejudice any more severe penalty stipulated by any other law.

### **Article (53)**

Without prejudice to civil liability, whoever causes damages to the trust, the settlor or any beneficiary due to deliberately violating the provisions of Clauses (2), (3), (4), (6) and (9) of Article (21), Clauses (1) and (3) of Article (24), Clauses (1) and (3) of Article (25), Clauses (1),

(2), (3) and (6) of Article (28), Article (37), Clause (3) of Article (50) or Clauses (1) and (2) of Article (51) of this Decree by Law shall be punished by imprisonment and fined no more than (1,000,000) one million AED, or by one of these penalties.

### **Article (54)**

Without prejudice to civil liability, whoever deliberately poses as the trustee and carries out powers subject to this capacity or violates the provisions of Clause (5) of Article (20) of this Decree by Law shall be punished by imprisonment for not more than a year and a fine not exceeding (500,000) five hundred thousand AED, or by one of these penalties.

## **Chapter Twelve**

### **Supplementary and Final Provisions**

### **Article (55)**

#### **Non-Consideration of the Case**

1. The case filed by any interested party against the trustee for violating his obligations shall not be considered against this beneficiary after the lapse of three years from the date of receiving the report of the external auditor of the trust, or from the date of being aware of the violation to the trust, whichever is earlier.
2. In cases where the beneficiary is a minor, the calculation of the period mentioned in Paragraph (1) of this Article shall start from the date when the minor becomes an adult.
3. The case filed by the trustee against another trustee, if there are multiple trustees, or any former trustee for the violation to the trust shall not be considered after the lapse of (3) three years from the date of the termination of his appointment as trustee according to the provisions of this Decree by Law.
4. No other case shall be considered against the trustee for any violation to the trust after the lapse of (15) fifteen years from the date of violating the trust.
5. Excluded from the provisions of the Clauses provided in this Article, the passage of time shall not prevent from:
  - a. Considering the case of deception or fraud against the trustee, if the deceit originated with the trustee or with a third party and the trustee was aware of this upon the

disposition or he was presumed to be aware.

- b. Considering the case of the recovery of the trust property which the trustee has transferred to himself or to a third party in violation of the terms of the trust instrument or the provisions of this Decree by Law.

### **Article (56)**

#### **Electronic Means**

Within the authority of electronic means stipulated in this Decree by Law, the terms and conditions stated in the aforementioned Federal Law No. (1) of 2006 or its regulating laws must be taken into account.

### **Article (57)**

#### **Fees**

The Cabinet shall, based on the presentation of the Minister, issue a resolution for determining the fees resulting from the application of the provisions of this Decree by Law.

### **Article (59)**

#### **Resolutions necessary for the enforcement of the provisions of this Decree by Law**

The Cabinet shall, based on the presentation of the Minister, issue the resolutions necessary for the enforcement of the provisions of this Decree by Law.

### **Article (60)**

#### **Repealing the Violating Provision**

Any provision contrary to or contravening the provisions of this Decree by Law shall be repealed.

## **Article (61)**

### **Law Publication and Enforcement**

This Decree by Law shall be published in the Official Gazette and shall come into force as of the day following the date of its publication.

**Khalifa bin Zayed Al-Nahyan**  
**President of the United Arab Emirates**

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