

# Directed Trust Services

# Your challenges

## Our experience

**As families move to gain more control over certain trust functions, multi-participant trusts have emerged as powerful tools for achieving their estate planning objectives. This form of trust designates and coordinates various fiduciaries to manage the many facets of sophisticated estate planning.**

Wealthy families face an ever-increasing set of challenges managing their assets across generations. Major changes in trust law, combined with modern investment strategies, new tax factors and complex family dynamics, have created demands that traditional trusts and institutional fiduciaries are not well equipped to handle. In the face of these demands, many families, based on guidance from their expert advisers, are moving away from conventional bundled trust service models to new “multi-participant” trust structures.

Examples of roles within a multi-participant trust include investment managers, distribution committees and trust protectors who direct the trustee to implement their decisions. These participants are granted specific powers by the trust based on their skill, location or relationships. They are responsible only for the duties that they are best equipped to assume. This approach is a great advance for many families over the traditional unitary trust model, where single or co-trustees lack either the in-depth expertise or the appetite for risk needed to effectively navigate complicated investment and legal terrain.

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# IQ EQ Trust Company, U.S. key facts and figures\*

U.S. assets under administration

**6<sup>+</sup> bn**

U.S. jurisdictions

**New Hampshire  
and  
South Dakota**

## Asset administration experience

- Liquid securities
- Private equity
- Concentrated stock positions
- Art
- Hedge funds
- Private company shares
- Real estate
- Domestic and foreign holding entities

IQ EQ Trust Company, U.S. operates from two of the nation's top jurisdictions, New Hampshire and South Dakota. The broader IQ-EQ Group is a global firm with unparalleled client resources and experience administering traditional and non-traditional assets in trust.

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\* Information correct as of 03 October 2023



# Wise choices

## Peace of mind

With the passage of a series of modern trust laws over the past 25 years, both the New Hampshire and South Dakota legislatures have answered the demand for statutes that support multi-participant trusts. These states have essentially overhauled their trust and trust company laws making them two of the most advantageous jurisdictions in the country in which to establish and administer what are now commonly called directed trusts.

Built upon the legislative frameworks created by New Hampshire and South Dakota, IQ EQ Trust Company, U.S., LLC is a state-chartered and regulated non-depository trust company that provides directed trust and related services to our clients.

Unlike traditional trust companies with in-house, integrated wealth management, we do not control investment decisions. Instead, we are directed by families and their trusted advisers on asset disposition. We serve in a fiduciary capacity with respect to discretionary distribution decisions, however, we may be directed on these as well if a family so chooses.

Our focus on administration leaves important investment and sometimes discretionary distribution responsibilities to professionals or family members who are best suited to handle them. Regulatory oversight helps to ensure the safety of the assets in our clients' trusts. The protective features of our states' laws, combined with our expertise, make us the best choice for directed trust services.

The choice of jurisdiction for trust "situs" is an often neglected aspect of trust planning and administration. Many wealthy families and their advisers assume they are legally required to establish and administer their trusts in their home states, regardless of whether the laws of another jurisdiction will provide benefits that are unavailable at home.

Yet, when it comes to selecting the location and laws that govern the administration of their trusts, now more than ever, situs selection should be a critical consideration for families, advisers and trustees.

# Progressive laws

## Trusted partners

Not all states' trust and banking laws are created equal. Respected and objective experts consistently rank both New Hampshire's and South Dakota's trust jurisdictions among the most preferred in the nation. In addition to having accessible and progressive trust and banking laws, neither state imposes a state income tax on trusts. Over the past decade, trusted advisers and wealth management professionals have increasingly stressed to families the importance of trust "situs shopping" - choosing a jurisdiction with a favorable tax, trust and banking law environment.

By simply working with us, families residing outside New Hampshire or South Dakota need not move to access these benefits. Our states' laws support non-residents that wish to relocate an existing trust or establish a new trust in either jurisdiction.

New Hampshire's and South Dakota's leading trust and trust company laws make these states the most advantageous jurisdictions in the country in which to establish and administer directed trusts.

### Why choose us

Our mission is to be a premier provider of trust administrative services. With offices in both New Hampshire and South Dakota, we offer access to both jurisdictions. For almost all legal and tax purposes, the two jurisdictions are essentially the same - neither taxes the income of a trust at the state level and both enable modern estate planning strategies such as perpetual trusts and asset protection trusts. Typically the decision between New Hampshire and South Dakota is driven by our clients' regional preferences or their attorneys' relative familiarity drafting trusts governed by these two jurisdictions.

We are a state-chartered and regulated non-depository trust company. The combination of our unbundled services approach, our industry expertise and our a la carte fee structure allows clients to choose only the trust services they need and to avoid disrupting existing relationships with trusted financial advisers and other professionals.

# Deep expertise

## Tailored services

A directed trust administered by us can allow a family to assert more control over its trusts' assets. Unlike traditional corporate trustees that provide only bundled trust services, we have a singular purpose: to provide the best and most effective "directed trustee" and administrative support services.

As a "pure" directed trust provider, we do not provide investment management or performance scoring.

Our states' robust directed trust statutes allow us to provide required trust situs services and to implement the instructions of each trust's empowered third-party fiduciary investment and distribution advisers, without making the entire arrangement cost prohibitive.

### **Our independent ways**

Much has been made of our states' stubborn, independent cultures, perhaps best embodied by New Hampshire's "Live Free or Die" motto. Both New Hampshire and South Dakota have always offered residents and businesses a combination of low taxes, freedom from needless regulation, and state

legislatures that are consistently proactive when it comes to wealth protection. With our favorable trust laws and lighter-touch regulatory environment, a family does not need to move to New Hampshire or South Dakota to enjoy many of these benefits. They can simply move their financial assets here through a directed trust arrangement administered by us.

### **Flexibility and customization**

New Hampshire and South Dakota have built attractive trust environments. And wealthy families and their advisers have come — but not for commoditized, cookie-cutter solutions. Let us explore with you and your advisers the opportunities offered by our states' law and our experience to customize a trust governance and fee structure that is built to suit your family's specific needs.

The protective features of our states' laws, combined with our experience, make us the best choice for directed trust services.



# Key characteristics

Our states' legal and regulatory infrastructures provide enhanced opportunities for the movement, reformation and management of trusts. In particular, our trust laws provide:

## **Asset protection legislation**

Asset protection legislation varies widely from state to state. Under New Hampshire and South Dakota law, families and their advisers can structure trusts to protect the assets they hold from the reach of creditors, divorce risks and the prying eyes of the public, press or potentially litigious beneficiaries.

Our states' laws are advantageous in several respects, most notably with self-settled asset protection trusts (APTS) and quiet trusts that can manage the information flow from the trustee to problematic beneficiaries.

## **Tax benefits**

New Hampshire and South Dakota do not impose state income or capital gains taxes on trusts. This means that trusts with New Hampshire or South Dakota situs pay lower taxes than trusts in other states, enabling the value of the trust for future beneficiaries to compound faster. In addition, our states have no state gift or intangible taxes.

## **Multi-generational dynasty and “purpose” trusts**

A properly formed New Hampshire or South Dakota dynasty or purpose trust can exist in perpetuity outside of the federal transfer tax system. In addition, as long as assets remain in trust, they are virtually immune to diversion by dissident spouses, creditors and other challengers.

## **Directed trust statutes**

Directed trust laws allow a family to appoint a designated investment committee or an independent party to manage trust assets. As the directed trustee, we have legal ownership of the assets and take direction from the empowered “investment” advisers. This provides the freedom for family members and advisers to make sensitive decisions regarding trust assets. It also can present an opportunity to train and educate young family members about the stewardship of family wealth.

## **Trust protector laws**

Our states' trust codes allow an independent third party appointed by the trust document to be given powers that may include the ability to veto or approve proposed trustee actions, change the trust's situs or modify some trust terms as the needs of future generations, tax status or governing laws change.

## **Non-judicial settlement agreements (“NJSAs”), reformation and decanting**

Under New Hampshire and South Dakota law, some of the administrative terms of a legacy irrevocable trust may be reworked by the trust settlor or trustee using our state’s highly-refined “decanting” laws. Decanting is most often used to move an irrevocable trust to a more flexible jurisdiction or tax-advantaged state.

Our reformation and decanting laws allow for modification of the “administrative” provisions of a trust without the need to seek a court order. This can facilitate the prompt and cost-effective migration of trusts to New Hampshire or South Dakota from states with less friendly trust, banking and state income tax laws.

## **Privacy**

Our privacy laws allow for limited or no trust asset reporting to beneficiaries and support procedures for sealing trust records at local probate courts.

## **Truly “default” trust investment standards**

A settlor or the beneficiaries of a New Hampshire or South Dakota trust can waive the normal standards of prudent investment, including the diversification requirement, without creating greater liability for the trustee or the risk that a court will rewrite a trust’s script to require the sale of a special asset (family compound, closely-held stock, concentrated positions, etc.).

## **Purpose trusts**

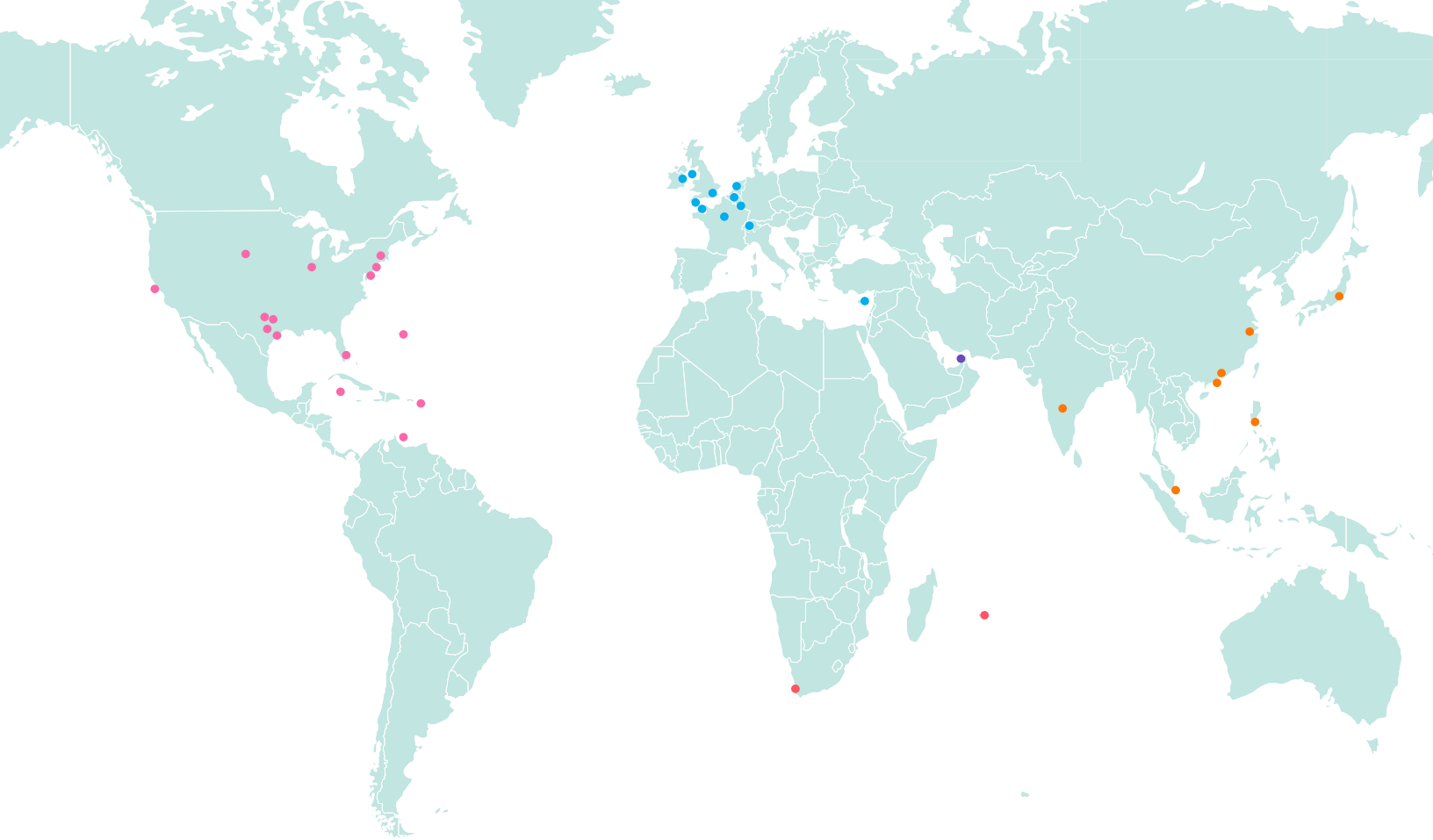
These trusts are created to achieve a particular purpose, such as the ownership and management of a private business, a concentrated public stock position or a family compound. Unlike the laws of many states, New Hampshire and South Dakota law imposes no limitation on the duration of purpose trusts.

## **Virtual representation laws**

These laws simplify trust administration when there are minor, incapacitated or unascertained beneficiaries, and usually can eliminate the need for court-appointed guardians ad litem.







# Our locations

Our U.S. trustee services are provided from South Dakota and New Hampshire by your dedicated trust officers and local support teams. In addition, we provide private wealth services around the globe to meet the evolving needs of your family, wherever you live, invest or move.

## THE AMERICAS

Bermuda  
British Virgin Islands  
Cayman Islands  
Curaçao  
USA (Austin, Bedford NH, Chicago, Dallas, Fort Worth, Garden City NY, Houston, Iselin NJ, Miami, New York City, Rapid City SD, San Francisco and West Palm Beach)

## EUROPE

Belgium  
Cyprus  
France  
Guernsey  
Ireland  
Isle of Man

Jersey  
Luxembourg  
Switzerland  
The Netherlands  
UK

## AFRICA

Mauritius  
South Africa

## MIDDLE EAST

United Arab Emirates

## ASIA

Mainland China  
Hong Kong  
India  
Japan  
Philippines  
Singapore

# Follow-up questions

If you would like to talk to us about our services, simply contact us below and we will be in touch.

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\*Information correct as of 11 March 2024

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