



**SAN MARINO TRUST LAW:
AN INTERNATIONAL DEED FOR ALL
TRUSTEES**

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PROTECTION OF FAMILY ASSETS

San Marino Law n. 42/2010 on Trusts is a "family law" with the main purpose of taking care of assets and family generational transfers. [It is a linear, precise and easily understandable text](#): uncommon characteristics in the international regulatory overview that make it very effective for solving problems, reducing professional risk margins. [The current text is made up of 64 articles, and underwent two important revisions in 2019](#), which have greatly simplified its operation and the possibility of use by professionals around the world. These features greatly facilitate all those involved during the Trust's establishment phase, clearly as well as the Trustee in its subsequent management:

- In drafting the founding act, the lawyer or notary can easily find validation in the regulatory data and in the sources connected to the various doubts or questions that may arise;
- The customer will be comfortable with the text and will be able to acquire direct confirmation of the quality of suggestions received;
- The Trustee will have constant guidance and support for management choices, above all to evaluate and fulfil the Beneficiaries' requests in the most appropriate way, eliminating any possible disagreements immediately.

[Many best practices adopted in Italy thanks to the Association Il Trust In Italia and Prof. Lupoi have become law and have been institutionalised in San Marino, such as the figure of the Guardian \(art.52\), the Book of Events \(art.28\) , mandatory reports \(art. 26\), Beneficiaries rights \(in particular in the event of the possibility of exception from the so-called "Saunders Vautier", art. 50\) and the management of advances \(art. 36\).](#)

Trusts governed by the Law of San Marino [must be established by obligatory public act \(art.6\), without the mandatory presence of witnesses, or authenticated private writing](#), to guarantee the legitimacy and security of the essential characteristics of the Trust.

The choice of San Marino Law does not clearly entail any consequences from a tax point of view, [the Trust is fiscally resident in San Marino only if the trustee is a local trustee company](#).

[There is also no obligation to hold or maintain financial assets with financial intermediaries in San Marino](#), trust assets can be deposited and managed anywhere in the world.



THE COURT OF SAN MARINO FOR TRUSTS AND FIDUCIARY RELATIONSHIPS: A SPECIALISED JURISDICTION AVAILABLE TO THE TRUSTEE

Unlike most other international systems, San Marino also offers the possibility of support to the Trustee or to other persons linked to the Trusts through the "Court for Trust and Fiduciary Relations": established with the Constitutional Law of 26 January 2012 n. 1, as a special tribunal composed of judges not belonging to the ordinary judiciary but only by those specialised in Trust and related matters, to guarantee high expertise and speed of judgement.

Article. 5 of Law 42/2010 foresees the cases in which the Court's jurisdiction may subsist, and in particular:

- when the law applicable to the Trust is the law of the Republic of San Marino;
- when the parties have agreed to submit the dispute to the San Marino Judicial Authority.
- Jurisdiction may in any case be waived in favour of a judge other than the Court of San Marino if provided for in the trust act or otherwise agreed in writing.

As can be observed by the law, the jurisdiction of the Court is not exclusive due to the fact that the Settlor has chosen San Marino as the regulatory law: there is a possibility to choose a different, exclusive or concurrent jurisdiction, even only for certain aspects such as the appointment of Trustee or Guardian, with San Marino, to guarantee in any case to the Settlor or the Beneficiaries or other persons to devolve the various questions to a local judge.



THE TRUST CERTIFICATE AS A "PASSPORT" AND DEED OF TRANSPARENCY AND TRACEABILITY

Even though all the other elements of the Trust may be "foreigners", and therefore have the Settlor, the Trustee, the Guardian and the Beneficiaries unrelated to San Marino, adopting the San Marino Law as the Trust Regulatory Law still presents verification obligations and registration in the appropriate Trust Register kept by the Central Bank of San Marino. In August 2019, the regulation was eliminated which required the establishment of the Trust outside the territory of San Marino prior to an opinion of compliance by a local Notary: this simplification has speeded up and streamlined the registration procedure in the Trust Register, which remains an all important formal step, to guarantee traceability and accuracy of the establishment of the Trust.

With registration, the Supervisory Board issues the "Registration Certificate" containing essential information relating to the Trust: [this document guarantees the Trust established under the San Marino Law a sort of "passport" that can be used in all professional and institutional contexts](#), such as banks, notaries, suppliers of any kind of financial services or related to the assets covered by the Trust Fund. The information contained in the Trust Register is not public and is only available to persons linked to the Trust, and in particular the Trustee, and resident Agent, or to the supervisory authorities or accessible by order of the judicial authority.

There is also an obligation on the part of the Trustee and the Resident Agent (see below) to keep the Central Bank updated on changes to the trust act or the relevant persons (Trustee, Guardian, Beneficiaries etc ..) who may determine a variation of essential information contained in the Registration certificate.



THE RESIDENT AGENT AND CROSSBOW TRUSTEE S.P.A.

Our company, [Crossbow Trustee S.p.A.](#), authorised to carry out Professional Trustee activity in 2019, also performs the function of Resident Agent: this figure was conceived by San Marino law as a "link" between the Trustees and the foreign professionals who establish and manage Trusts operating in other jurisdictions and local institutions, primarily the Central Bank which manages the Trust Register. The Resident Agent, after the changes of November 2019, today has the sole function of Trustee representative including other persons connected to the local Authorities, having the Legislator eliminated the obligation to deposit with the same Resident Agent of the Event Book and of the Trust's accounting records.

Thanks to [Crossbow Trustee S.p.A.](#)'s presence in San Marino and its organisational structure, it guarantees operators an adequate and rapid professional offer, at contained costs. Despite appearing as an "administrative" figure and although not in any way connected to the holding and management of trust property, the Resident Agent still plays a role in anti-money laundering, arranging adequate verification according to the local regulations of the owners and the assets origins constituting the Trust Fund, even for those not resident and not managed in San Marino and completely extraneous to it except for the Regulatory Law.



HIGH LEVEL OPERATIONS WITH LOCAL ADMINISTRATION

Crossbow Trustee S.p.A. has consolidated the procedure for registering Trusts with the competent authorities and administrations. Therefore, quickly proceeding to draft and take care of the deposit of the "Certificate of Trust", a document to be returned in authentic form to the Central Bank of the Republic of San Marino containing the essential data of the Trust deed (Art. 7 of the Law 42/2010) and necessary for subsequent registration in the appropriate Trust Register. Crossbow Trustee S.p.A. as Agent, assists the foreign trustee in payment of annual taxes for the registration and maintenance of the Trust in the Trust Register.

Traceability and legal security come at a cost: indicating the San Marino Law involves an initial expense of around € 1,500, deriving from the payment of the € 540 fee for registration at the Trust Register and the expenses and charges associated, and a minimum annual maintenance cost of approximately € 1000, consisting of € 250 registration fee and the charges and fees associated with the Resident Agent's business. In San Marino, currently, there is no VAT but only the complementary tax on services of 3% charged to the final consumer.

THE "MAINTENANCE" AND "RESETTLEMENT" OF EXISTING TRUSTS

[Crossbow Trustee S.p.A.](#) also offers its experience and expertise to evaluate with clients' professionals the opportunity to review the structure of an existing Trust in view of a change of applicable law: many Trusts dating back to the early 2000s, or even more recently but linked to contingent urgencies, should be reviewed considering changes in membership order, family or organisational needs. In such situations, it may be appropriate to modify the Trust's Regulatory Law and proceed to improve the disposition of the founding act, no longer in line with the family or regulatory context in reference.

The choice of San Marino legislation can represent an opportunity to review many dispositions of the original founding act, which could be better formulated and made more specific also thanks to the high customisation guaranteed by San Marino Law. The modification of the founding act is equivalent from a formal point of view to a new institution under San Marino law and therefore the ordinary registration procedure must be activated with the Trust Register and the appointment of the Resident Agent. The whole process can clearly be managed with [Crossbow Trustee's](#) consultation.



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