

XXX TRUSTS

CHAPTER II — APPLICABLE LAW

Article 6

A trust shall be governed by the law chosen by the settlor. The choice must be express or be implied in the terms of the instrument creating or the writing evidencing the trust, interpreted, if necessary, in the light of the circumstances of the case.

Where the law chosen under the previous paragraph does not provide for trusts or the category of trust involved, the choice shall not be effective and the law specified in Article 7 shall apply.

Article 7

Where no applicable law has been chosen, a trust shall be governed by the law with which it is most closely connected.

In ascertaining the law with which a trust is most closely connected reference shall be made in particular to —

- a) the place of administration of the trust designated by the settlor;
- b) the situs of the assets of the trust;
- c) the place of residence or business of the trustee;
- d) the objects of the trust and the places where they are to be fulfilled.

Article 8

The law specified by Article 6 or 7 shall govern the validity of the trust, its construction, its effects, and the administration of the trust.

In particular that law shall govern —

- a) the appointment, resignation and removal of trustees, the capacity to act as a trustee, and the devolution of the office of trustee;
- b) the rights and duties of trustees among themselves;
- c) the right of trustees to delegate in whole or in part the discharge of their duties or the exercise of their powers;
- d) the power of trustees to administer or to dispose of trust assets, to create security interests in the trust assets, or to acquire new assets;
- e) the powers of investment of trustees;
- f) restrictions upon the duration of the trust, and upon the power to accumulate the income of the trust;
- g) the relationships between the trustees and the beneficiaries including the personal liability of the trustees to the beneficiaries;
- h) the variation or termination of the trust;
- i) the distribution of the trust assets;
- j) the duty of trustees to account for their administration.

Article 9

In applying this Chapter a severable aspect of the trust, particularly matters of administration, may be governed by a different law.

Article 10

The law applicable to the validity of the trust shall determine whether that law or the law governing a severable aspect of the trust may be replaced by another law.