Glossary to IAFL Trust Questionnaire

Anstalt	An Anstalt (or Establishment) is to be found in civil law jurisdictions. It is a hybrid between a company limited by shares and a Foundation (see below). It is a separate legal entity with no members or shareholders. There are beneficiaries and the founder of the Anstalt will have certain rights, which give them considerable control. A minimum of one director is required and the directors will usually have significant managerial powers. Anstalts can be used for commercial or non-commercial purposes.
Beneficiary	A person or entity that benefits from a gift, or distribution of income or capital, in this context, via a trust. Depending on the type of trust, the Beneficiary might be entitled to that gift or distribution. **Discretionary Beneficiary**: a member of a class of beneficiaries who can potentially benefit. **Contingent Beneficiary:** a beneficiary who can only benefit on satisfying a particular contingency that is set out in the trust deed, e.g. reaching the age of 18. **Default Beneficiary**: In some jurisdictions, where a trustee fails to make a resolution e.g. as to who is to receive the distribution of income in a financial year, the distribution goes automatically to the Default Beneficiaries.
Foundation	They are in some senses the civil law equivalents of trusts. In a Foundation the assets are segregated from the personal assets of the founder and form a separate legal entity. Foundations cannot undertake commercial activities and have Articles of Association, which are normally generic, with the detailed provisions governing, amongst other things, the granting of benefits contained in private bye-laws. Like the Anstalt, there are no members or shares.
Irrevocable Trust	An Irrevocable Trust cannot be brought to an end after it has been made. Although this may seem inflexible, it can have certain tax advantages (*see below for definition of Revocable Trust*).
Letter of Wishes	A Letter of Wishes sets out the settlor's wishes as to how he would like the trustees to exercise their discretion. It is not legally binding.

Protector **(**also known in some jurisdictions as the **Appointor)**	An individual or entity (other than the trustee) that is given certain powers under the trust deed. The most common power that a Protector has is the power to hire and fire trustees. This acts as a check and balance on the trustee and is particularly useful where the trustee is a corporate entity (and perhaps does not know the settlor personally). The Protector's consent will also often be required before the trustees can exercise key trust powers. Protectors first appeared in "offshore" jurisdictions such as the Cayman Islands, the British Virgin Islands, Jersey and Guernsey but are now becoming a common feature.
Reserved Power	The situation where the settlor of the trust, whether or not there is also a protector who is not the settlor, has reserved certain powers that he can exercise over the trust and which may be seen as reserving some sort of control over the trust. Examples could include reserving the power to change trustees, or to veto distributions to beneficiaries, or to direct investments.
Revocable Trust	In a Revocable Trust, the settlor can bring the trust to an end. This often has tax implications e.g. the assets remain in the settlor's estate.
Settlor	A person who transfers assets to trustees to hold on trust for beneficiaries.
Trust	Where a person (the settlor) places assets under the control of another person, group of persons or entity (the trustee) to hold for the benefit of a beneficiary or for a specified purpose. The key importance of a Trust is the separation of legal and beneficial ownership (the trustees hold the legal title only). This makes them very flexible in their uses, for example when an individual does not have mental capacity, assets can be held for their benefit in a Trust. There are many different types of Trust and each jurisdiction will have its own requirements for the creation of a valid Trust. However, it is important to note that Trusts do not always have to be in written form. Unlike companies or foundations, Trusts are not separate legal entities. **Charitable or Purpose Trusts:** a trust that does not have beneficiaries but is instead established for a particular purpose (in the case of Charitable Trusts, a charitable purpose). **Discretionary Trusts:** under a Discretionary Trust, no beneficiary has a fixed interest or entitlement to the trust assets.

	There will be multiple beneficiaries named or identified in the trust deed who could benefit and whether they do or not is at the discretion of the trustee. A settlor will often leave a letter of wishes with a discretionary trust setting out their wishes for how they would like the trustee to exercise their discretion. Such letters are not legally binding. **Employee Benefit Trusts:** often used as a way to attract employees, Employee Benefit Trusts are established to hold assets for the benefit of employees and their families. **Fixed trusts:** in a Fixed Trust, the beneficiary or beneficiaries have a fixed entitlement to income and/or capital from the trust fund as set out in the trust deed. For example, in a UK Interest in Possession Trust, a lifetime beneficiary has a fixed interest in the income, which must be paid out to him by the trustee(s). **Testamentary Trusts:** A Testamentary Trust is a trust that is included in a person's Will and comes into effect on his death.
Trustee	The legal owner of property placed under its control by the settlor. Subject to the requirements of particular jurisdictions, individuals and corporate bodies can act as Trustees. The duties of Trustees will be set out in the trust deed and also in statute. Their duties are fiduciary in nature; this means they must exercise them for the benefit of the beneficiaries.