



# Overview of Selected Jurisdictions

JURISDICTION	Bahamas	Bermuda	Cayman Islands	Cook Islands	Cyprus	Gibraltar	Guernsey	Isle of Man	Jersey	Liechtenstein	Nevis
Contingent Fee Contracts	Not Allowed	Not allowed	Generally not allowed	Not allowed	Not allowed	Allowed	Not allowed	Generally not allowed	Not allowed	Not allowed	Not allowed
Language	English	English	English	English	Greek	English; most also speak Spanish	English	English	Official language of the courts is French; English is permitted	German; English also used	English
Deposit to Bring Action	None	None	None	Discretionary	None	None	None	None	None	Yes	Yes
Punitive Damages	Allowed	Not allowed	Not allowed	Not allowed	Generally not allowed	Allowed	Allowed	Not allowed	Allowed, with limitations	Not allowed	Allowed, with limitations
Registration of Trusts Required	No	No	Not generally	Yes	No	Yes	No	No	No	Yes	Yes
Confidentiality/ Secrecy Laws	Yes	Common law protection well-established	Yes	Yes	Yes	Yes	Yes (non-statutory)	Yes	Yes, with limitations	Yes	Yes
Rule Against Perpetuities	Yes	Yes, but modified with respect to purpose trusts	Does not apply to STAR trusts	No	100 years	100 Years	Yes	Yes	Yes	No	100 years
Self-Settled Asset Protection Trusts	Allowed by statute	Allowed by statute	Allowed by statute	Allowed by statute	Allowed	Allowed by statute	Allowed by statute	Allowed by common law	Allowed by statute	Allowed by statute	Allowed by statute
Statute of Limitations for Fraudulent Transfer Claims	Two years	Yes <sup>1</sup>	Six years	Must accrue w/in 2 years before transfer but barred if not brought w/ in 1 year after	Two years	If pass solvency test, the assets are immediately protected	None	None <sup>2</sup>	None <sup>3</sup>	Five years <sup>4</sup>	Must accrue w/in 2 years before transfer but barred if not brought w/ in 1 year after

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Hague Convention on Taking Evidence Abroad	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	No	Yes
Burden and Standard of Proof for Fraudulent Transfer Claims	On creditor	On creditor, to prove on balance of probability that dominant purpose was to put property beyond reach of creditors	On creditor	On creditor, to prove beyond a reasonable doubt	On creditor, to prove by preponderance of evidence	On creditor, to prove by preponderance of evidence	On creditor, to prove by preponderance of evidence	On creditor, to prove by preponderance of evidence, except where fraud is alleged, then creditor must prove beyond a reasonable doubt	On creditor, to prove by preponderance of evidence	On creditor, to prove intent to defraud with near certainty	On creditor, to prove beyond a reasonable doubt
Remedy When Transfer Proved Fraudulent	Trust rendered void	Trust rendered void	Trust not necessarily rendered void	Access to trust assets; trust not rendered void	Trust rendered void	Trust rendered void	Access to trust assets fraudulently transferred; trust will be void if they are the only assets	Trust rendered void	Trust rendered void	Access to trust assets, trust not rendered void	Access to trust assets, trust not rendered void
Statutory Conflicts of Law Provisions	Yes, local law applies	Yes, local law applies	Yes	Yes, local law applies	Yes, there are certain statutory provisions	Yes, local law applies	None	No	Yes, there are certain statutory provisions	There are certain statutory provisions, but choice of law provision in instrument will be readily enforced	Yes, with limitations
Foreign Judgments	Recognized	Generally not recognized; certain judgments may be registered and enforced in limited circumstances	Generally recognized	Not recognized	U.K. and certain others recognized	U.K. and E.U. recognized	U.K. and certain others recognized	Limited recognition	U.K. and certain courts in Guernsey and Isle of Man recognized	Swiss and Austrian judgments recognized in limited circumstances	Not recognized
Local Taxes on Foreign Trusts	No	No	No	No	No	No	No	No	No	CHF 1,000 per annum	No

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<sup>1</sup>*Bermuda - Only causes of action accruing before the transfer or within two years after the transfer can be pursued, but the creditor has six years from the date of the transfer to bring the action before the action is barred.*

<sup>2</sup>*Isle of Man - In the prebankruptcy context, a settlement will be set aside if: (i) the transaction was intended to defraud creditors; (ii) the transaction was for either no consideration or at a discount; and (iii) the transaction's purpose was to withhold property from creditors. In the bankruptcy context, a bankruptcy within ten years of a trust's settlement will automatically result in voiding the trust unless the beneficiaries can establish that, at the time of settlement, the settlor was able to pay all of his debts with money held outside the trust. A bankruptcy within two years of settlement will automatically void the trust regardless of the settlor's solvency.*

<sup>3</sup>*Jersey - No limitations period because an action to set aside a transfer as a fraud on creditors is an action to declare the transfer void. However, if the claim is founded in tort, there is a three-year statute, and if it is founded in contract, there is a ten-year statute.*

<sup>4</sup>*Liechtenstein - The general limitations period is five years from the time the trust was settled with regard to causes of action accruing before settlement. If a creditor (before the claim becomes enforceable or before it is clear that execution against the debtor's other assets will not completely satisfy the claim) notifies the debtor of its intention to contest the transfer by means of a court-served notice, then the limitations period runs from the time of the notice. Because creditors must prove intention to defraud them, it is almost impossible for future creditors to defeat a transfer. However, actual fraud does not have to be proven if a creditor obtains an execution order within one year of the transfer. A notable point in this context is that foreign bankruptcy proceedings are recognized by Liechtenstein courts only if there is reciprocity. Because there are no such treaties in existence, Liechtenstein courts have not recognized bankruptcy proceeding of other countries, with the consequence that new proceedings must be instituted in Liechtenstein.*

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*Giordani Fitte Grossman & Ripp LLP would like to thank the following for their valuable assistance in this jurisdictional summary: Gibson & Company (Nassau, Bahamas); Appleby Spurling & Kempe (Hamilton, Bermuda); CIBC Bank and Trust Company (Cayman) Limited (Grand Cayman, Cayman Islands); McNair, Davis, Inc. (Los Angeles, California regarding Cook Islands law); Antis Triantafyllides & Sons (Nicosia, Cyprus); J.A. Hassan & Partners (Gibraltar); Federal Trust Company Limited (St. Martin, Guernsey); Carters (Douglas, Isle of Man); Atlantique Trust Limited (St. Helier, Jersey); Walch & Schurti (Vaduz, Liechtenstein); Nevis Services Limited (New York, New York regarding Nevis law).*

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