



AVOCAT FIDUCIAIRE

FIDUCIE AS MANAGEMENT TOOL

Management fiducies are vehicles by which the Trustee manages, on behalf of the Settlor, assets transferred to it under a fiducie agreement.

In a **Management fiducie**, the **Trustee** for a consideration, agrees to manage, on behalf of the Settlor, the assets transferred to it by the Settlor and to return those assets to the Settlor at a specified date.

The Trustee holds the assets separate from its own assets and fulfils the objectives set out in the fiducie agreement.

This arrangement is of particular interest to anticipate the protection of the Settlor's estate, if the Settlor is no longer able to manage the estate himself.

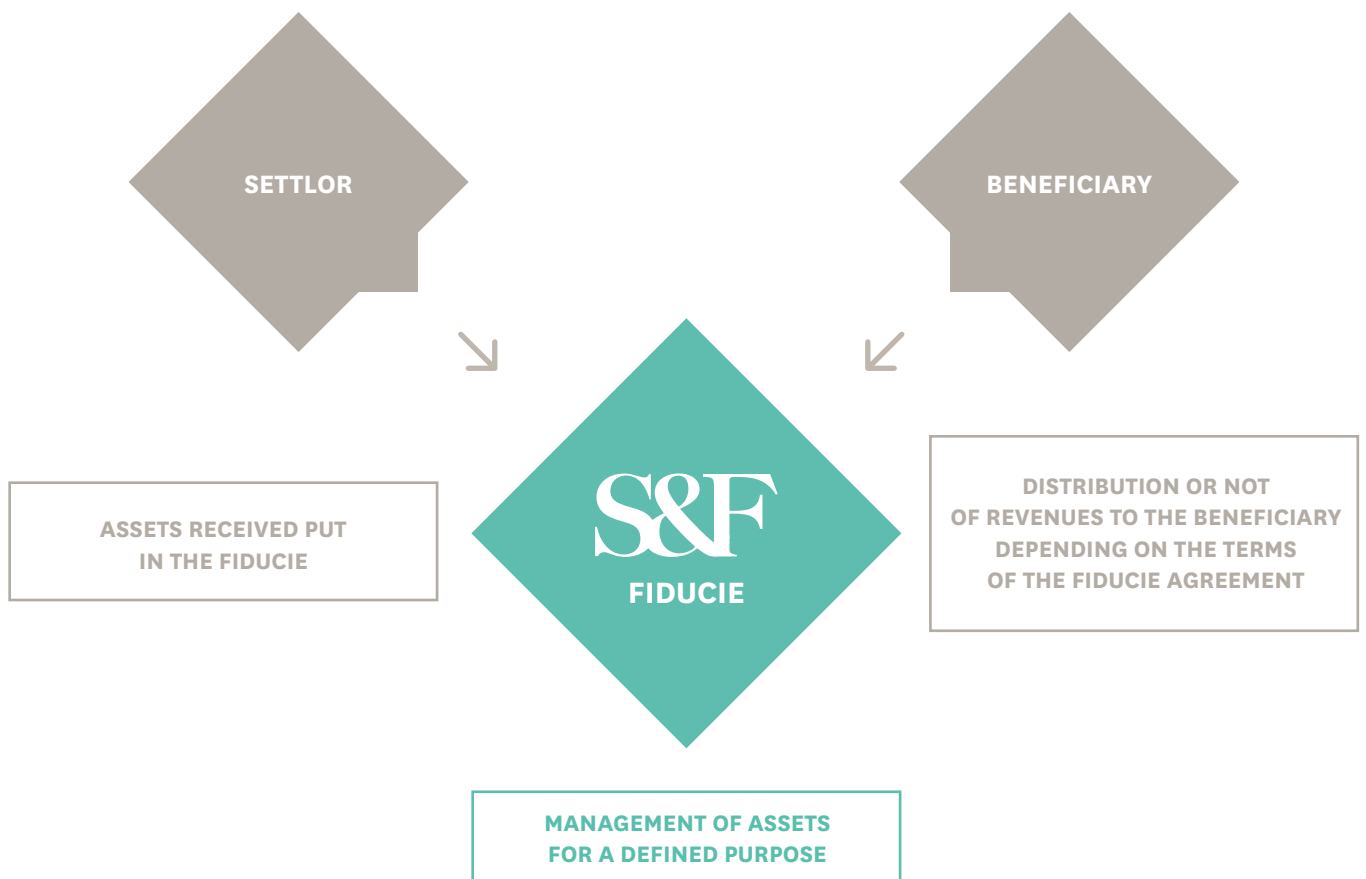
The law provides the possibility of appointing a Protector to oversee the **Trustee** concerning the discharge of its duties. The Protector is appointed by the Settlor and has the same powers and prerogatives as him. The Trustee is thus bound to report to the Protector concerning the discharge of its duties. The Protector may ask the Trustee for any information relating to the management of the assets held in the fiducie. Finally, the Protector also has the **power to dismiss and replace the Trustee**.

Generally speaking, there are various reasons for the Settlor to use a Management Fiducie, including:

- ▶ **The assets transferred to the Trustee may not be seized by the Settlor's creditors**, except in the case of proven fraud;
- ▶ **The assets are protected against the Settlor's bankruptcy;**
- ▶ The burdensome **protection measures for vulnerable persons** do not apply to the assets placed in the fiducie;
- ▶ The fiducie offers an alternative and/or is supplemental to the **future protection mandate**.



The Fiducie Agreement must mention the parties' identities; the transferred assets and rights; the duties of the Trustee and the extent of its powers regarding the administration and ultimate destination of the assets; and term of the fiducie agreement.





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