



GLOBAL  
TRUST CAPITAL



YINGKE  
盈科律师事务所



PROPOSAL FOR  
INTERNATIONAL TRUST  
SOLUTION

离案信托建立初步方案

Hong Kong

## OUR PROPOSAL

Global Capital Trust AG is pleased to present Yingke Law Office with this proposal, responding to their enquiry for solutions as tailor made fiscal structure for one of Yingke office's highly valued client.

We understand that at this moment the enquiry for the services we can provide to these customers is general, for this reason we would like to provide a non-specific description of our services, in order to understand the full spectrum of solutions we offer.

就盈科律师事务所李魏律师今日咨询的具体案例，瑞士宜本公司给出如下大致方案。因为高净值客人的家庭情况，个性化要求不尽相同，所以此方案仅为初稿，具体细节需要再次商议。

## 1. CLIENT INFORMATION 案例概要

Chinese couple with children living in the United States. All family members are United States green card holders. They enjoy a significant amount of assets in China, yet for tax purposes, the assets are under a third party's name. The couple may list their company in China stock market if everything goes well. They are thinking of setting up an offshore Trust for tax betterment and succession planning. The amount is around 5 million US dollars. They are seeking advice in terms of tax regulations in the Trust and setting up procedures.

父母和子女四人均均为美国绿卡持有者，在中国国内有较多资产，并有上市打算。出于避税，继承和资金安全性考虑，想拿出其中500万美金设立一份离岸家族保障信托。这些资产在第三方名下，现客人想咨询信托建立流程和其中节税的可能性。

Based on the information given, we identify four potential problems in the following sector, followed by the steps of solutions to these problems.

基于如上信息，我们在稍后的方案中罗列了此案例中存在的几大潜在风险和信托建立的具体流程。

## 2. POTENTIAL PROBLEMS 案例中潜在问题

1. Huge part of the wealth is under unsure position - registered under a friend's name.

为了规避作为美国身份的税务问题，客人大部分资产存放在中国朋友或亲属名下。这位朋友能否一直遵守诺言，或者他 / 她自己本身会不会被债权人追诉名下资产都是此类案例的一个潜在风险。

2. The assets are not under control in case of the death of the client or the friend.

如果客人或者其托付的朋友出现意外，或不幸过世，这笔资产的继承和分配将会面临风险。

3. The clients' children are United States citizens. The children are obligated to pay up to 55% of inheritance tax upon receiving parents' assets. Exact percentage changes every year charged by the federal government tax authority (attachment 1) plus different state charges additional state tax (attachment 2). For example, in 2013, one client in State of Connecticut need to pay up to 40% federal government tax and also 16% of state tax over 2 million tax allowance limit.

客人及其子女均为美国公民。在资产继承方面面临遗产税，赠与税，隔代税等多项税收，其中扣除免税额后的遗产税介乎18-40%不等，视资金大小和所属州的具体规定。例如，康涅狄格州的居民需要缴付高达18-40%不等的联邦政府遗产税和高达16%的州遗产税，其中免税额是200万美金。

Attachment 1: inheritance tax from 2012-2014 联邦遗产税

年份	最高税率	豁免额 (美元)
2012	35%	5.12 Million / 512 万
2013	40%	5.25 Million / 525 万
2014	40%	5.34 Million / 534 万

Attachment 2: inheritance tax by state 州遗产税

州	最低和最高税率	豁免额 (美元)
Connecticut 康涅狄格州	7.2%—12%	2 Million / 512 万
Delaware 德拉瓦州	0.8%—16%	5 Million / 525 万
Washington 华盛顿州	10%—19%	2 Million / 200 万

4. All the assets in China are exposed to country risk. Global diversification is highly needed.

中国已经开始准备试点遗产税，房产登记制度也在进一步完善中。高净值人士的资产全球配置已经刻不容缓。

### 3. THE SOLUTION 解决方案

In the United States and European countries, Trust was invented to solve such problems. The law of Trusts first developed in the 12th century from the time of the crusades under the jurisdiction of the King of England. When a person left England to fight in the Crusades, he conveyed ownership of his lands and assets to his Trusted friend, on the understanding that the ownership would be conveyed back on his return. However, Crusaders often encountered refusal to hand over the property upon their return. For this problem, the court of England began to resolve this dispute by defining the ownership of these assets in favor of the beneficiary, thus, the beginning of the Trust law.

在欧美国家，高净值人士在资产传承方面的税项绝对不少于中国客人，家族保障信托就是其中最有效的抗风险节税工具，也是如上所列举问题的最好解决办法。而且凑巧的是，家族信托的起源也是客人将自己资产交由值得信任的第三方管辖。家族信托概念始于12世纪的英国。十字军东征前，他们将自己财产托付给其信任的朋友或亲属，待其出征归来，物归原主。如果不幸去世，将转其资产于指定的继承人。然而，在资产的变动中，所有权发生了转移，

如果托付的朋友心起贪念，或是自己受到债权人追诉，亦或是病故，那么这笔所托付资产就会面临巨大风险。如何安全合法得让专业托管人（信托公司）管理资产，而不是个人，又不存在托管人倾吞资产的模式由此诞生，这就是家族信托和其信托法的起源。

In the Jersey trust law, Article 21, Point 6 states:

*“A trustee shall keep trust property separate from his or her personal property and separately identifiable from any other property of which he or she is a trustee.”*

That is to say, the assets of the client is segregated and protected by the trust law. Any client’s creditors or trust company’s creditors cannot attack these assets.

泽西岛信托法第21条第六点中明确指出：

*“客人信托资产与受托人自有账户完全隔离。受托人管理的不同客人信托资产也都要完全分开托管和执行。”*

也就是说，客人的信托资产是完全隔离且受信托法保护的。任何客人的债权人或是信托公司的债权人都无法触碰这笔资产。

## 4. THE PROCEDURE 信托具体流程

Step 1: The friend moves the assets from China to Hong Kong and set up an account in one of the Global Capital Trust depositary banks. If needed, client can choose open trust account in any of the following countries (Monaco, Switzerland, Singapore, Liechtenstein, Dubai, Bahamas).

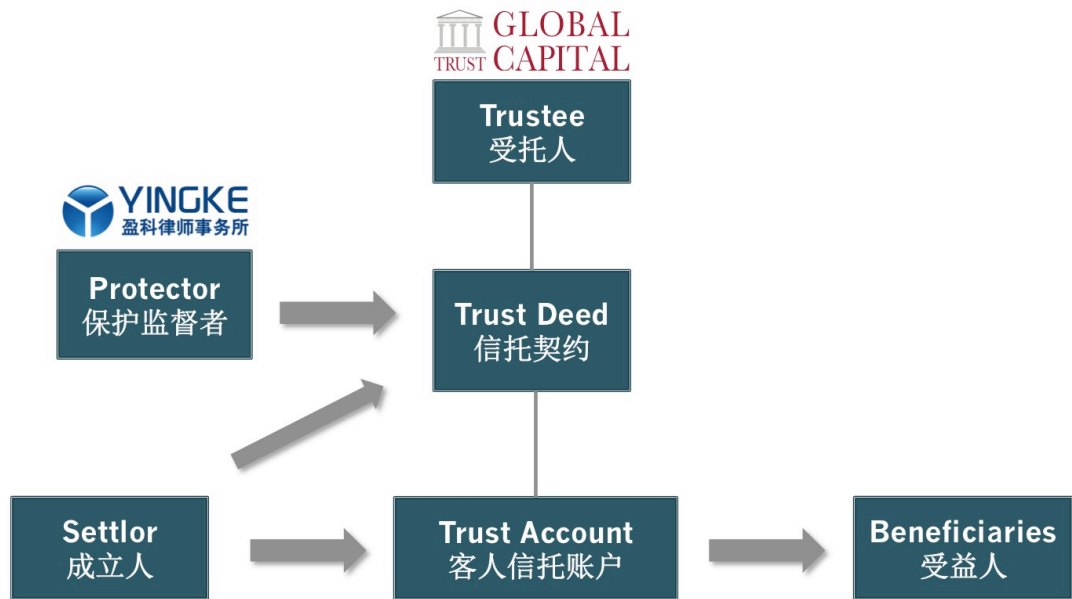
第一步：资产持有者将国内所需建立信托资产移至香港，存入汇丰，瑞银，瑞士宝盛其中任一家银行。我们会协助客人完成银行的尽职调查并开设客人自己命名的私人银行账户名下。当然这里我们举例是香港，客人也可以选择如下任何一一点开户（摩纳哥，瑞士，新加坡，列支敦士登，迪拜，巴哈马）。

Step 2: Set up the structure of Trust and write with Yingke Lawyer the tailor-made trust deed.

第二步：客人和盈科信托律师反复会面，拟定信托契约初稿，再由我们的离岸信托律师制定最终信托契约。

Step 3: Use the finalized trust deed to set up the trust account. Trust company follows the trust deed to execute all the details.

第三步：信托契约是信托公司执行信托的依据，持有信托契约，信托公司可以和客人，及其律师一起去托管银行开设信托账户。



Explanation of the structure:  
信托结构释疑:

- Settlor is the client's friend. He puts the assets of the client under Trust.  
在这个案例中，委托人是客人的资产持有者。此持有者将资产转入客人的信托账户名下。
- The beneficiary of the Trust can be the client and/or family members.  
此家族信托的受益人可以是客人本人或者客人的子女。
- The protector is the Yingke lawyer of client.  
此家族信托的监督者是盈科的信托律师
- The Trust deed is written by the clients with Yingke lawyer, not by the settlor like usual.  
此家族信托契约将由客人和盈科律师共同完成，和以往让委托人也就是资产持有者写契约略有不同。这里资产持有者并不是客人本人。
- The rules in the Trust deed contain all the needs of the beneficiary. The Trust can pay for all the necessary expenses of the beneficiary in United States. For example, study, health care, buy houses, travels, hobbies etc.  
此家族信托契约中可以列明资产的所有用途。为了节税原因，（因为美国客人直接继承需要支付赠与税，遗产税，隔代税，所得税），我们会建议由信托直接支付受益人所有大笔开支，例如由信托直接支付学费，医疗，旅行，其他兴趣爱好，或者是购买房产。
- The duration of the trust can vary from 10 years to 50 years, or the settlor could choose any specific time to terminate the trust, e.g. when the beneficiary reaches 18 years old  
避税有两种，一是节税，二是延迟缴税。这两点，家族信托都做到了。客人为了规避之前提到得几种税项，可以把信托时间延长，仍然让信托支付受益人开支，但不让受益人继承。信托可以从10年到50年不等，亦或者是客人指定某一个时间点结束信托，例如，契约中规定在受益人年满18岁后，信托结束，资产全部转移给受益人。

In the next table, we have designed for you the details and timing for trust establishment. The clients need to know that the schedule we provide is tailor-made family trust structure, which takes time and several meetings with Yingke lawyers, our lawyers and trust experts. It's possible to set up a trust in one day, but quick trust can not protect clients when disputes occur.

下面两张图表将进一步展示信托建立的具体细节和所需时间。客人需要注意的是，我们公司所提供的家族信托都是私人定制的，所需时间较长，需要客人和盈科律师，还有我们的离岸律师多次会面。一蹴而就，模版式的信托虽然建立时间很短，但是并不能最大程度保护离岸资金的安全性。

<b>FAMILY TRUST SET UP TIME SCHEDULE</b>	
<p><b><u>PREPARATION OF THE TRUST DEED</u></b></p> <p>This procedure requires <b>2 to 3 weeks</b>, according to the availability of the client, banks and lawyers.</p>	<p>After several meetings with the clients and Yingke lawyers, the Trustee Company, through its legal representative transfers the client's wishes about the management of trust and his/her succession planning into Trust deed.</p> <p>Once the draft of the Trust Deed is prepared a further meeting is required with the Client, for his/her control and approval.</p>
<p><b><u>TRUST ACCOUNT OPENING</u></b></p> <p>According to various institutions, the Trust account opening requires about <b>2 to 3 weeks</b>.</p>	<p>Once the Trust Deed is approved the Trustee proceed with the Trust account opening at the chosen depositary bank of Global Capital Trust.</p> <p>Global Capital Trust handles all issues regarding the preparation of the necessary Due Diligence of the Bank.</p>
<p><b><u>CONFERMENT OF ASSETS</u></b></p> <p>The duration of this process depends on the complexity of clients' assets, usually <b>2 to 3 weeks</b>. (E.g.: liquid asset is easier, but real estate takes longer time)</p>	<p>The client confers the desired assets to the Trust account (not trust company account), from this moment the Trust is in function.</p> <p>In the journal of the Trust the Trustee has to keep a proper record on every event concerning the Trust:</p> <ul style="list-style-type: none"> <li>• Any type of conferment, as real-estate, shares, rights,</li> <li>• Any extraordinary operation</li> <li>• Any withdrawal with payee and purpose</li> <li>• Any disbursement</li> </ul> <p>This Trust Journal is made available for the settlor, and eventually (discretion of the settlor) to the beneficiaries at our head office in Zug.</p>

## 家庭信托建立流程

### 拟定信托契约

这一步大概耗时 **2-3 周**，取决于客人，律师和托管银行相关人员的时间安排。

准备意向书不能一蹴而就。整个过程需要客人和其律师或相关的专业人士多次会谈。信托公司在正式收到意向书后，会由专业律师团队，把意向书中的指令转换为法律条款。

一旦信托契约草案制定完毕后，客人和律师还要再次会面，让客人修改和审批此草案。

### 建立信托帐户

这一步大概耗时 **2-3 周**，不同托管银行之间可能有稍许不同。

信托契约一经多方确定，信托公司会和客人协商选择托管国家或地区，以及托管银行。

Global Capital Trust 公司会全权负责客人托管银行开户，提交文件，尽职调查等相关事宜。

### 资产转入帐户

取决于资产实质，这一步大概耗时 **2-3 周**。例如，流动资金转入较快，房产过户可能耗时较长。

当客人把指定资产转入信托帐户名下（要注意的是，这并不是信托公司帐户）开始，这份家庭信托就正式生效。受托人必须严格遵循契约中要求执行并管理资产，同时必须纪录和此信托相关的每一个事件。

- 任何房地产，股票，权益认购或转移
- 任何特殊操作
- 任何收款人的修改及目的
- 任何支出

委托人有权查看此纪录，受益人在委托人的认可下也可以查看此纪录，别人不得查询，所有记录都在我们瑞士公司总部可以查到。

## 5. OFFSHORE TRUST ADVANTAGE 信托优点

- ✓ Secured - All future creditors cannot trace this assets and consequently claim them.  
合法性 — 信托法认可资产的独立性，委托人的未来债权人和信托公司的债权人都无法追诉。
- ✓ Safe - Trust is commonly practiced in European countries for many decades.  
安全性 — 家族信托在欧美已经有很多年历史，很多家族都是几代延用家族信托。
- ✓ Confidential - No beneficial owner in the account name, assets doesn't belong to the client, neither the trust company, and it's located in an offshore position  
私密性 — 离岸信托账户自为独立法人，也就是说资产拥有者不是委托人，也不是信托公司，而是信托账户本身，因为离岸并且信托账户名由客人随意选取，国内债权人无法追诉离岸信托资产。
- ✓ Flexible - The client can control the succession planning in a dynamic way  
灵活性 — 客人可以随时修改契约内容，并在生前和过世后都能全权控制资产使用和继承方式。

## 6. OUR ADVANTAGE 瑞士宜本优点

- ✓ Deposited in the most secure Swiss bank  
所有客人资金托管在瑞士银行
- ✓ Trust company regulated by Swiss government authority  
本信托公司由瑞士政府机构直接监管
- ✓ Three generation of experience  
公司管理层有三代金融管理经验
- ✓ Only tailor-made trust structures  
信托公司只提供私人定制的家族信托



## OUR BACKGROUND 公司背景

Global Capital Trust is one of Switzerland's most highly respected Trust company, with branches in Switzerland and Monte Carlo and a representative office in Hong Kong. We offer the highest level of safety of clients' assets, because we are under control of Swiss government authority - FINMA. All the registrations are possible to check on FINMA website.

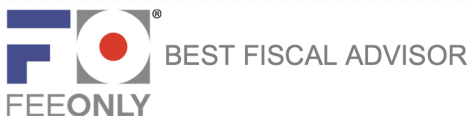
瑞士宜本公司Global Capital Trust 是一家总公司注册在瑞士的信托公司，在当地颇具盛名，在蒙特卡洛，香港，卢森堡都设有分支机构。本公司注册在瑞士，由瑞士金融市场监督管理局直接监管，简称FINMA。瑞士的金融监管严格和保密度全球皆知，也正是因为这样的监管才可以最大程度得保护客人资金的独立性和安全性。



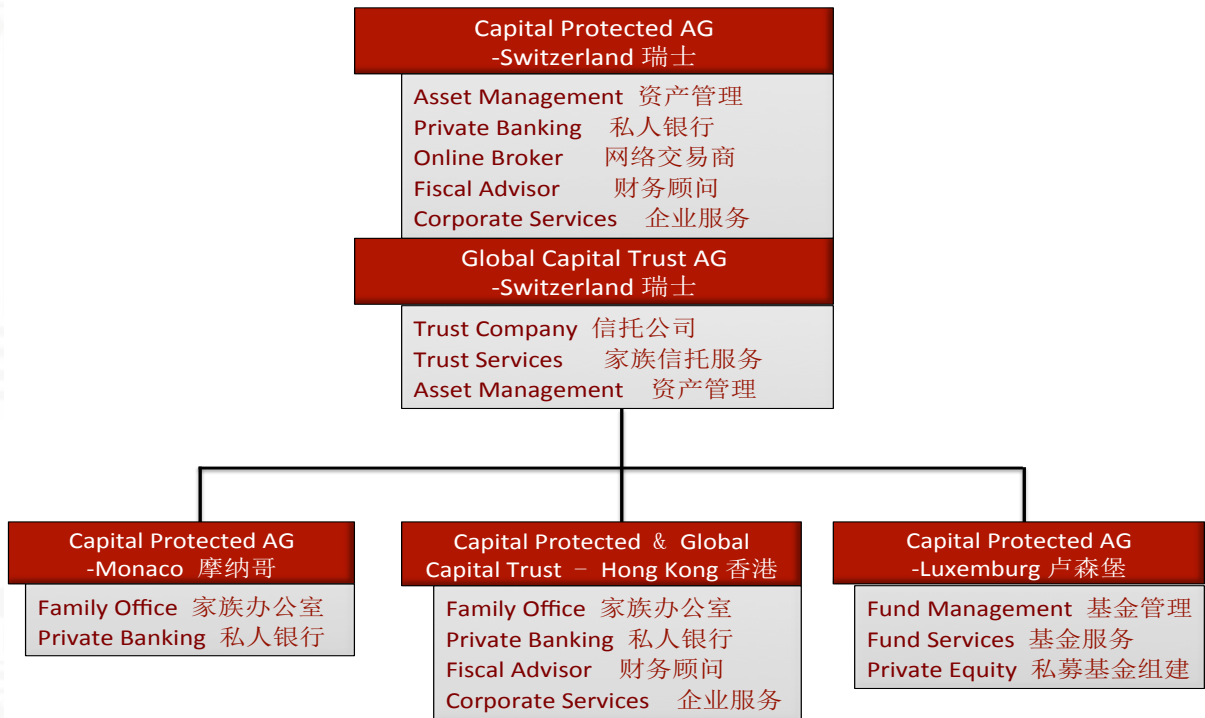
## OUR EXPERTISE 公司专长

We at Global Capital Trust offer our Clients a comprehensive range of value-added services, from portfolio management to family office expertise. We believe that a long-term plan must be carefully crafted to enable private wealth to grow. We possess in-depth knowledge and expertise in specific areas needed to sustain such growth. For these exceptional services, we received two consecutive years - best European Fiscal Advisor.

在家族财富传承和管理方面，瑞士宜本公司可以提供不同的私人定制服务，其中包括海外私密账户开设，家族办公室建立，离岸信托，离岸基金，财富管理等。我们坚信，一个完善的家族财富传承计划不是一蹴而就的，如何可以在确保财富安全私密的同时，达到稳定增值和合理避税才是整个计划的核心。瑞士宜本在欧洲，有对几代欧洲贵族服务的经验和专业团队，我们希望能把这项在瑞士的顶级服务也带来中国，为中国的高净值人士服务。我们欧洲的专业团队也在瑞士的各大评选中屡次获奖，最近两年连续被评为“欧洲最佳理财顾问”。



## OUR STRUCTURE 公司构架



Above seen our company structure. We provide well-rounded services for clients reside in different countries. The Hong Kong Office controls all clients from Greater China areas with the help of other offices along different services.

这是我们的具体构架，我们给全球不同地区的客人提供私人银行和家族信托服务，香港办公室主要负责大中华地区的客人。

For more detailed information in Chinese, please feel free to contact our Hong Kong office and visit our website at [www.globalcapitaltrust.hk](http://www.globalcapitaltrust.hk)

如有任何疑问，或需索取相关资料，请随时和我们香港办公室专员联系



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