

## Reasons Why Discretionary Trust (probate trust) settlor included

*This document has been compiled to provide you with some information and reasons for your client which you may wish to incorporate within your recommendation letters. These sample paragraphs are for your information and consideration only. You will, of course, need to relate the sections you select to your client's own circumstances as they may not all be relevant. This wording has been produced to help you, as a financial adviser, draft your own material. We accept no responsibility for ensuring that it meets with your own regulatory requirements and you should arrange for approval in accordance with your regulator's rules within your own firm.*

The Discretionary Trust (settlor included) and Collective Investment Bond (CIB) are both provided by Quilter Life & Pensions Limited.

### *Summary of recommendation*

I recommend that you make a £<enter amount> single lump sum contribution into a Quilter Life & Pensions Collective Investment Bond. Following commencement of the bond we will place it into the Discretionary Trust (settlor included).

### *What are the key benefits of this recommendation?*

The trust is designed to allow the trustees to have continued access to the trust fund on the death of the settlor without the need for lengthy probate delays.

You are able to continue to benefit from the trust during your lifetime. You are able to be a trustee during your lifetime but for the trust to be effective it is important to have additional trustees who you trust to manage the trust fund after you pass away.

The value of the trust fund including any death benefits (sum assured) remains inside your estate for inheritance tax purposes.

The gift(s) into trust are considered a chargeable lifetime transfer (CLT) and could be subject to an entry charge if it exceeds your available nil rate band (NRB). The trust fund is also subject to periodic and exit charges in future years.

The Quilter Collective Investment Bond is used as the investment within the Discretionary Trust (settlor included). This is a single premium, unit linked, whole of life assurance policy. The Collective Investment Bond is a Defaqto '5 Star' rated bond provided by Quilter Life & Pensions Limited. It offers 1,000 identical policy segments which provide the access to capital referred to above with the Discretionary Trust (settlor included).

### *What personal objectives does this achieve?*

We have discussed your personal objectives and the recommendation of a Discretionary Trust (settlor included) achieves the following objectives (delete/amend as appropriate):

- Allows you to access the trust fund during your lifetime but also ensures your trustees can access the trust fund without waiting for probate.
- Your chosen trustees use their discretion over who benefits and when, as no beneficiary has an absolute entitlement.

## *What is a discretionary trust?*

The discretionary trust (settlor included) is a trust where the settlor(s) can benefit from the trust ie they retain access. The trust assets are held for the benefit of the beneficiaries (including the settlor) by the trustees who have discretion on who will benefit from the trust. This trust can be set up with the Collective Investment Bond.

The trust is extremely flexible, no one individual has a defined right to the trust assets. The trustees can hold the assets for a wide class of beneficiary which means the assets can pass down generations easily.

Where bonds with capital protected death benefit cover are used with this trust, any extra life cover, payable on death, can be distributed from the trust to the beneficiaries. When the benefits are distributed from the trust they may suffer an exit charge. If the assets are retained they may suffer a periodic charge at the tenth anniversary and an exit charge on any future payment.

The wording of the trust allows the trustees, at their discretion, to grant loans to beneficiaries with or without interest. If the trust is constructed in the right way, these loans may be paid to a remaining partner and may be repaid by their estate on death. This could significantly reduce the remaining partner's IHT liability.

## *Advantages of a discretionary trust*

- No beneficiary has an interest in possession or absolute entitlement.
- Trustees can apply their discretion on appointing benefits.
- The trust does not need to change when a new individual enters the beneficiary class, eg birth of an additional child.
- Ideal for individuals who would like to avoid probate delays/reduce probate costs for their family.
- Easy and simple.

## *Inheritance tax summary*

### **Initial lump sum payment into the Collective Investment Bond subsequently moving into the Discretionary Trust**

By transferring the bond into the trust, you are making a gift for inheritance tax (IHT) purposes. This gift will be treated as a 'chargeable lifetime transfer' (CLT) apart from any amount covered by an exemption. A CLT is a transfer of value which is made by an individual and which is not an exempt or potentially exempt transfer. If the transfer exceeds the available nil-rate band (£325,000 frozen until 2028 less any previous CLTs in the 7 years prior to the transfer) of the transferor then a charge of 20% on the excess is payable.

Any CLT into the trust which would cause you to exceed your available nil-rate band must be reported to HM Revenue and Customs (HMRC) and tax at 20% (of the excess) is payable.

### **Gift with reservation**

As you are a potential beneficiary under the trust, this means that for inheritance tax purposes the gift of the bond into trust is regarded as a 'gift with reservation' and this means the trust fund value will be included in your estate when calculating any IHT due on death. If IHT is due you may be able to claim double charge relief.

### **When you die:**

The original gift into the trust – You must survive seven years after transferring the bond for the gift to be considered outside of your estate for IHT purposes. If you do not survive seven years then there may be further IHT to pay on death. For any additional contributions you choose to make to the bond, a new seven years will apply for each contribution.

The future 'entitlements' – One of the conditions for receiving an entitlement to the Policy Funds is that you are alive on the date you become entitled. Therefore, if you are deceased, the value of the Policy Funds that you are yet to become entitled to will be outside your estate for IHT purposes and will remain within the trust.

Previous 'entitlements' – Any Policy Funds you receive which have not been encashed and spent by the time you die, will be within your estate for IHT purposes.

### **Discretionary trust taxation**

A discretionary trust is a type of trust subject to certain IHT charges. The tax calculations for a discretionary trust can be complex, but in summary:

- A chargeable lifetime transfer charge may apply as explained above
- A ten-year periodic charge may arise, every 10 years where the value of the trust exceeds the available nil rate band; and
- An exit charge may apply when benefits leave the trust.

More information on inheritance tax can be found here:

[quilter.com/siteassets/documents/platform/guides-and-brochures/0653\\_your\\_guide\\_to\\_uk\\_inheritance\\_tax\\_and\\_trusts.pdf](https://quilter.com/siteassets/documents/platform/guides-and-brochures/0653_your_guide_to_uk_inheritance_tax_and_trusts.pdf)



## *The Collective Investment Bond*

As discussed, the Quilter Collective Investment Bond is used as the investment within the trust. The Collective Investment Bond is a Defaqto '5 Star' rated bond provided by Quilter Life & Pensions Limited. It offers 1,000 identical policy segments which provide the access to capital.

<Delete as appropriate>

The Collective Investment Bond can be linked to a wide choice of 2,600 unit trusts and OEICs. We will linked the bonds value to a portfolio built and managed by us which is relevant to the risk profile agreed with you and the trustees as being appropriate for the trustee investment horizon.

The Collective Investment Bond can be linked to a wide choice of 2,600 unit trusts and OEICs. We agreed that the bond will be linked to Quilter's WealthSelect discretionary investment solution. This is appropriate for the trustee investment horizon. Quilter will manage the asset allocation, manager selection, and day-to-day running of the portfolio at a very competitive cost.

The Collective Investment Bond can be linked to a wide choice of 2,600 unit trusts and OEICs. We agreed that the bond will be linked to the services of <enter discretionary investment manager>. <Enter discretionary investment manager> will build and maintain a portfolio suitable for the trustee investment horizon.

The Collective Investment Bond offers an unbundled charging structure which means:

- There is one simple tiered Product Charge with a rate that reduces as the platform investments increase
- There is no charge to establish the trust or manage it on an ongoing basis above the Product Charge
- You/the trustees can access the best fund deals in the market
- There are no transaction fees for withdrawals and trades on the unit trusts and OEICs linked to the bond
- <Delete where not applicable> As we agreed to include the Capital Protected Death Benefit there is an extra charge, providing protection of capital in the event of the life assured's death

## *Cost of advice*

The initial fee will be £<enter amount>, which is <enter rate>% of the value being invested in the Collective Investment Bond.

My ongoing service fee is <enter rate>% of the Collective Investment Bond value per year and will provide the service to the trustees as outlined in our 'Terms of Business'. The actual amount will fluctuate in line with the bond value each year. Based on the initial investment, the yearly cost will be £<enter amount>.

These fees can be paid by you (initial) directly or by the trustees (ongoing) or by deduction from the bond value. You have confirmed you would prefer to pay the fees by deduction from the bond. This will be taken as a withdrawal from the bond and count towards the 5% tax-deferred allowance available.

As part of my ongoing advice service we will review with the trustees the access to the trust fund through withdrawals, review whether any letter of wishes is up to date and any change in personal circumstances. We will do this each year prior to the anniversary date of the Collective Investment Bond.

## *Possible disadvantages*

Please be aware of the following disadvantages of my recommendation:

- You will not reduce your IHT liability as the trust is seen as a gift with reservation. The full gift including any growth remains within your estate for IHT purposes.
- The value of the bond is not guaranteed, as the prices of the linked units may fall as well as rise
- The Financial Services Compensation Scheme acts as a safety net for customers of UK financial services providers. If Quilter Life & Pensions Limited cannot meet its liabilities, the Financial Services Compensation Scheme may arrange to transfer your policy to another insurer, provide a new policy, or if these actions are not possible, provide compensation.

## *Trust registration*

A trust must register with HMRC's Trust Registration Service (TRS) if it is considered UK resident or has a UK tax liability, unless an exemption applies. As discussed, the discretionary trust will need to be registered.

- The trust must register within 90 days of the date of the trust deed.
- The trustees must submit evidence of registration (available from the TRS) or confirm exemption from registration to Quilter within 90 days of the trust date.

Further details regarding trust registration can be found here:

[www.quilter.com/siteassets/documents/platform/guides-and-brochures/qip22888\\_registering\\_trust-guide.pdf](http://www.quilter.com/siteassets/documents/platform/guides-and-brochures/qip22888_registering_trust-guide.pdf)



## *Details on Quilter*

Quilter plc are a leading UK-focused wealth manager, providing advice-led investment solutions and investment platform services.

Quilter enables financial advisers to deliver the very best service to clients and their families, to help them achieve their financial goals. They offer a comprehensive range of products and investments through an award-winning online investment platform.

Quilter's platform has been consistently recognised as being of very high quality within the financial services industry, which is evident in the awards we have won.

More information can be found here:

***Our ratings and awards | Quilter***

## *quilter.com*

*Please be aware that calls and electronic communications may be recorded for monitoring, regulatory and training purposes and records are available for at least five years.*

*Quilter is the trading name of Quilter Life & Pensions Limited which provides a Collective Retirement Account (CRA) and Collective Investment Bond (CIB).*

*Quilter Life & Pensions Limited is registered in England and Wales under number 4163431.*

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