

# Status of Beneficiaries of Trusts and Foundations in Liechtenstein

Dr. Bernhard Lorenz, LL.M.



# Introductory Remarks

- Foundations and Trusts
- Key difference: form
- Similarities: equivalent function; beneficiaries as objects of the structure
- Individual rights of beneficiaries of foundations inspired by trust law

# Foundations: Beneficiaries

- Four categories specified by law:
  - Strict beneficiaries
  - Strict contingent beneficiaries
  - Discretionary beneficiaries
    - But: prospective discretionary beneficiaries are not beneficiaries
  - Liquidation beneficiaries

# Foundations: Beneficiaries standing

- Debts
- Policing
  - Information
  - Court oversight

# Foundations: Beneficiaries / Information (1/2)

- Who:
  - not prospective beneficiary
  - liquidation beneficiary later
- What
  - Inspection
    - Governing documents
    - Books and papers
  - Organized information
    - Explanations

# Foundations: Beneficiaries / Information (2/2)

- Restrictions at law
  - Information interest
  - Abuse
  - Competing interests
    - Disclosure v confidentiality
  - Liquidation beneficiary
- Restrictions from articles
  - Revocation
  - Special controlling body
  - Public Supervision

# Foundations: Enforcement by Beneficiaries

- Litigation and supervisory proceedings
- Litigation for strict claims
- Supervisory proceedings for policing rights

# Trusts / Treuhänderschaft

- Common law trust but no split ownership
- Legal personality?
  - No, but right to sue and be sued under trust name debatable
- right to information, not for the discretionary beneficiaries
- standing to bring supervisory proceedings, by recent court cases restricted to strict beneficiaries/excluded for discretionary beneficiaries
- notify court of important reasons for discharging a trustee
- Derivative action/tracing/enforcement of liability claims/protect trust assets in the event of insolvency of the trustee
  - Cf *actio pro socio* in partnership law