In the name of
His Highness Sheikh Mohamed bin Zayed Al Nahyan
President of the United Arab Emirates/ Ruler of the Emirate of Abu Dhabi

COURT OF FIRST INSTANCE
COMMERCIAL AND CIVIL DIVISION
BETWEEN

NX (AS TRUSTEE OF THE EYZ TRUST)
Claimant

and

AA (BENEFICIARY 1)
First Defendant

BB (BENEFICIARY 2)
Second Defendant

CC (MINOR BENEFICIARY 1)
Third Defendant

DD (MINOR BENEFICIARY 2)
Fourth Defendant

JUDGMENT OF JUSTICE SIR ANDREW SMITH

Neutral Citation:	[2026] ADGMCFI 0016
Before:	Justice Sir Andrew Smith
Decision Date:	31 May 2026
Decision:	**First category** 1. NX is validly appointed as Trustee of the EYZ Trust. 2. The law governing the EYZ Trust, including the law governing the construction and effect of the 2010 Settlement, is the law of the ADGM. 3. The ADGM Courts are the forum for the administration of the EYZ Trust and have jurisdiction in relation to the matters concerning the construction of the 2010 Settlement and the effect of the EYZ Trust. 4. Clause 2.1 of the 2010 Settlement has been validly amended to read: "*The seat of the Settlement shall be in the Abu Dhabi Global Market*". **Second category** 5. The 2021 Deed is valid in its entirety. 6. The 4 February Deed is valid in its entirety. 7. The 25 February Deed is valid in its entirety **Third category** 8. Since the DORA was made: a. NX (as Trustee of the EYZ Trust) has been the absolute beneficial owner of the Company A shares; b. The equitable title to the Company A shares has been vested in NX (as Trustee of the EYZ Trust); c. Company B has held legal title to the Company A shares on bare trust and as nominee for NX (as Trustee of the EYZ Trust) pursuant to the terms of the Company A Deed; and

	d. Company B has not been entitled to take any action or exercise any rights it may have as legal titleholder to the Company A shares without NX's consent.
Hearing Date:	13 March 2026
Date of Order:	To be drafted by the Claimant's Counsel
Catchwords:	Family trust. Application by a trustee for Court directions. Interpretation of trust deeds. Court appointment of trustee. Exercise of powers. Equity imputing intention. Directions: (i) confirming the constitution of and proper law and forum for administration of the Trust, as well as the validity of the Trustee's appointment; (ii) about the validity and effect of three (2021 and 2022) deeds; and (iii) as to the trust property.
Legislation Cited:	ADGM Application of English Law Regulations 2015 English Trustee Act 1925 English Recognition of Trusts Act 1987 ADGM Court Procedure Rules 2016 Dicey, Morris & Collins on the Conflict of Laws (16th Ed, 2022) Sugden on Powers (7th Ed, 1845)
Cases Cited:	Schmidt v Rosewood Trust Ltd [2003] UKPC 26 Marley v Rawlings [2014] UKSC 2 Millar v Millar [2018] EWHC 1926 (Ch) Barnado's v Buckinghamshire [2018] UKSC 55 A v C [2026] UKPC 11 Iraqi Civilians v Ministry of Defence [2016] UKSC 25 NMC Healthcare Ltd v Dubai Islamic Bank PJSC [2023] ADGM CFI 0017 Davis v Richards & Wallington Industries Ltd [1990] 1 WLR 1511 (Ch) NX (as Trustee of the EYZ Trust) V. AA (Beneficiary 1) & Others [2025] ADGM CFI 0030 Pilkington v IRC [1964] AC 612 (HL) Inglewood v IRC [1983] 1 WLR 366 (CA) Wade v Paget (1784) 1 Bro CC 363 (Ch) Mogridge v Clapp [1892] 3 Ch 382 (CA)
Case Number:	ADGMCFI-2026-033

Parties and Representation:	***Claimant*** Mr Adam Cloherty KC (Instructed by Gresham Legal LLP) ***First Defendant*** No appearance ***Second Defendant*** No appearance ***Third and Fourth Defendants*** No appearance ***Amicus Curiae*** Mr Robert Ham KC

JUDGMENT

Introduction

1. NX, the putative trustee of a discretionary trust, to which I shall refer as the EYZ Trust, applies by way of claim form to the Court for directions under its jurisdiction to supervise, and if necessary intervene in, the administration of trusts: see *Schmidt v Rosewood Trust Ltd* [2003] UKPC 26 at para 51 per Lord Walker.

2. The application is supported by a witness statement of NX, and one by her legal representative, Mr Peter Stewart of Gresham Legal LLP. NX's statement is in Russian, and I rely upon a certified translation of it.

3. I heard the claim on 13 March 2026. NX was represented by Mr Adam Cloherty KC. The Defendants, who are the objects of the discretionary powers of the trustee, were not represented. However, I was assisted by observations of Mr Robert Ham KC, as amicus curiae.

4. I provided a draft judgment to NX's representatives on 26 March 2026, and I subsequently invited further written observations on certain questions. Having discussed them with Mr Ham, Mr Cloherty provided further written submissions in a Note of 12 May 2026.

The 2010 Settlement

5. The EYZ Trust was created by a trust deed dated 20 September 2010 (the "**2010 Settlement**") by way of a declaration of trust by Former Trustee C, who is the founder of the Company D group of companies, the parent company of which is Company D Limited ("**Company D**"), a trust and corporate services provider. The original Trust Property was

1,000 shares in Company E Limited ("**Company E**"), a company registered in the British Virgin Islands ("**BVI**"). The original Protector was Former Protector F Limited ("**Former Protector F**"), also of the BVI. The objects of the Trustee's discretionary powers (or the "Beneficiaries", as I shall refer to them) were stated in schedule 3 to the 2010 Settlement. Originally, the only Beneficiary was AA, the first defendant.

6. Article II of the 2010 Settlement was headed "*Proper Law, Forum and Place of Administration*". Clause 2.1 provided that the "*seat of the Trust*" was in Limassol, Cyprus. Clause 2.2 provided that, subject to the following provisions of the article, the 2010 Settlement was established "*under the International Trusts Law of the Republic of Cyprus, and the construction and effect of the Settlement shall be subject to the jurisdiction of and construed in accordance with the Laws of Cyprus*". Clause 2.3 provided that, subject to the following provisions of the article, "*the Courts of the Republic of Cyprus shall be the forum for the administration of this Settlement*".

7. Clause 2.4 provides that the Trustee might declare by deed:

   a. That "*the trust's powers and the construction of this Settlement shall take effect in accordance with the law of any other jurisdiction in any part of the world, and … the law of the jurisdiction named therein shall be the Proper Law of this Settlement and the Courts in such jurisdiction shall be the forum for the administration of this Settlement …*"; and

   b. That "*the forum of the administration of this Settlement shall be the courts or other tribunals of any jurisdiction in the world whether or not such courts or other tribunals are the courts or tribunals of the jurisdiction which is for the time being the Proper Law of this Settlement, and … the forum for the administration of this Settlement shall be the courts or other tribunals named therein …*".

8. The expression "*Proper Law of this Settlement*", which is used in these provisions of clause 2.4, is defined as "*the law of the jurisdiction to which the rights of all parties and the construction and effect of each and every provision of this Settlement shall be subject as provided hereunder or as otherwise declared under the provisions hereof, and according to which such rights, construction and effect are to be construed and regulated*".

9. Article IV gives the Trustee(s) wide powers to deal with the income or capital of the Trust in their absolute discretion. Most importantly, clause 4.2(a) empowered them, in their absolute discretion, to "*[r]aise any sum or sums out of the capital of the Trust Property and pay or apply the same to or for the benefit of all or any one or more (exclusive of the other or others) of the Beneficiaries and in such shares and proportions, if more than one, and generally in such manner as the Trustee(s) shall in their like discretion think fit*".

10. Article VI provides that the Trustee(s) may declare by deed that Beneficiaries are wholly or partly excluded from future benefit under the EYZ Trust (clause 6.1), and that the Trustee(s)

may by deed "*add to the class of Beneficiaries*" (clause 6.2). These powers are to be exercised only with "*the prior, express written consent of the "Protector(s)*". Clause 6.3 provides that a Beneficiary of full age may by deed "*disclaim his interest as an object of such trust power or discretion, either wholly or with respect of any specified part or share of such capital or income*" or "*cease to be a beneficiary*".

11. Article XI provides for any trustee to withdraw, and that, if a trustee has done so, the Protector may appoint a new trustee (or trustees).

12. Article XIX allows amendment of the 2010 Settlement: "*This Deed and the schedules hereto may be amended at any time solely by way of deed executed by all of the Protector(s) and Trustee(s) for the time being*".

13. Finally, Article XX, which is headed "*Expiration or Failure of Trusts*": Article XX allows the Trustee(s) to distribute assets *"[a]t the expiration of the Trust Period or in the event of the failure of the trusts of this Deed*". The Trust Period is defined as 100 years from the date of the Settlement or earlier if either: (i) the Trust Property and any income or accumulation becomes finally divisible among the Beneficiaries; or (ii) the Trustee(s) might so appoint by deed. The distribution is to be made to Beneficiaries as determined by the Trustee(s), and if there is no such determination, then (i) to the "*primary Beneficiary*" (sc, under the original terms of the 2010 Settlement, AA), or (ii) if there be no primary Beneficiary at the relevant time, to the named Beneficiaries in equal shares, or (iii) if there be no named Beneficiaries, to charity.

History of the Trust

14. When the 2010 Settlement was made, Former Trustee C, as the Trustee of the EYZ Trust, entered into a Trust Deed with Company B (Trustees) Limited ("**Company B**"). It recited that Former Trustee C was beneficially interested and entitled to the 1,000 shares in Company E, and that he was entitled to have them registered in his own name, but that, for reasons of his own, he did not wish to exercise that right, and that therefore they were to remain registered in the name of Company B.

15. By a Deed of Appointment dated 24 September 2010, Former Trustee G was appointed as an additional trustee of the trust.

16. By a Deed of Appointment and Retirement dated 29 December 2014, Former Trustee C and Former Trustee G retired, and Former Protector F, as the Protector, appointed Former Trustee H Limited ("**Former Trustee H**") to be the Trustee. Clause 2.2 provides for the Trust Property to be vested in Former Trustee H. Former Trustee H is a company incorporated in Cyprus, which is wholly owned by Company D, and the directors of which were Former Trustee C, Mr I and Former Trustee G.

17. On 24 November 2015, Former Trustee H acquired 10,000 shares (all the issued shares) in a BVI company, Company A Limited ("**Company A**"), which apparently owns a valuable art collection. As is apparent from NX's evidence, Former Trustee H directed Company B to hold the shares on trust for it as trustee of the EYZ Trust. On 25 November 2015, Company A issued a further 1,000 shares, and, by a Trust Deed executed with Company B, Former Trustee H confirmed and directed that Company B should hold them on trust for it.

18. On 11 December 2015, Former Trustee H transferred the shares in Company E out of the EYZ Trust.

19. By a Deed of Appointment and Retirement dated 1 June 2016, Former Protector F resigned as the Protector of the EYZ Trust, and Mr J and Protector K were appointed as Protectors.

20. On 30 June 2017, Company A was continued as a company registered under the laws of Jersey.

21. A Trust Deed dated 19 February 2018 (the "**Company A Deed**"), executed by Former Trustee H and Company B, recited that Former Trustee H was beneficially interested and entitled to the 11,000 Company A shares and was entitled to have them registered in its name, but for reasons of its own did not wish to exercise that right, and as a result they would continue to be registered in the name of Company B. Former Trustee H directed that Company B hold them on the trusts declared in the Company A Deed: "*Upon trust either to retain the ...shares ... or, at the direction of [Former Trustee H], to transfer the said shares or any of them under terms and to the person or persons indicated by [Former Trustee H] and pay the proceeds of any sale of them to [Former Trustee H]*".

22. AA and the second defendant, BB, having divorced, on 3 November 2020 (according to the recitals to a Deed of Appointment (Beneficiaries) dated 8 January 2021 (the "**2021 Deed**") or 3 December 2020 (according to NX's evidence), Former Trustee C, as director of Former Trustee H, wrote to the Protectors seeking their consent to amend schedule 3 to the 2010 Settlement so as to add as additional beneficiaries of the EYZ Trust, BB and the third and fourth defendants, the two infant children of AA and BB (the "**Minors**"). The Protectors provided their consent on 8 November 2020 or 8 December 2020.

23. On 8 January 2021, Former Trustee H, as the Trustee of the EYZ Trust, executed the 2021 Deed. Its recitals include these:

    a. Recital (C): "*Pursuant to Clause 6.2 of the [2010 Settlement], the Trustee has the power to add to the class of beneficiaries such one or more person(s) as the Trustee shall in its absolute discretion determine, subject to obtaining the prior, express written consent of the protectors*";

    b. Recital (E), which recited that consent had been obtained from the Protectors; and

c. Recital (F), which recited that Former Trustee H "*desires to exercise the aforementioned right and to add additional beneficiary(ies) of the Trust*".

24. Clause 3 of the 2021 Deed provides that it is to be governed by and construed in accordance with the laws of the Republic of Cyprus and the parties to it irrevocably submitted to the non-exclusive jurisdiction of the Republic of Cyprus in connection therewith.

25. With regard to clause 1 and clause 2, Former Trustee H is said to be acting "*[i]n exercise of the said powers in that behalf conferred upon it by the [2010 Settlement] and every other (if any) power enabling it*". Clause 1 is headed "*Appointment of Additional Beneficiary(ies)*", and it said that Former Trustee H appointed BB and, upon the death of AA, the Minors as additional Beneficiaries "*on and subject to the terms and conditions set forth in the Third Schedule 'Beneficiaries'*".

26. Clause 2 was headed "*Substitution of Third Schedule 'Beneficiaries'*". It reads as follows: "*... the Trustee HEREBY SUBSTITUTES the existing Third Schedule 'Beneficiaries' with the new Third Schedule 'Beneficiaries' set forth below ...*". The new Schedule (the "**2021 Schedule**") is headed "*Beneficiaries*", and it provides that, "*Subject to and pursuant to the terms and provisions of the Settlement (including, without limitation, the provisions of Article VI of the Deed giving the Trustee(s) the right to exclude and/or add Beneficiaries except as otherwise set forth herein below) and subject to all other powers, discretions and restrictions of the Trustee(s), the Beneficiaries in the event of any distribution of the Trust Property or in the event of the expiration, failure or liquidation of the Trust for any reason, shall be the following two classes of Beneficiaries, in equal proportion with each class being irrevocably entitled to fifty per cent (50%) of any distribution (including in the case of expiration, failure or liquidation of the Trust for any reason)*". It then defines the two classes: in summary, one class (the "**Class A Beneficiaries**") is AA, and upon his death, the Minors, and the second class (the "**Class B Beneficiaries**") is BB, and upon her death either (i) AA if he survive her, or (ii) the Minors, if AA predecease her.

27. The 2021 Schedule includes two provisos, one of which (the "**2021 Proviso**") is in these terms: "*notwithstanding any provisions of the Deed, including without limitation the provisions of Article VI of the Deed giving the Trustee(s) the right to exclude and/or add Beneficiaries or any other similar right provided for in any other provisions of the Deed, other than pursuant to this Third Schedule the Trustees shall not be entitled (1) to alter, amend, change, delete or remove the rights of the Class A Beneficiary(ies) and the Class B Beneficiary(ies) each to have fifty per cent (50%) of any distribution ..., (2) to alter, amend, change, delete or remove any of the individuals named as the Class Beneficiary(ies) or the Class B Beneficiary(ies), and (3) to alter, amend, change or delete or otherwise render inoperable or unenforceable this proviso from the Deed*".

28. On 4 February 2022, a "*Deed of Amendment*" (the "**4 February Deed**") was executed by Former Trustee H and the Protectors, although it was headed as a deed made only by Former Trustee H. Its recitals referred to their power under Article XIX to amend the 2010 Settlement, and said that Former Trustee H and the Protectors desired to amend the provisions of the Third Schedule "*Beneficiaries*". Neither in its recitals nor elsewhere was there any reference to the 2021 Deed.

29. The 4 February Deed provided that it was governed by and to be construed in accordance with the laws of the Republic of Cyprus, and that the parties irrevocably submitted to the non-exclusive jurisdiction of the Republic of Cyprus in connection with it.

30. By the 4 February Deed, the Former Trustee H and the Protectors substituted (or purported to substitute) for the existing Third Schedule "*Beneficiaries*" a new schedule (the "**4 February Schedule**"). Its provisions are similar to those of the 2021 Schedule, except that it provided for the Class A Beneficiaries to be entitled to 49% of any distribution and the Class B Beneficiaries to be entitled to 51%. The 4 February Schedule includes a proviso (the "**4 February Proviso**") in terms similar to the 2021 Proviso.

31. On 25 February 2022, Former Trustee H and the Protectors executed a further "*Deed of Amendment*" (the "**25 February Deed"),** which, unlike the 4 February Deed, was headed as a deed of Former Trustee H and the Protectors. Like the 4 February Deed, the 25 February Deed:

    a. Recited that Former Trustee H and the Protectors had the power to amend the 2010 Settlement deed under Article XIX;

    b. Made no reference to the 2021 Deed either in its recitals or elsewhere; and

    c. Provided that it was governed by and to be construed in accordance with the laws of the Republic of Cyprus, and that the parties irrevocably submitted to the non-exclusive jurisdiction of the Republic of Cyprus in connection with it.

32. By clause 1, Former Trustee H and the Protectors confirm that AA and any entity owned or controlled by him "*are and shall be irrevocably excluded from being appointed as protector and/or trustee of the Trust*", and agree that the terms of the 2010 Settlement should be amended to introduce "*an integral term of the Trust Deed*" to that effect.

33. By clause 2, "[*i*]*n exercise of the powers in that behalf conferred upon it by the [2010] Settlement and of every other (if any) power enabling it*", Former Trustee H "*with the written consent of the Protectors*", confirmed (or purported to confirm) that AA and entities or trusts in which he had an interest or which he controlled (to which I shall refer as "**AA's Associated Entities**") were and should be "*irrevocably excluded from being beneficiary of in the aggregate more than 49% of the Trust*"; and Former Trustee H and the Protectors

agreed that the terms of the 2010 Settlement should be amended to introduce "*an integral term of the Trust Deed*" to that effect.

34. The United Kingdom and other countries, including the European Union (the "**EU**") (and so Cyprus), imposed sanctions on AA. Company D was also declared to be a designated person under the UK sanctions regime, and as a result the Company A shares, being registered in the name of Company B, a wholly owned subsidiary of Company D, were "frozen" for the purposes of UK sanctions.

35. On 25 March 2022, Mr J executed a deed of retirement as a Protector.

36. On 9 May 2022, Protector K, Former Trustee H and NX executed a Deed of Appointment, Retirement and Amendment dated 9 May 2022 (the "**DORA**"). The recitals refer to EU Regulations "*concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine*" and restrictions on EU persons acting as trustee of a trust in specified circumstances; to the wish of Former Trustee H to retire in view of this; to the power in Article XI of the 2010 Settlement to appoint new trustees; to the wish of Protector K to appoint NX as a new trustee; and to the wish of the parties to "*change the proper law, forum and place of administration of the Settlement* from the *Republic of Cyprus to the Abu Dhabi Global Market ..*".

37. Clause 2 of the DORA is headed "*Proper Law, Forum and Place of Administration*". It says that "*[i]n exercise of the powers in that regard conferred upon it in the Settlement by clause 2.4 of the Trust Deed and of every other power enabling it*", Former Trustee H, as trustee and with the consent of Protector K as Protector, declared these amendments to clause 2 of the 2010 Settlement:

    a. Amendment of clause 2.1 to provide that "*The seat of the Settlement shall be Abu Dhabi Global Market, United Arab Emirates*";

    b. Amendment of clause 2.2 to provide that "*... the construction and effect of the Settlement shall be subject to the jurisdiction of and construed in accordance with the law of the Abu Dhabi Global Market*"; and

    c. Amendment of clause 2.3 to provide that "*... the Abu Dhabi Global Market Courts shall be the forum for the administration of this Settlement*".

38. Clause 3 is headed "*Appointment of New Trustee*", and it was to have effect immediately following the amendments in clause 2 taking effect. It provides that Protector K appointed NX to be the new trustee of the EYZ Trust instead of Former Trustee H.

39. Clause 4 provides that it was intended that the Trust Property should be vested in NX and "*in the case of property which does not automatically vest in the [NX] [Former Trustee H]*

undertakes to do and execute all acts and deeds required to transfer such property into the names of [NX]".

40. Clause 6 provides that Former Trustee H should "*deliver, or procure the delivery, to [NX] of … an original of…the deed of termination and release relating to the trust between [Former Trustee H] and each Nominee Shareholder in respect of the shares in each Subsidiary which shall be transferred to [NX] or nominee as directed by [NX] in writing…in each case, duly executed by a Nominee Shareholder or the directors or the Nominee Shareholder, respectively … in each case, as soon as reasonably practicable following the date of this Deed, but in any event no later than 10 Business Days after the date of this Deed*". The DORA defines "*Nominee Shareholder*" as "*Any Associate*" (itself defined) of Former Trustee H holding shares for the EYZ Trust on trust or as a nominee; and defines "*Subsidiary*" as "*a subsidiary of the Settlement (including any entity the shares in which are held on trust for the Settlement by a Nominee Shareholder)*".

41. Clause 12 provided that the DORA is to be governed by and construed in accordance with the laws of the Republic of Cyprus. It also includes an arbitration agreement: that the "*Parties shall endeavour in good faith to resolve any dispute, controversy, difference or claim arising out of or relating to this Deed…by negotiation*,", and if unresolved, it would be referred to arbitration.

The Application for Directions

42. Mr Cloherty divided the directions sought by NX's application into three categories:

    a. the first category is about the effect of the DORA;

    b. the second category is about the validity, meaning and effect of the 2021 Deed, the 4 February Deed and the 25 February Deed; and

    c. the third category concerns the Company A shares.

Interpretation of the Deeds

43. NX exhibited to her witness statement: (i) an opinion of Mr Adam Cloherty KC and Mr James Kane (the "**Opinion**") about the validity and interpretation of the 2021 Deed, the 4 February Deed and the 25 February Deed; (ii) a letter of advice from George Z Georgiou & Associates ("**GZG**"), a firm of Cypriot lawyers, about Cypriot law; and (iii) an advice of Ms Nicole Langlois, who is a Jersey advocate as well as an English Barrister, on certain questions of Jersey law, including about the rights in the Company A shares. She also exhibited an advice of Mr Richard Blakeley KC about other questions of English law, which have some relevance to the sanctions upon AA and Company D.

44. Mr Cloherty and Mr Kane considered the proper approach in English law to interpreting the 2010 Settlement and the other deeds. They referred to the judgment of Lord Neuberger in *Marley v Rawlings* [2014] UKSC 2, in which he explained the approach adopted to interpreting contracts (at para 17), and said that the same approach is to be adopted when interpreting wills (at paras 19 and 20): "*the court is concerned to find the intention of the party or parties, and it does this by identifying the meaning of the relevant words, (a) in the light of (i) the natural and ordinary meaning of those words, (ii) the overall purpose of the document, (iii) any other provisions of the document, (iv) the facts known or assumed by the parties at the time that the document was executed, and (v) common sense, but (b) ignoring subjective evidence of any party's intentions*".

45. Mr Cloherty and Mr Kane advised that English law adopts the same approach when interpreting trust deeds of the kind with which I am concerned: *Millar v Millar* [2018] EWHC 1926 (Ch) at para 17. I agree: see too *Barnado's v Buckinghamshire* [2018] UKSC 55 at paras 13ff per Lord Hodge. That case concerned the interpretation of a deed of a pension scheme, and Lord Hodge explained why, in such cases, the Courts pay particular regard to the words chosen by the draftsman and give less weight to the factual matrix. In this case, consideration of the factual matrix does not materially inform the proper construction of any of the deeds.

46. After the hearing in this case, on 19 March 2026, the Privy Council issued its advice in *A v C* [2026] UKPC 11, in which Lord Hodge's reasoning was considered and applied to the interpretation of trust instruments generally: see paras 65ff. I am grateful to Mr Cloherty and Mr Ham for drawing it to my attention.

47. This being the English approach to the construction of deeds, the Courts of the Abu Dhabi Global Market ("**ADGM**") must adopt it in accordance with the Application of English Law Regulations 2015 (the "**AELR**").

48. Questions of interpretation of the 2010 Settlement and the other deeds with which I am concerned, however, are to be determined under Cypriot law. I must consider what approach to interpretation would be adopted by the Cypriot Courts: see *Iraqi Civilians v Ministry of Defence* [2016] UKSC 25, per Lord Sumption at para 14, *NMC Healthcare Ltd v Dubai Islamic Bank PJSC* [2023] ADGM CFI 0017 at para 24.

49. I am assisted here by the letter of GZG. As Mr Ham pointed out, the letter expresses opinions about the proper interpretation of the particular deeds that I am considering, and here it goes beyond the proper scope of evidence of this kind. Dicey, Morris & Collins on the Conflict of Laws (16th Ed, 2022) puts it as follows (at para 3-018): "*The function of the expert witness in relation to the interpretation of foreign statutes must be contrasted with the expert's function in relation to the construction of foreign documents. In the former case, the expert tells the court what the statute means, giving an opinion, if necessary, by reference to foreign rules of construction. In the latter case, the expert merely proves the*

foreign rules of construction, and the court itself, in the light of these rules, determines the meaning of the documents". That said, GZG also gives useful assistance about the relevant rules and principles of interpretation under Cypriot law.

50. Moreover, in the ADGM, the Court may be assisted about foreign law either by evidence (under the Court Procedure Rules 2016 ("**CPR**"), r.142) or by way of submissions (under CPR r.117(2)). Submissions are not subject to the limitations explained by Dicey, Morris & Collins, and it might be more proper to treat the letter of GZG as being presented by way of submissions in as much as it expresses the opinion of the firm, rather than an individual. Understandably in this case, NX did not seek prior permission to adduce expert evidence or directions for submissions about foreign law. I shall receive GZG's letter by way of submissions under CPR r.117.

51. Coming to the substance of GZG's advice, they explain that trust law in Cyprus has its foundations in English common law and equity, and that, in the absence of relevant case law, the Cypriot Courts "*draw significant guidance from English case law*" and that "*English authorities, while not binding, have persuasive force*". They go on to say that "*Cypriot courts would adopt the same approach to interpreting trusts as that applied by English courts, which is the same method used in interpreting contracts. This principle has been affirmed in the English cases Marley v Rawlings [2014] UKSC 2 and Millar v Millar [2018] EWHC 1926 (Ch), and is expected to be applied by Cypriot courts*". I accept that.

52. Mr Ham drew my attention to another principle that applies where the donee of a power makes a disposition or appointment that he is empowered to make, or otherwise acts within the scope of his powers. The principle was expressed in Sugden on Powers (7th Ed, 1845), where Sir Edward Sugden said that "*A donee of a power may execute it without referring to it, or taking the slightest notice of it, provided the intention to exercise it appears*" (vol 1, p.356), and, with regards to powers of revocation, that "*although the revocation is required to be made in express words, yet an instrument disposing of the estate to different uses, although not referring to the power, or expressly declaring an intention to revoke, will operate as a revocation*" (vol 1, p.358).

53. The principle was considered and applied by Scott J in *Davis v Richards & Wallington Industries Ltd* [1990] 1 WLR 1511. I shall come later to its relevance to this case, but here I mention two points explained in Scott J's judgment:

    a. the principle described by Sugden is not only applicable to the disposition of property, but where the donee acts for other purposes (loc cit at p1530F -1531A); and

    b. the principle is not based on an inference that the donee tacitly intended to use the power. The exercise of the power is imputed to the donee, unless it is properly to be inferred that he intended not to exercise it (loc cit at p.1531B-F).

The DORA

54. With this introduction, I come to the first category of directions. They are for determination that:

    a. NX is validly appointed as Trustee of the EYZ Trust;

    b. the seat of the EYZ Trust is the ADGM;

    c. the law governing the EYZ Trust, including the law governing the construction and effect of the 2010 Settlement, is the law of the ADGM; and

    d. the ADGM Courts are the forum for the administration of the EYZ Trust and have jurisdiction in relation to the matters concerning the construction of the 2010 Settlement and the effect of the EYZ Trust.

55. I shall take these matters in reverse order, and so start with the matters concerning Article II of the 2010 Settlement.

56. As I said in my judgment of 28 November 2025 ([2025] ADGM CFI 0030) on a pre-claim application in this matter, the jurisdiction of this Court is statutory, and where the Courts of the ADGM are expressly selected as the forum for the administration of a trust, the Court has jurisdiction to give a trustee directions or guidance about its administration, including in relation to matters concerning the construction of the 2010 Settlement and the effect of the EYZ Trust: loc cit at paras 6-8.

57. This leads to the question whether the ADGM Courts were validly and effectively selected as forum for the administration of the EYZ Trust. Clause 2.3 of the 2010 Settlement expressly provides that the selection of the Court of the Republic of Cyprus as the forum was subject to the following provisions of the clause, and clause 2.4 provides that the Trustee might declare by deed that the forum should be the Courts of another jurisdiction. By the DORA, the Trustee, Former Trustee H, did so declare.

58. Nothing casts doubt upon the validity of the DORA or suggests that this provision of it might be invalid whether by reason of breach of fiduciary duty on the part of Former Trustee H (for example, by way of an improper purpose or totally unreasonable decision) or otherwise.

59. The power under clause 2.4 is subject to the provisions of the 2010 Settlement and the provisions of the International Trusts Law of Cyprus, but no other provision of the 2010 Settlement is relevant here, and it is clear from the letter of GZG that the provisions of the International Trusts Law do not prevent effect being given to Former Trustee H's declaration.

60. Materially similar considerations apply to the provision of the DORA amending clause 2.2 of the 2010 Settlement.

61. I therefore conclude that NX is entitled to the determinations and directions that she seeks in relation to the law governing the EYZ Trust, and the forum for the administration of the EYZ Trust and jurisdiction in relation to the matters concerning the construction of the 2010 Settlement and the effect of the EYZ Trust.

62. What of the application about the "*seat*" of the EYZ Trust? Here, two additional points arise. First, unlike the provisions in clause 2.2 and clause 2.3 of the 2010 Settlement, clause 2.1 is not qualified by words to the effect that the designation of the "*seat*" of the 2010 Settlement is subject to later provisions of clause 2; and clause 2.4 does not empower the trustee to declare a different "*seat*".

63. However, although clause 2 of the DORA referred specifically to clause 2.4 of the 2010 Settlement, it said that Former Trustee H declared the amendment to clause 2.1 by exercise "*every other (if any) power enabling it*". Article XIX empowers the Trustee(s) and the Protector(s) together to amend clause 2.1 and change the designated "seat" by deed executed by them both (or all). The DORA was executed by the Trustee (Former Trustee H) and the Protector (Protector K).

64. The DORA did not state that Protector K, as well as Former Trustee H, was declaring the amendment, but that does not matter. Article XIX does not require that an amendment should be declared by both Former Trustee H and Protector K. It only requires that they both executed the deed by which the amendment was made. The requirements of Article XIX were satisfied, and I conclude that Former Trustee H and Protector K effectively exercised their power under Article XIX to amend clause 2.1.

65. The second question about clause 2.1 is what the concept of the "*seat*" of a trust is intended to convey, and what is the effect of determining that a jurisdiction is the "*seat*", at least as a concept distinct from the law governing its construction and effect. As Mr Ham said, *"the concept of the seat of a Trust is not one recognised by the general law of trusts and there are no relevant provisions of the Trust Deed*". In these circumstances, it would not be right for me to purport to determine that the seat of the Trust is the ADGM. However, I am satisfied that clause 2.1 of the 2010 Settlement has been validly amended, and I am content to make a determination confirming that.

66. There remains in Mr Cloherty's category 1 the matter of NX's appointment. Article XI of the 2010 Settlement confers on the Protector the power to appoint new or additional trustees, and nothing suggests that there is any basis for impugning the exercise of that power to appoint NX by the execution of the DORA by Protector K. I am satisfied that the appointment is valid.

67. Mr Ham pointed out that this Court, being the forum for the administration of the trust, has power to put the matter beyond any doubt by exercising the Court's power under section 41 of the English Trustee Act 1925 (as adopted in the ADGM under the AELR) to appoint NX

as trustee of EYZ Trust. The power can be used "*whenever it is expedient to appoint a new trustee or new trustees, and it is found inexpedient difficult or impracticable so to do without the assistance of the court*". It might be thought unnecessary to exercise the power in this case, but it has been used where a trustee has apparently been properly appointed in order to avoid any dispute. It can do no harm to exercise it in this case, and in all the circumstances, I consider it expedient to do so and it is not practicable to have NX's position confirmed otherwise. I shall so order.

The Beneficiaries and their Interests: the 2021 Deed

68. The second category of questions is about the 2021 Deed, the 4 February Deed and the 25 February 2022 Deed. The applications in this category seek determinations:

    a. that the 2021 Deed "*was ineffective save insofar as it added [BB and the Minors] as beneficiaries under the EYZ Trust*";

    b. that the "*Third Schedule appended to the [4 February Deed] represents the current entitlements of [AA, BB and the Minors] under the Trust*"; and consequential determinations as to their entitlements; and

    c. that the 25 February Deed is: (i) *"[e]ffective, insofar as it irrevocably excluded AA and any entity owned or controlled by him from being appointed as protector and/or trustee of the Trust*"; and (ii) "*[i]neffective, insofar as it sought to exclude AA from being a beneficiary in the aggregate of more than 49% of the Trust. However, AA can, in principle, waive the breach so far as to save this aspect of the [25 February] Deed*".

69. These applications reflect the analysis of Mr Cloherty and Mr Kane in the Opinion, which is this.

70. First, they observe that the EYZ Trust is a discretionary trust and the Trustee's dispositive powers under it are permissive, and not imperative, and therefore strictly the "*Beneficiaries*" are not beneficiaries in that they have a beneficial interest in any trust property but enjoy only a right to the proper administration of the trust. This is undoubtedly right: as I have said, the "*Beneficiaries*" are the objects of the Trustee's discretionary powers.

71. The Opinion then considered the 2021 Deed, and distinguished: (i) its provision that BB and the Minors should be added as Beneficiaries; and (ii) the introduction of the 2021 Schedule in place of the original Third Schedule "*Beneficiaries*". It considered that the addition of BB and the Minors as Beneficiaries was a valid exercise of the Trustee's power under clause 6.2, and to that extent, the 2021 Deed was effective. But it considered that the attempt to introduce the 2021 Schedule was ineffective: that it was not within the power under clause 6.2, which did not permit the Trustee to amend the Third Schedule or to create different classes of Beneficiaries; nor was it an amendment properly made under Article XIX

because the 2021 Deed was not executed by the Protector; nor was the 2021 Schedule validly introduced under Article XX, which contemplates: (i) that the power under it might be exercised at the expiration of the Trust Period or in the event of failure of the Trust; and (ii) so as to appoint shares in the Trust Property to Beneficiaries, and not to create classes of person to whom a future distribution might be made by the Trustee.

72. This reasoning led to the conclusion that the 2021 Deed was ineffective except to add BB and the Minors to the class of Beneficiaries.

73. Coming to the 4 February Deed, the Opinion observed that it purported to be made under Article XIX, was executed by the Protectors as well as Former Trustee H as Trustee, and otherwise was compliant with formal requirements. Since the 2021 Deed did not validly effect the 2021 Schedule, it did not matter that the 4 February Deed is inconsistent with the 2021 Proviso. Accordingly, the 4 February Deed had the effect of dividing the Beneficiaries into Class A, the objects of a potential distribution as to 49% of the Trust Property, and Class B, the objects of a potential distribution as to 51%.

74. Similarly, the 25 February Deed purports to be made under Article XIX, was executed by the Protectors as well as Former Trustee H as Trustee, and otherwise was compliant with formal requirements. The Opinion observed that it appears on its face: (i) to exclude AA and any entity owned or controlled by him from being appointed as a Protector or a Trustee; and (ii) to exclude AA and AA's Associated Entities from being beneficiaries of more (in the aggregate) than 49% of the EYZ Trust. Thus, it would, if effective, require that AA should not become a Class B Beneficiary in the event that BB predeceases him, and the Minors, as the only other Beneficiaries in these circumstances, would be the only Class B Beneficiaries.

75. The Opinion advised that the first matter presented no difficulty and represented a valid exercise of the power under Article XIX. Mr Cloherty and Mr Kane expressed concern about the purported restriction on the interests of AA and AA's Associated Entities because, under the Third Schedule introduced by the 4 February Deed, AA was to become the Class B Beneficiary, as well as the Class A Beneficiary, in the event that BB pre-deceased him, and would then be entitled to 100% of the Trust Property in the event of a distribution of it; and that therefore it apparently conflicts with the 4 February Proviso.

76. The Opinion considered various answers to this difficulty, but concluded that the better view is that the 4 February Deed and the 25 February Deed are inconsistent, and therefore, as I understand the Opinion, the 25 February Deed does not validly restrict the interests of AA and AA's Associated Entities.

77. Mr Cloherty and Mr Kane also suggested that, since only AA is "*adversely affected*" by the 25 February Deed, if he were to execute a deed to disclaim his interest as an object of the power in respect of Class B, then NX could be given directions to act on the basis that, if

BB predeceases AA, the only Class B Beneficiaries are the Minors. They concluded that any conflict between the 4 February Deed and the 25 February Deed is "*for the present hypothetical, and, if it were to emerge in future, could be resolved by [AA] disclaiming his interest in being the Class B Beneficiary*" if BB predeceases him.

78. The views expressed in the Opinion about the 4 February Deed and the 25 February Deed are, of course, heavily dependent upon the analysis of the validity of the 2021 Deed. I cannot accept that it was partly valid, in as much as it was effective to make BB and the Minors Beneficiaries, but invalid in as much as it purports to amend the Third Schedule and to introduce the 2021 Schedule. As I see it, the result of this would be that BB and the Minors would be made Beneficiaries in respect of all the Trust Property, which would be contrary to the manifest intention that BB should be a Beneficiary only in respect of Class B, and that the Minors' interest should take effect only upon the death of one or both of their parents. The question to my mind is whether the 2021 Deed was wholly valid or wholly invalid.

79. Mr Ham agreed with Mr Cloherty and Mr Kane that the amendments to the Third Schedule were not properly made under article XIX or Article XX of the 2010 Settlement. However, he invited me to consider whether they might be saved by clause 4.2(a) and the power there conferred on the Trustee(s) over capital. In *Pilkington v IRC* [1964] AC 612, Lord Reid said of the statutory power of advancement that, in view of how it had been interpreted in the past, "*it is too late now to say that this power can never authorise trustees to convey funds to new trustees to hold for new trust purposes*", and concluded that "*if trustees genuinely and reasonably believe that it is for the benefit of a beneficiary contingently entitled to a share of capital to resettle a sum … they are empowered to do so …*" (at p.629). To illustrate that powers of this kind are given a very wide interpretation, Mr Ham also cited the judgment of the Court of Appeal in *Inglewood v IRC* [1983] 1 WLR 366, 372G-373A:

> "*If property is held upon trust for a beneficiary contingently on his attaining a specified age, the statutory power enables one half of the capital to be applied for the benefit of the person contingently entitled to the property. The word "benefit" is very widely construed: see In re Pilkington's Will Trusts [1964] AC 612. It will thus be possible, by an exercise of the statutory power, to advance half the fund to the trustees of a new settlement under which the beneficiary's interest is postponed to an age later than 25 or, indeed, under which he took no interest at all: see In re Hampden Settlement Trusts [1977] TR 177. The sole criterion is the benefit of the beneficiary. If it is for his benefit, for example for fiscal or family reasons, to make such an advance as I have mentioned there would be power to do so. Thus, in In re Hampden an advance was made on trusts under which the primary beneficiaries were the children of the advanced beneficiary. And in In re Clore's Settlement Trusts, [1966] 1 WLR 955, capital was applied by making donations to charity – the beneficiary for whose benefit the advance was made being a young man of great wealth*".

80. Mr Ham told me that these authorities have always been treated as valid in the offshore jurisdictions.

81. I come back to the judgment of Scott J in *Davis v Richards & Wallington Industries Ltd (loc cit)*. The case was about the execution of the definitive deed of a pension scheme. It had been executed by only two of the three trustees appointed under the interim deed. Scott J determined that this did not invalidate the definitive deed. One reason was that he concluded that the third trustee, Mr Parsons, was entitled to resign and had impliedly resigned, but he also decided that the parent company of the employer group ("**Industries**"), who had executed the definitive deed and had power to remove Mr Parsons, should be taken to have exercised that power. Therefore, the definitive deed was to be taken to have been executed by all the trustees. Scott J said, "*The intention will ... be imputed to Industries unless the facts of the case justify the inference that Industries had a positive intention not to exercise the power. That this is the right approach is, in my judgment, established by Wade v Paget (1784) 1 Bro CC 363, discussed in Sugden on Powers, 7th Ed, vol 1 pp.419-420. The recitals to the deed which the court is considering would have precluded the inference of an intention by the settlor to exercise his special power of appointment. Nevertheless, an intention not to exercise the power could not be inferred and equity treated the power as exercised...*" (at p.1531 C/D). He went on to say that this principle applied because "*Industries intended to bring the rules [of the definitive deed] into effect. If...Mr Parsons was still a trustee, equity will support that intention by imputing to Industries an intention to exercise its power of removal and by treating that power as exercised by Industries' execution of the definitive deed*".

82. Mr Cloherty questioned whether the power under clause 4.2 of the 2010 Settlement can save the 2021 deed given that: (i) clause 2 of the 2021 Deed purports to amend the Third Schedule; and (ii) article XIX provides that amendments to the Schedules (and the 2010 Settlement itself) can be made only by a deed executed by the Protector(s) as well as the Trustee(s). He said that, as far as he was aware, there is no case in which the principle explained by Scott J had been applied "*to get round a positive prohibition*".

83. I would share this concern if I were being asked to infer that, when the 2021 Deed was made, Former Trustee H's implicit intention was to exercise the clause 4.2 power to introduce the 2021 Schedule, but that is not the basis on which equity intervenes: equity imputes the intention, or, as it was put in *Wade v Paget*, "*supplies*" the defect. There can be no real doubt about what Former Trustee H was intending to achieve, and no real doubt that, as the Trustee, Former Trustee H could have achieved it by exercising the clause 4.2 power. It was exercised with the Protectors' consent, and they were fully entitled to withhold their consent: see *A v C* (cit sup). In my judgment, that intention will not be defeated because the mechanics adopted by the Trustee involved an amendment to the Third Schedule. Equity will not allow the formality that the Protectors did not execute the 2021 Deed to override the intention, any more than Lord Thurlow LC allowed the want of the third witness to override the intention to settle the West Pennard land in *Wade v Paget*,

or Scott J would have allowed the absence of Mr Parson as a party to the definitive deed to override the intention to make a definitive deed.

84. In *Mogridge v Clapp* [1892] 3 Ch 382, one of the cases cited by Scott J as an example of this principle, a question arose about whether a Mr Hoskins, who was in fact only tenant by courtesy of land but believed himself to be the absolute owner, and who purported to demise it as the absolute owner, had validly granted a building lease of it to the Claimant. Kekewich J, whose judgment was upheld by the Court of Appeal, approached the matter in this way: "*How do we, as lawyers, consider whether a person intends to exercise a power? I think that it is a good rule first to ascertain whether, undoubtedly, the person intended the effect to follow. About that there is no question here. … The next thing one has to look at is whether [Mr Hoskins] intended to constitute Mr Mogridge his lessee by any special means. There is an old rule, which I think is applicable to this case, that where you find an intention to effect a particular object, and there is nothing to exclude the intention to effect it by means of that power, then you conclude that the intention was to effect it by means of that power, because otherwise it would not be effected at all*" (at p.388). He concluded that he "*must hold that there was in law an intention that this lease should operate under the [Settled Land Act 1882] – that is to say, that there was an intention that it should operate, and that it should operate in the only way in which it could operate – that is, under the Act*" (at p.338).

85. I adopt similar reasoning in this case, and I conclude that the 2021 Deed is valid in its entirety.

The Beneficiaries and their Interests: the 4 February Deed and the 25 February Deed

86. This conclusion, of course, means that the 2021 Proviso is effective, and it prohibits the Trustee from altering the right of the Class A and the Class B Beneficiaries each to have 50% of any distribution. This leads to the questions whether the 4 February Deed and/or the 25 February Deed are therefore (wholly or partly) inconsistent with the 2021 Proviso and so invalid. Since the 4 February Deed and the 25 February Deed were made by Former Trustee H and the Protectors together exercising their power under Article XIX, these questions turn upon whether, on the true construction of the 2021 Proviso, the prohibition restricts only the powers of the Trustee(s) when acting alone or whether the restriction extends to the powers of the Trustee(s) and the Protector(s) together under Article XIX.

87. The wording of the 2021 Proviso is not entirely clear, but I have reached a firm conclusion that, properly interpreted in its context, it does not apply to the powers of the Trustee(s) and the Protector(s) under Article XIX. Certainly, nothing in the 2021 Proviso purports to restrict what the Protector(s) may do, either acting alone or with the Trustee(s). Further, the 2021 Deed was executed by the then Trustee (former Trustee H) alone, albeit with the consent of the Protectors. On the face of it, it seems to me somewhat unlikely that the Trustee would have intended to restrict the role of the Protector(s) under Article XIX without

more explicit wording, notwithstanding that the exercise of the Article XIX power necessarily involves the Trustee(s). Further, when it provides that it takes effect *"[s]ubject to and pursuant to the terms and provisions of the Settlement*", the 2021 Proviso explicitly states that this expression includes the provisions of Article VI, but it does not mention the provisions of Article XIX. Similarly, the 2021 Proviso itself states that it takes effect "*notwithstanding any provisions of the Deed, including, without limitation, the Provisions of Article VI of the Deed giving the Trustee(s) the right to exclude and/or add Beneficiaries or any other similar right provided for in any other provisions of the Deed*...": it makes no explicit mention of Article XIX, and it is at the least unclear whether the joint right of the Trustee(s) and Protector(s) under Article XIX is to be regarded as "*similar*" to the Article VI power exercisable by the Trustee(s) alone.

88. Mr Cloherty rightly observed that the 2021 Deed refers to each of the two classes of Beneficiaries being "*irrevocably entitled to fifty per cent*" in the event of a distribution of Trust Property. However, it would, to my mind, place too much weight on the word "*irrevocably"* to interpret it as evincing an intention that the equal division between the two classes cannot be changed under Article XIX. After all, the two classes are not *entitled* to anything unless and until the Trustee(s) as a matter of discretion make a distribution, and it is unremarkable that, in the event of a distribution, the recipient beneficiary is to be irrevocably entitled to what is distributed to him/her.

89. Accordingly, I conclude that the 2021 Proviso did not prohibit the Trustee(s) and Protector(s) from exercising their power under Article XIX, that the execution of 4 February Deed was not inconsistent with it, and the 4 February Deed is valid.

90. What of the 25 February Deed? On its face, it complies with the requirements of a deed executed under Article XIX of the 2010 Settlement. There is no reason to question the validity and effect of clause 1 whereby AA and entities owned or controlled by him were excluded from being a protector or trustee. I also consider clause 2 to be valid. I have explained why I consider it consistent with the 2021 Proviso. For similar reasons, I consider it consistent with the 4 February Proviso. Admittedly, the 4 February Proviso, unlike the 2021 Proviso, is in a deed executed by the Protectors as well as the Trustee, and so, taken in isolation, it might be more readily be interpreted as prohibiting the exercise of the Article XIX to vary the division of any distribution between the classes of Beneficiaries (although, even then, I would on balance prefer the narrower interpretation of the 4 February Provision). However, the 4 February Proviso is obviously to be interpreted in light of the similar wording of the 2021 Proviso, and it would be farfetched to interpret it differently.

91. Therefore, as I interpret the 2021 Proviso and the 4 February Proviso, the concern expressed in the Opinion about a "*potential inconsistency"* between the 4 February Deed and the 25 February Deed does not arise. It is not necessary for AA to disclaim any rights in order to prevent himself from becoming entitled, in some circumstances (in particular, if BB predecease him), to more than 49% of the Trust Property. That said, the

interpretations of the two Provisos are not straightforward, and AA might see merit in executing a disclaimer under Article 6.3 of the 2010 Settlement of any potential interest as a Class B Beneficiary to avoid (or at least to reduce the risk of of) any future argument about this. As a Beneficiary of full age, he is entitled to do so, and I see no reason in principle to doubt that a properly worded and properly executed disclaimer would be effective. However, I do not consider it appropriate to exercise my discretion to make any declaration about the validity of any potential future disclaimer that AA might be advised to make: that is a hypothetical matter, which depends not least upon the precise terms of the disclaimer.

Company A

92. I come to Mr Cloherty's third category. NX seeks declarations about her interest, as the Trustee of the EYZ Trust, in the Company A shares: that, since the DORA was made, (i) she has been the absolute beneficial owner of them; (ii) the equitable title to them has been vested in NX; (iii) Company B holds legal title to them on bare trust and as nominee for her pursuant to the terms of the Company A Deed; and (iv) Company B "*has not been entitled to take any action or exercise any rights it may have as legal titleholder to the [Company A shares] without NX's consent*".

93. At common law, the English choice of law rules relating to trusts were not well developed, and Dicey, Morris & Collins on the Conflict of Laws (16th Ed, 2022) refers to "*considerable uncertainty*" in English law before the Recognition of Trusts Act 1987. The AELR did not include the 1987 Act as a statute that applies and has legal force in the ADGM, and so the uncertainty remains in this jurisdiction. However, this does not cause difficulty here. The candidate laws for determining the questions about the Company A shares are the law of the ADGM (as the law of the 2010 Settlement), the law of Jersey (the situs of the shares) and the law of Cyprus (which governs the DORA). The relevant ADGM law is the same as English law, and Ms Langlois and GZG explain that the laws of Jersey and of Cyprus are materially the same as English law.

94. I agree with the submissions of Mr Cloherty about the questions in the third category. The Company A Deed was made by Former Trustee H in its capacity as Trustee of the EYZ Trust and therefore the chose in action under it became Trust Property. The equitable rights were transferred to NX on her appointment as the Trustee. While there might be room for debate as to whether Company B holds the Company A shares on a direct bare trust for NX or the equitable interest is still held on the trust in the Company A Deed, this is inconsequential. In either case, the proper reading of the Company A Deed would mean that Company B is not entitled to exercise any rights relating to the Company A shares without NX's consent, and NX has the right to call for the transfer of them.

95. The declaration of Company D as a designated person for sanctions purposes and the impact of this on Company B does not affect the terms on which it holds the Company A shares, and is irrelevant to the applications presently before me.

96. I conclude that NX is entitled to category 3 of the relief sought in the claim.

Conclusions

97. I have explained the conclusions that I reach on the various applications made by NX. I should be grateful if Mr Cloherty would revise the draft order to reflect them and to invite Mr Ham's observations on his revised draft.

Issued by:

Linda Fitz-Alan
Registrar, ADGM Courts
31 May 2026