

THE UNIVERSITY OF MALTA



**Trusts – A relatively new concept in the Maltese Islands:
How can Trustees promote people’s confidence in Trusts?**

Submitted by

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A dissertation submitted in partial fulfillment of the requirements of
the Degree of Bachelor of Commerce (Honours) in Banking &
Finance Studies at the University of Malta



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FACULTY OF ECONOMICS, MANAGEMENT &
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DECLARATION

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How can Trustees promote people's confidence in Trusts?*

I hereby declare that I am the legitimate author of this Dissertation and that it is my original work. No portion of this work has been submitted in support of an application for another degree or qualification of this or any other university or institution of learning.

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Abstract

Since joining the European Union in 2004, Maltese legislation became very active in the area of fiduciary obligations, especially those arising from the creation of Trusts. A Trust is the result of careful consideration from a number of factors such as regulatory framework, the need to have expertise to provide the service, costs and the judicial system. Trusts in Malta emerged recently under the legal framework of 2005.

A Trust is a private legal agreement done in writing. By private, it is meant that it is not recorded in any public registry. It is done between two parties. These are the Settlor and the Trustee. The Settlor transfers legal ownership of assets to the Trustee for the benefit of third parties called Beneficiary.

This study will look at how a Trust in Malta is offered as a service by the Commercial Banks and by Law Firms where they offer assistance in the setting up of Trusts and act as a Trustee licensed by the MFSA. Moreover, it will consider the ways Trustees can inspire more confidence.

In addition, surveys and interviews were carried out through commercial banks and private companies. The results showed that there might be a lack of trust from the public. However, by carrying faithfully their jobs, Trustees are able to inspire more confidence in the Trust Service. Random sample from a selected population were carried out to determine how much people are informed about the service. This provided the author with useful information on how much people are knowledgeable about Trusts and are willing to rely on Trustees to establish a Trust.

From all this, the author will be able to conclude whether Trustees are carrying their jobs in utmost good faith and if they are doing their utmost to inspire confidence. Moreover, this dissertation will also determine whether there must be an increase in awareness to advertise more Trusts Companies which will be revealed from the surveys and questionnaires carried out.

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Svetlana Maria Agius

May 2013

I dedicate this dissertation to

Mum and Dad,

My Boyfriend Manuel,

&

All the family

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List of Abbreviations

BOV – Bank of Valletta p.l.c.

HSBC – HSBC Bank Malta p.l.c.

IAS – International Accounting Standards

IFRS – International Financial Reporting Standards

MFSA – Malta Financial Service Authority

NSO – National Statistics Office

TPA - Third Party Introducers

TTA – Trusts and Trustees Act

VAT Act – Value Added Tax Act

Chapter 1 : Introduction

1.1 The Origins of Trusts

Trusts depend exclusively on ownership. According to Avini (1996), Trusts concept developed in England at the time of the Crusades during the 13th century. During these times, land ownership in England was based on the feudal system. What happened was that when landowners left England to fight in the Crusades, they needed someone to take care of their estates in their absence. This meant that these persons had to pay and receive feudal dues in the absence of landowners. Therefore people created a structure whereby their belongings continued to operate when the landowners were not present. Landowners appointed a person, known as the Trustee, to act for the benefit of the landowner's family (Prof C.H. van Rhee (n.d.)). The person appointed used to have legal ownership where he or she could buy and sell the landowner's property for the benefit of the landowner's family.

1.2 Trusts Concept Introduced in Malta

According to Popper (2005):

'Malta is very well positioned to use this kind of financial service to its advantage, both geographically and politically.'

Today, Trusts plays an important role in common law systems. This allowed civil law jurisdictions to incorporate Trusts in their civil codes. Unfortunately, the Trust concept emerged only recently in Malta, in 1988, when the Offshore Trust Act was legislated. However, this didn't allow Maltese citizens to create Trusts, to be a Beneficiary of a Trust, and didn't allow Maltese real estate to be involved in Trusts. Afterwards, the Recognition of Trust Act 1994 allowed Maltese citizens to settle property in a Trust but it didn't allow Maltese citizens to use Maltese Law as the governing law. The TTA, established in 2005, allowed Maltese and foreigners domiciled in Malta to establish a Trust governed by Maltese law or foreign law.

1.3 The Definition of a Trust

The TTA does not reduce Trusts to a single definition. As stated by Oerton (1970) a Trust is:

'.. an equitable obligation binding a person (who is called a trustee) to deal with property over which he has control (which is called the trust property), for the benefit of persons (who are called beneficiary or cestuis que trust), of whom he may himself be one, and any one of whom may enforce the obligation. Any act or neglect on the part of a trustee which is not authorized or excused by the terms of the trust instrument, or by law, is called a breach of trust.'

Moreover, according to Professors Sheridan and Keaton (2000):

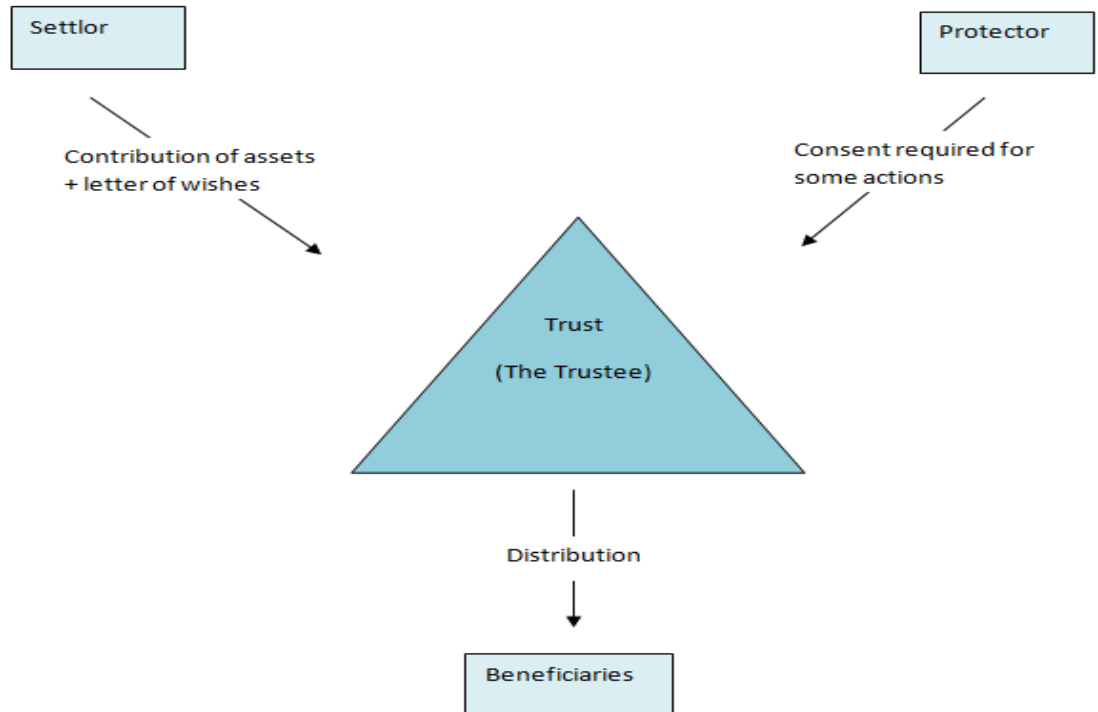
'A trust is a relationship which arises whenever a person called the trustee is compelled in equity to hold property, whether real or personal, and whether by legal or equitable title, for the benefit of some persons (of whom he may be one and who are termed beneficiaries) or for some object permitted by law, in such a way that the real benefit of the property accrues not to the trustee but to the beneficiaries or other objects of trusts.'

Therefore, a Trust is a private legal agreement which is done in writing and isn't recorded in any public registry. This is done between two persons, the Settlor and the Trustee, whereby the Settlor transfers legal ownership of assets to Trustee for the benefit of third parties who are the Beneficiaries (Johansen (1999)). A Trust can be created during the life time of the Settlor, known as Inter Vivos Trust, or by a will coming into effect upon the death of the Settlor known as Testamentary Trust. The principal players in a Trust are the Settlor, the Trustee, the Beneficiary and the Protector, which roles will be explained below.

1.4 Defining the Role of the Parties in a Trust

Figure 1.1 shows how a Trust works and the role of the main participants.

Figure 1.1: The Magic Triangle



1.4.1.1 The Settlor

As defined in the *TTA* (2005, Article 2(1) of Chapter 331 page 3) a Settlor is:

'The person who makes the trust and includes a person who provides trust property or makes a disposition on trust or to a trust.'

Bianchi (2005) explained that the Settlor is the person who transfers his/her personal assets to a Trustee by way of legal ownership. The Settlor must have legal capacity to own and convey property (Barkley (2012)). A Settlor is also known as Donor, Trustor or Grantor (Heir Advance Company, Inc (2013)). The Settlor can also be a Beneficiary of a Trust but he or she cannot be a minor, interdicted, an incapacitated person or legally incapable of contracting.

1.4.1.2 The Trustee

The TTA (2005, Article 2(1) of Chapter 331 page 3) also says that a:

'Trustee in relation to property, means the person or persons holding or in whom the property is vested on terms of trust in accordance with the provision of this Act or is otherwise deemed to be a trustee under this Act.'

A Trustee is a person or corporation who has transferred the legal ownership of his/her assets under Trust (TTA). The Trustee is obliged by law to ensure the wishes of the Settlor, outlined in the Trust Deed, to administer the assets of the Trust in the best interest of the Beneficiary. The Trustees create their fiduciary obligation in favour of the Beneficiary of Trust. A fiduciary obligation legally binds the Trustee to act in the best interest of the Beneficiary. The Trustee has the duty to exercise powers with prudence, diligence and act in *'bona fide'* and utmost good faith.

1.4.1.3 The Beneficiary

Moreover, the TTA (2005, Article 2(1) of Chapter 331 page 1) defines the Beneficiary as:

'A person entitled to benefit under a trust or in whose favour a discretion to distribute property held in trust may be exercised.'

The Beneficiary is a person or entity that will benefit from the assets and the Trust Deed (Adkisson (2012)). Usually the Beneficiary is named by the Settlor. According to Cilia (2012):

'It is uncommon for the settlor of a trust to be the beneficiary.'

The Beneficiary benefits are set out in a Fixed Trusts where the benefits to be received by a Beneficiary are known in advance. Therefore the beneficial interest of every Beneficiary has to be clearly defined (Rockwills Online Homepage (2008)).

Meanwhile, Discretionary Trusts is where a class of persons are nominated by the Trustee that determines who will benefit and to what extent. A Trustee may cease payments to a Beneficiary who becomes interdicted or bankrupt. A list of wishes is drawn by the Settlor to guide the Trustee in carrying out those wishes.

A Beneficiary can be an unborn child or person of unsound mind but he or she must be identifiable. If there is no Beneficiary, there will be no Trust (TTA (2005, Article 9(4) of Chapter 331 page 10)). The TTA (2005, Article 9(12) of Chapter 331 page 11), states that a Beneficiary may in writing disclaim his or her own interest, disclaim part of the interest or sell and change or transfer interest.

1.4.1.4 The Protector

According to Adkisson (2012), the Protector is a person appointed to exercise control over the Trustee and ensures that the Trustee complies with the instructions set in the Trust Deed. The Protector is a trusted friend or an advisor of the Settlor under a Trust Deed. The Protector protects the interests of the Settlor. The powers of the Protector are the voting role, to approve transactions of Trustees, to remove Trustees, appoint new ones and approve investment decisions (TTA (2005, Article 24A (2) of Chapter 331 page 19)).

1.4.1.5 The Trust Deed

This is drawn up after several meetings between the lawyer and the Settlor. The Trust Deed contains wishes and instructions of the Settlor. As stated by McCracken (2005), when a Trust Deed is signed, one is giving a Trustee title or ownership of the property. Moreover, it is a confidential document and is not registered with the public records. It includes five important elements which are the description of the Settlor, the determination of who acts as a Trustee, the definition of powers and restrictions of the Trustee, the description of assets of the Trust Fund and the definition of the Beneficiary of a Trust.

1.4.1.6 The Trust Fund

A Trust Fund holds and administers assets for the benefit of another person (WiseGEEK (2003)). A Trust Fund is a financial tool which consists of assets of Trusts. These may include property, cash, personal effects, real estate, securities and other tangible and intangible assets. The assets are legally owned by the Trustee and kept completely separate and segregated from any other property owned by the Trustee. Additional assets may be placed by the Settlor with the consent of the Trustee. However, such consent is very unlikely to be withheld.

1.5 The Three Certainties of a Trust

As stated by Pace (2010), a Trust is valid when it satisfies the three certainties. Moreover, according to Bianchi (2005), for a Trust to be valid and practiced by Trustees, three certainties must be in place. The first one is the certainty of intention to create a Trust where the Settlor must have a clear intention to create a Trust for the property being settled. The Settlor's intention can be manifested either verbally or in writing. The second one is the certainty of identity of subject matter comprising Trust Fund where the subject matter should be clearly identified. In fact Trustees must hold property as a separate and identifiable fund. The last certainty is the certainty of Beneficiary of the Trust where individuals should be clearly identified even though they can be unborn.

1.6 Objectives of the Dissertation

The research question looks at how Trustees can promote people's confidence. In order to examine the research question a sub set of questions were needed.

- What are the purposes to settle a Trust?
- Who needs Trusts?
- Why is a Trust needed?
- What is the role of Trustees?
- How can Trustees offer a true and fair view of the service?
- How can Trustees inspire confidence amongst people?

To analyse in depth, interviews were carried out with Commercial Banks and Law Firms. Meanwhile, questionnaires were distributed to the public to determine how much they trust the Trustees and if they are willing to invest in a Trust.

1.6 Dissertation Structure

This dissertation is structured and presented in the following manner:

Chapter 1: Introduces Trusts and all the participants, explains Trust Deed and Trust Fund. It also includes the objectives and division of studies of the dissertation.

Chapter 2: This chapter outlines the powers, duties and obligations of Trustees. It also explains why and who needs Trusts together with the benefits people can obtain from them.

Chapter 3: Here, the strategy and methods chosen are outlined in order to carry out the studies.

Chapter 4: Discusses the analysis in depth of the interviews with the Trustees and of the questionnaires distributed to the Maltese public.

Chapter 5: This chapter gives an overview conclusion about this dissertation together with the limitations encountered and the recommendations needed to improve this service.

Chapter 2 : Literature Review

2.1 Chapter Introduction

The literature review is the part where past research is presented by researchers on the subject matter (Spagnol (2012)). This chapter shows why and who needs Trusts, how Trusts can help people, the powers, duties and obligations of Trustees, the way Trustees can be appointed and at the same time the resignation or removal of Trustees and the way Trustees promote people's confidence in Trusts through experience, objectivity, continuity and prudence.

2.2 Why Is A Trust Needed?

As stated by Chetcuti Ganado (2008):

'A Trust is one of the most useful instruments to gain Peace of Mind.'

If a person cares about what happens to his or her family or property, if and when he or she becomes disabled or dies, a Trust can help a person preserve and build their estate during their life and pass it on according to the desire of these persons upon their death. This is consolidated by People State Bank Online, since a Trust is:

'A service that once was used by a wealthy few has now become an important part of financial planning for most individuals and families. It's your wealth, make sure it is protected and managed--as you wish.'

Therefore, a Trust is a flexible tool that can be tailored to one's needs. In fact, it offers people management, control and certainty.

2.3 Who Needs Trusts?

There are various categories of people who may need Trusts (Chetcuti Ganado (2008)). First of all, Trusts are useful for parents with young children and for people with beneficiaries who need help. Secondly, Trusts can be needed by people who own property that is hard to divide. Thirdly, Trusts are also useful for people who want to control their property due to

family complications. Finally, it can also be used for people who want to provide for administration of their estate if they become physically or mentally unable to do so.

2.4 How Can Trusts Help People?

According to Dahl (2005) a Trust can give people:

Table 2.1: How can Trusts help people?

<i>Benefits</i>	<i>Reasons</i>
<i>Control</i>	This protects the beneficiaries from fraud or mismanagement of the assets.
<i>Continuity</i>	Assets will continuously be managed appropriately especially if a person encounters a life-changing event.
<i>Privacy</i>	Trust enables a person to keep his or her affairs out of the public record.
<i>Tax Advantage</i>	This allows for the distribution of assets in a way that minimizes tax burden.

Trusts can help people to manage and protect their assets efficiently whilst they are alive. This is crucial in the case of death where the beneficiaries are minor children or who are not up to the responsibility of handling the estate. Another aspect is to protect a person's privacy since a Trust, unlike a will, is confidential (Chetcuti Ganado (2008)).

The third reason is to protect people and their beneficiaries from creditors by providing for multiple beneficiaries over two or three generations. Moreover, a Trust helps to provide for beneficiaries that require special needs, provide for children from previous marriages in the case of 'blended' families and for a life partner. The last two reasons of how a Trust can help are by simplifying the estate administration process for the family upon one's death together with the payment of taxes and by avoiding the possibility of ex-spouses managing their children's estate upon their death.

2.5 What are the duties and obligations of Trustees?

The TTA makes various references to the duties of Trustees together with the obligations to provide a correct account of their acts and dealings to beneficiaries. The TTA also makes provisions to allow guidance which is issued by the MFSA. According to Garber (2013), a Trustee should be responsible to manage all property owned by a Trust for the benefit of the beneficiaries. Duties of a Trustee vary according to what assets are owned by the Trust.

2.5.1.1 Powers of Trustees

The powers of a Trustee in a Trust Instrument include the buying and selling of assets, determining the distribution to the beneficiaries and hiring and firing of advisors (Atkins Munro and Murphy (2008)). The distribution to beneficiaries includes income distributed quarterly and principal distribution which is usually in the discretion of the Trustees. The Trustees' powers will determine what the beneficiary receives from the Trust and when, while ensuring the smooth running of the Trust.

A Trustee shall exercise discretion in his/her powers and act prudently, diligently and according to the attention of a *bonus pater familias* (TTA (2005, Article 21(1) of Chapter 331 page 17)). A Trustee shall administer Trusts according to the terms prescribed. Trustees should ensure that the Trust property is vested in them or is under control. The transfer by the Trustee of Trusts property to a legal entity shall be wholly owned and controlled, by the Trustee. Conversely, a Trustee shall not, without authority of the court, profit from trusteeship, allow other persons to profit from the trusteeship, or on the Trustee's own account together with another person enter into transaction of Trusts property.

2.5.1.2 Duties & Obligations of Trustees

According to Mote (2010), the responsibilities of Trustees include:

- ❖ *'Protecting trust assets from attack by outside parties;*
- ❖ *Dispensing property to beneficiaries;*
- ❖ *Investing trust assets in a prudent manner;*
- ❖ *Keeping accurate records;*
- ❖ *Being accountable to the beneficiary as specified by the trustor;*
- ❖ *Is obliged to faithfully execute the wishes of the trustor.'*

A Trustee, being either an institution or an individual, will be holding the Trust property. The Trustee has broad powers over investment and maintenance. The Law requires Trustees to properly carry out their duties (BOV Trustee Services (n.d.)). Therefore a Trustee should:

- ❖ Act according to terms settled in the Trust Instrument and act in a prudent manner;
- ❖ Administer Trusts with reasonable care, safety and considering the amount of income it produces for the benefit of beneficiaries;
- ❖ Perform impartially;
- ❖ Maintain complete records and accounts;
- ❖ Execute taxpayer duties such as filling tax returns.

Trustees should administer Trusts property for the benefit of the beneficiaries and cannot use Trusts capital or income for their own benefit. Trustees should comply with the concept prevalent in IAS where accounts have to give a true and fair view of assets administered under the Trust Deed (Mangion (2005)). However, the Trustee may not comply with everything written in the IFRS because a Trust doesn't fall under the definition of a commercial, industrial entity or have profit motive as objective. Moreover, the Income Tax Act allows Trusts to be treated as companies for tax reasons. In this case, the Trustees have to keep their records and submit all returns.

Trustees should comply with the four fundamental concepts of accounting, being going concern, prudence, accruals and consistency concept. The Trustee, whether individual or

corporate, should delegate the preparation and auditing of Trusts records. This permits Trustees to employ accountants, custodians and other professional agents. Separate accounts should be kept for capital and income because a Trustee may be required to provide an account of the Trust assets and liabilities to the Beneficiaries or to the Court.

2.6 How are Trustees appointed?

According to FindLaw Team (2000), a Trustee can be appointed by:

1. **Trust Instrument** – where the Trustee is appointed upon the creation of a Trust.
2. **Statutory Power** – because all jurisdictions have statutory provisions to appoint a Trustee in the absence of a Trustee in the Trust instrument.
3. **Court** – because legislation gives the courts the power to appoint, replace or remove a Trustee in the best interest of the beneficiaries.

A Trustee can be a natural person providing he or she has the required age and legal capacity (TTA (2005, Article 18(1) of Chapter 331 page 15). In the case of death of a Trustee, his or her testamentary executor shall be bound to transfer immediately all Trusts property to a successor Trustee according to the Trust instrument or Court.

2.7 Resignation or Removal of Trustee

According to Coppolo (2009), a Trustee can be removed by court if the:

- ❖ Trustee becomes incapable or neglects to perform duties;
- ❖ Trustee wastes the estate;
- ❖ Trustee fails to provide any additional remit bond ordered by court;
- ❖ Co-trustees have lack of cooperation which impairs the administration of the Trust;
- ❖ Removal of Trustee serves better the interest of the beneficiary due to unfitness, unwillingness, or persistent failure to administer the Trust effectively;
- ❖ Beneficiaries request to remove the Trustee and:
 - a) The court discovers it is in the best interest of the beneficiaries;

- b) The removal is not inconsistent with the purpose of governing instrument;
- c) A more suitable co-trustee or successor is available.

Trustees can resign from their roles by giving a notice in writing to his/her co-Trustees (TTA (2005, Article 20(1) of Chapter 331 page 15)). If there are no other Trustees, the notice will be given to the Beneficiary or to the Settlor. A Trustee shall cease to be a Trustee upon the removal of Court, according to certain provisions or certain steps taken for winding up, or declaration of bankruptcy of the person acting as a Trustee.

2.8 When Trustees are in breach

As cited by de Vries (2007):

'A breach of trust will occur any time the trustee fails to carry out the obligations he owes under either the directions in the trust instrument, the rules set out at common law, or the statutory authority in the province the trust instrument was executed.'

When Trustees are in breach, they are liable to the Trust for loss of depreciation in value of the Trust property or any profit, if any which could have accrued to the Trust. Moreover, Trustees have the obligation to act within parameters, set out by the Trust document. When these parameters are not strictly adhered to, the Trustee is described as being in breach of the Trust. Trustees shall not be liable for breaches which were committed prior their appointment by another person. However, if a Trustee becomes aware of a breach, he or she has the duty to take action. A Trustee shall not be liable for a breach which was committed by co-Trustees unless the Trustee is aware, or caught to be aware, of such a breach (TTA (2005, Article 30(1) of Chapter 331 page 22)).

2.9 How can Trustees inspire public confidence?

According to Beatrice (2012):

'When selecting a Trustee the most important qualities are honesty, stability, dependability, organization, financial experience, and ability to devote time and energy on an impartial basis for the benefit of all Beneficiaries. The Trustee is the most pivotal and critical part of any Trust Agreement.'

A Trustee is responsible for distributing income and principal to the Beneficiaries according to the Trust agreement. Some individuals prefer a family member or a friend as a Trustee. Others prefer to choose a Trusted Financial Institution. According to Fidelity Investments (2011), by choosing a Corporate Trustee, one will help to ensure that current and future generations benefit from the continuity, prudence and professionalism that a well-established organisation can provide.

2.9.1.1 Experience

A Trustee has an amount of responsibility to current and future Beneficiaries. One main responsibility is the investment management of the Trust Assets. A Trustee makes investment decisions, monitors investments, weighs and evaluates requests for distribution and makes difficult decisions. Therefore, a Trustee who is inexperienced may not be the best choice. Tippet (2012) says that:

'These responsibilities are too substantial to be entrusted to an individual, whereas corporate trustees are experienced at providing these services.'

A Trustee is entrusted with record keeping responsibilities which include accounting for receipt, disbursement of income, principal from the Trust Assets and preparation, together with filing of any annual Trust Income Tax returns. Due to the importance of keeping up with ever-changing and complex laws, one can easily see that a friend or family member may be burdened by these responsibilities. A Corporate Trustee, who has experience and expertise in Trusts, can be more capable to managing the assets (Fidelity Investments (2011)).

2.9.1.2 Objectivity

Even within the most loving families, relations can become difficult sometimes (Fidelity Investments (2011)). A carefully drafted Trust document will explain the intent of making a Trust while providing directions. In the case of a Trustee who is a parent, sibling, relative or a friend, it can be difficult. Corporate Trustees benefit from the fact that they are outsiders. Therefore decisions are free from bias and family dynamics. As stated by Balch (2008):

'Trustees should generally avoid getting involved in judgments about intellectual specifics such as individual personnel decisions, the content of courses, and the structure of particular programs, etc.'

This can only be possible if Trustees are free from bias and keep in mind the objective of their role which will lead to increase people's confidence.

2.9.1.3 Continuity

Trusts provides for the future. Years, aging and illness could prevent an individual from performing the duties of a Trustee. In naming a Trustee, one needs to be sure that as families' situations change, Trustees will continue to be responsive. A Corporate Trustee ensures continuity for the full term of the Trust to enable the public to feel safe (Fidelity Investment (2011)). To complement this, Cotter (2010), stated that:

'Corporate trustees can also provide continuity through multiple generations and they have an institutional memory, which is especially helpful with the administration of long-term, multi-generational trusts.'

2.9.1.4 Prudence

Prudence is at the top-most considerations, when people come to the delicate and personal issue of how, when and to whom they want their assets to be distributed (Fidelity Investments (2011)). Merrick (2013) cites that:

'Unless it has been specified in the trust documents, trustees must act unanimously on any discussion that are made concerning trust assets.'

To consolidate this, HSBC provides a high level of confidentiality in settling a Trust transaction. With a Corporate Trustee, a person can feel assured that his or her privacy is

respected and that financial matters will be treated with the utmost respect. This allows the public to feel more confident.

2.10 Chapter Conclusion

Table 2.2: Summary of Skills

	<i>Corporate</i>	<i>Individual</i>
Experience	Yes	No
Objectivity	Yes	No
Continuity	Yes	No
Prudence	Yes	No
<i>This enables the Corporate Trustees to inspire more confidence among the general public</i>		

Cotter (2010) outlined that:

'The best trustee selections are persons who have some prior fiduciary experience, a bit of investment or business savvy, and the diplomacy necessary to negotiate often sensitive family dynamics.'

Most of the benefits of being a Trustee are intangible (Johansen (1999)). This is because, by definition, Trustees do not receive any financial compensation for their work. Being a Trustee carries a number of fiduciary duties. For these reasons, a Trustee is prohibited from using Trusts to achieve personal gain. All Trustees must act in good faith towards the Beneficiaries. However, Trusts management allows Trustees to gain valuable experience in investment and in fund management. This enables Trustees to promote people's confidence by performing their roles professionally.

Chapter 3 :

Methodology

3.1 Chapter Introduction

Research is defined as a systematic, objective analysis and the recording of controlled observations which may lead to the development of organisations, principles and the possibility of ultimate control of events (Best (2002)). This allows the author to look at how various approaches can be utilised to gather information. There are different research designs that can be used to gather information such as books, journals, interviews, analysing data already made available, relying on existing models and others.

3.2 Quantitative versus Qualitative Research

According to Mora (2010), qualitative research is explanatory and used when a person doesn't know what to expect, and how to define or develop an approach to a problem. It is used to go deeper into issue of interest and explore related problems. In fact, this dissertation is based mostly on qualitative research rather than quantitative research. Meanwhile, quantitative research is conclusive and tries to quantify a problem. Qualitative and quantitative approaches are not mutually exclusive but both techniques are viewed as ends of a continuum.

Table 3.1: Quantitative vs. Qualitative Research

	Qualitative Research	Quantitative Research
Objective/Purpose	<ul style="list-style-type: none"> • Understand reasons and motivations • Understand the problem, generate ideas and/or hypotheses for quantitative research • Search for trends and opinions 	<ul style="list-style-type: none"> • Quantify data and generalize results from a sample population • Measure to rates of views and opinions in the chosen sample • Sometimes followed by qualitative research to explore further findings
Sample	<ul style="list-style-type: none"> • Usually a small number of non-representative cases • Respondents selected will fulfill a given quota 	<ul style="list-style-type: none"> • Usually a large number of cases represent the population • Randomly selected respondents
Data Collection	<ul style="list-style-type: none"> • Unstructured or semi-structured techniques such as individual depth interviews or group discussion 	<ul style="list-style-type: none"> • Structured techniques such as online questionnaires, on street or telephone interviews
Data Analysis	<ul style="list-style-type: none"> • Non-statistical 	<ul style="list-style-type: none"> • Statistical data is used in form of tabulations
Outcome	<ul style="list-style-type: none"> • Findings are not conclusive • Cannot be used to make generalizations about the population 	<ul style="list-style-type: none"> • Used to recommend a final course of action
<i>*Taken from Snap Survey Ltd (2012)</i>		

3.3 Primary Research

According to DeVault (2013), primary research is the collection of original data by way of research study. It is designed to answer specific questions and data which are gathered directly from the market or on the field. Moreover, primary data is considered to be owned by the researcher. It includes survey questionnaires such as mailed/computer administered questionnaires and telephone/personal interview questionnaires, interviews which can be structured, semi-structured or in-depth, focus groups, participant observation and action research. Therefore all data tends to be original and up to date but it tends to be more expensive than secondary research.

3.3.1 Questionnaires – Qualitative

A questionnaire is a technique for collecting primary data (Beisks (2002)). Bell (1999) explores questionnaires as being a series of written questions for which the respondents have to provide an answer. In a few words, a questionnaire is a list of written questions that

can be completed in two basic ways. Firstly, respondents may be asked to complete questionnaires via post or email. Secondly, respondents can be asked to complete a questionnaire verbally in the presence of the researcher. The difference in the methods lies in the researcher to protect the respondent's anonymity.

Moreover, questionnaires are restricted to two basic types of questions. A questionnaire can be close-ended where the researcher provides a list of responses such as 'yes' or 'no'. This produces qualitative data. A close-ended questionnaire, which requires respondents to choose from a scale, is considered to be a quantitative questionnaire. Alternatively, questionnaires can be open-ended where the respondents can express their opinion. This produces mainly qualitative data. This dissertation distributed questionnaires based on both close-ended as well as open-ended questions.

3.3.1.1 Limitations of Questionnaires

The first limitation is that the format of the questionnaire design can make it difficult for the researcher to examine complex issues and opinions even when open-ended questions are used. It may be difficult for the researcher to gather information that is rich in depth and detail. A second limitation is that, when sending a questionnaire by post or email, the researcher is never certain that the respondent will fill it in. A third limitation arises when the researcher is not present and the respondents do not understand the question properly. The researcher needs to be sure that all questions asked mean the same to all respondents.

3.3.2 Qualitative Research for Semi-Structured Interviews: Face-to-Face Interviews

As said by Nordquist (2013), an interview is a conversation where one person, the interviewer, elicits information from another person, the interviewee. There are three types of research interviews. In this dissertation, the author carried out semi-structured interviews which consisted of several key questions that help to define areas to be explored. This was done by carrying out face-to-face interviews.

A semi-structured interview allows both the interviewer and the interviewee to diverge from the questions to obtain more detail responses (Stewart (2008)). The flexibility of this approach allows for the elaboration of information because it allows for two-way communication. The author's purpose is to explore views, experiences, beliefs or motivations on certain matters. Moreover, interviews are believed to provide a deeper understanding than questionnaires (Gill (2008)). The author decided to carry out face-to-face interviews to comprehend deeply the subject matter and ascertain that questions are properly understood.

3.3.2.1 Limitations of Face-to-Face Interviews

According to Doyle (n.d.), budgetary constraints can limit interviews to a comparatively small geographical area. Secondly, some interviewees can be difficult to reach in person because for example they are extremely busy at work or might be abroad. This was a crucial limitation that the author has incurred. In total, the author contacted 22 companies. 20 of them were aimed to Law Firms. However, only 3 Law Firms accepted the author's request to settle an appointment for an interview. This was a major drawback because these interviews may not reflect the entire Law Firms population. The last drawback is that interviews can be intrusive and reactive. Greater skills are needed so that the interview is unbiased (Mackman Research Online Homepage (2009)).

3.4 Sampling

When conducting a research, it is almost impossible to study the entire population. Therefore, as a result, a sample was used to gather data. A sample is a subset of the population being studied. Kothari (2008) argued that it is very easy to yield the required information from a study by using a small sample than a large sample in qualitative research. Upon these facts, two decisions were taken about the sample size and the sample method adopted.

Sampling techniques can be classified in two categories. In Probability Sampling, each individual in the population has equal opportunities of being selected (Davidson (2006)).

Probability Sampling includes:

- i. Simple
- ii. Stratified
- iii. Systemic
- iv. Cluster/Area
- v. Multi-Stage

In contrast, in Non-Probability Sampling, samples are gathered in a process which doesn't give all the individuals in the population equal opportunities of being selected (Castillo (2009)). The Non-Probability Sampling includes:

- i. Convenience/Haphazard/Accidental
- ii. Consecutive
- iii. Quota
- iv. Judgmental/Purposive
- v. Snowball

In this dissertation, the author applied the **Non-Probability Sampling** where the **Convenience Sapling Technique** was used to carry out the study among the Maltese population. Castillo (2009) stated that:

'Convenience sampling is a non-probability sampling technique where subjects are selected because of their convenient accessibility and proximity to the researcher.'

This means that the researcher selects cases that are easy to obtain for the sample. This method is widely used by researchers. However, it tends to be prone to bias but it still represents the total population.

3.4.1 Sampling Size

3.4.1.1 Questionnaires – Maltese Public

In order to determine the number of questionnaires to be used among the Maltese public, the sample magnitude had to be computed. The sample size is the number of observations used for calculating estimates of a given population (Smith (1999)). In fact, a sample should include a sufficient amount to be reliable. This will yield to credible results in terms of accuracy and consistency. The sample size was worked as follows:

$$SS = \frac{z^2 \times p \times (1 - p)}{c^2}$$

Where:

SS = Sample Size

z = z value (95% confidence interval = 1.96)

p = % expressed as decimal (selected quantity = 0.5)

c = confidence interval or margin of error converted to decimal which (9.78% = 0.0978)

Thus, applying the formula to the research sample as provided, a sample size of 100 is worked out below:

$$SS = \frac{1.96^2 \times 0.5 \times (1 - 0.5)}{0.0978^2}$$

$$SS = 100.41$$

To ensure that the sample size is valid, the correction for finite population formula was used:

$$\text{New SS} = \frac{SS}{1 + \frac{SS-1}{\text{pop}}}$$

Where:

New SS = Revised Sample Size

pop = population which is 416,055 according to NSO Preliminary Report 2011

$$\text{New SS} = \frac{100.41}{1 + \frac{100.41 - 1}{416,055}}$$

$$\text{New SS} \approx 100$$

Thus, one hundred questionnaires were distributed among the Maltese public.

3.4.1.2 Sample Technique – Interviews with Commercial Banks & Firms of Lawyers

The sampling method used for interviews with Commercial Banks and Law Firms was the **Self-Selecting Sample**. According to Backman (2013), self-selected sample is:

'A sample that relies entirely on individuals who volunteer to be part of the sample.'

In this dissertation, the two major Commercial Banks together with Law Firms who offer Trusts service were invited. Those who answered positively to the request were interviewed.

3.5 Preparation of Interviews & Questionnaires

The preparation for the interviews included setting up appointments with the two major banks and Law Firms in Malta. Questionnaires were sent through email to the Maltese public. The data response was collected and analysed. The results were illustrated by means of pie charts and graphs found in Chapter 4: Findings and Analysis.

3.6 Secondary Research

Secondary or Desk Research is the most common research method used. It involves processing data which has already been collected by another person. In this way, a researcher can consult with previous studies and findings such as reports, press articles and previous market research projects. Secondary research incurs a low expense compared to primary research. However, a drawback is that data used may be out-dated which might lead to inaccurate results. Throughout the dissertation, the author researched various

secondary data including academic journals, text-books, internet sources, local articles, newspapers and dissertations. All this secondary research was useful to conduct the literature review which allowed the researcher to form the fundamentals.

3.7 Ethics

The author ensured that the research of ethics was strictly adhered to especially when conducting interviews. With respect to the collection of primary data, the Maltese public was clearly informed of the intention of the survey being carried out. According to Kelley, Clark, Brown and Sitzia (2003), the two most important ethical issues when conducting surveys are confidentiality and informed consent. Therefore, sensitive and personal information were excluded from the study.

3.8 Limitations of the Methodology

Like other studies, the methodology in this dissertation has its own limitations. Firstly, by using convenient sampling method to study the population's confidence results among Trustees can be biased. Secondly, the self-selected sample amongst the two Banks and Law Firms doesn't necessarily reflect the entire banks and law firms' population. Finally, the confidence interval of 9.78% applied in the sample size calculation could limit the validity of the results towards the Maltese population.

3.9 Chapter Conclusion

This chapter shows that a wide variety of tools were used to carry out this dissertation amongst the Maltese public, Commercial Banks and Law Firms to determine how Trustees can promote people's confidence in Trusts. Actually, to gather the required data, questionnaires were distributed amongst the public and interviews were carried out with the dominant banks in Malta together with other companies authorised by the MFSA to act as a Trustee. The possibility to undertake face-to-face interviews with open-ended questions allowed the author to provide validity, reliable data and to understand the subject matter in depth. By distributing the questionnaires to the Maltese public the author was able to examine the public's opinion, perception, knowledge, awareness and the level of trust.

Chapter 4 : Analysis and Results

4.1 Chapter Introduction

According to Hill (1883),

'All great truths are simple in final analysis, and easily understood; if they are not, they are not great truths.'

This chapter shows an overview of the results as per the methodology applied in the previous chapter. The chapter starts by depicting the roles of the interviewees. This will reflect their experience according to their industry. Moreover, their responses are analysed in detail for example by combining interview questions. Questionnaires were analysed by using Microsoft Office Access and a number of charts were presented to have a better illustration of the responses.

4.2 Analysis of Interviews

Representatives from the two dominant major Banks were invited to participate in this field research and accepted, which allowed the author to understand better the subject and be able to form an opinion. Moreover, various Law Firms were also invited to participate in this field and those who accepted were interviewed, which allowed the author to tackle the subject from a different aspect, especially from legal matters.

4.2.1.1 Analysis of the Dominant Banks in Malta

General Background can be found in Appendix 5.

4.2.1.2 Framework and Law Relating to Trusts Service

Both dominant banks in Malta explained that Trusts emerged only recently due to law. Maltese law is a civil law concept and not a common law concept. Malta can now boast that it has entrenched into its law the Trust legislation which despite being based on common law principles, integrated well in our civil law jurisdiction. Maltese Trusts Law is based on Jersey law. Initially there was some resistance because the Trust Concept, apart from being new to Malta, meant the relinquishing of control which was a bit hard for the Maltese to accept. The

introduction of Trusts Law brought with it considerable changes to important legislations such as the Civil Code, the Income Tax Management and Duty and Documents Act among others. Legal firms and other institutes were involved in the proper set up of the legislative framework to ensure that problems of administration are avoided.

One of the dominant banks explained that when there are problems, they refer to the Hague Convention on the Law of Trusts. This is because there are some problems to what type of powers the Settlor have. The Maltese legislation does not specify this, although it clearly stated that if the Settlor is given too much power than the whole set-up could be considered a sham. The Maltese Government is aware that some issues should be addressed as soon as possible. By doing so the level of credibility of the Trustees and clients' confidence would increase.

4.2.1.3 How can Trustees promote people's confidence?

One of the major banks claimed that being a dominant bank held in esteem, the bank itself enjoys some level of credibility amongst Maltese citizens. This allows the bank to have a certain level of stability and confidence which leads to an increase in people's confidence. If banks show their clients that they are professional, confidence increases. Reputation risk is important here because a bank should keep its reputation. If the population is aware and educated about what Trusts really is and its benefits, there will be no mistrust amongst people.

Alternatively, the other major bank stated that if Trustees do not act according to law, then confidence will decrease. This is because if a Trustee is in breach, people might not trust other Trustees. Therefore reputational risk plays an important role because long relationships are important. For a Trust to be valid, the three certainties of Trusts should be satisfied. Trusts have improved by time but the confidence of people is influenced from the way Trustees act. The problem is not of mistrust but Maltese people are reluctant to lose

control of their property. They prefer to own assets rather than lease them or give them to Trustees to administer. A Trust is something confidential and should be promoted as it is.

The two leading banks said that today Trusts is gaining popularity. More awareness and information is needed for the public to understand the concept. A Trust is not a product but a solution for certain circumstances. The best marketing is the word of mouth. In fact, one of these banks gives presentations, which people can attend to, to learn more. Awareness should be given from regulators by conducting seminars. One of the banks said that the aim is to address TPA with information. Afterwards, they will spread the word among people. More information is found in Appendix 5.

4.2.1.4 Analysis of Firms of Lawyers

General Background can be found in Appendix 5: Further Analysis of Interviews.

4.2.1.5 Framework and Law Relating to Trusts Service

One of the Law Firms said that Trusts Concept emerged only recently in Malta because our civil law was based on French and Italian law whilst Trusts Concept is based on UK law. The framework in itself is set up properly. There have not been problems with respect to the framework but legislation should be clearer on how to delegate the powers of Trustees in a court case.

Another leading Law Firm said that after the introduction of Trusts Concept, an extensive program was done in Parliament which was aimed to include business new laws and any amendments needed in the legislation. The amendments affected the Competition Act and the VAT Act amongst others. Trusts Concept unfortunately emerged only recently. When Trusts service was introduced, a lot of training was conducted by lawyers, notaries and auditors to acquire knowledge on the subject before starting to offer Trusts. Therefore time and training were needed before starting offering the service. Problems haven't been

encountered with the Maltese legal framework. By the passage of time, law remains the same but the interpretation is fine-tuned through case law.

The last Law Firm interviewed explained that Maltese law is based on civil law but it is influenced by common law. The Trusts Law isn't ambiguous but well formed. However, there is still the need to clarify Trusts Law in terms of accountancy guidance which hasn't yet been issued. The law will be amended soon to allow Family Trusts to be more lenient. This can be found in the bill amending the Financial Services Law.

4.2.1.6 How can Trustees promote people's confidence?

All the Law Firms outlined that people are reluctant to give property to Trustees and lose control of their own property. One of the Law Firms interviewed said that to resolve the matter, the Trustees should not abuse of their position. If Trustees carry out their work properly, confidence will increase. Secondly, the MFSA should also continue with regulation to keep order. The problem of mistrust depends on how Trustees act in future years. When people give all the property to Trustees to control them, then confidence is needed or otherwise people will not trust. Today Trusts service is getting more popular because people are becoming aware of the subject but more marketing is needed, such as series articles in the newspapers and advising people about Trusts.

Another law firm said that in Malta the Trustee is trusted because the client already knows the Trustee. This firm prefers to have Maltese clients because of due diligence which allows for a degree of trust. With respect to foreign clients, it is more difficult. However, the process of due diligence should be on-going. Confidence is built up by the expertise in the field and by the experience this expertise carries with it. There isn't the problem of mistrust amongst the Maltese population but it relates to what the individual will benefit from all this.

Before one builds up confidence, an individual should first set the objective. Afterwards, cost motives are seen. If the cost is accepted than confidence can be built because the Trustee will be allowed to handle the property or money. Confidence is built in the vehicle of Trusts. The Trustee should act in good faith which allows the individual to trust the Trustee. Law Firms cannot make adverts on media but can make advertisements about Trusts either on their website or in the yellow pages. The best way to promote a Trustee is by word of mouth. To increase awareness, radio programs and television discussions can be held.

The last Law Firm explained that Trusts is a vehicle used by individuals to reach their ultimate scope for example after the parents' death, there will be an amount of money allocated to take care of the disabled child. Maltese people are not willing to trust since they are reluctant to give property to Trustees. In Trusts there isn't a return. Fiduciary obligations, which can increase confidence, should be more highlighted. Nowadays Trusts has become more popular but people are still receptive.

There is still the need for more awareness and promotion but it should be marketed in the proper way. For example Trusts cannot be used to avoid tax because when transferring property from the Trustee to the Beneficiary, tax must still be paid. This is one of the reasons why Trusts should be marketed in the proper way. Convincing people to put property in Trusts and lose ownership of the property is difficult so the main benefits of Trusts should be outlined; outlining for example, that property will not be affected by the creditors because it is segregated.

4.3 Analysis of Questionnaires

Details of the methodology applied to select the sample size can be seen in Chapter 3. In the analysis of the questionnaires, pie charts, bar graphs and tables were presented to give better visualisation of the results. A commentary on the key findings was also presented with the charts. The population sample was categorised in five age groups and the key

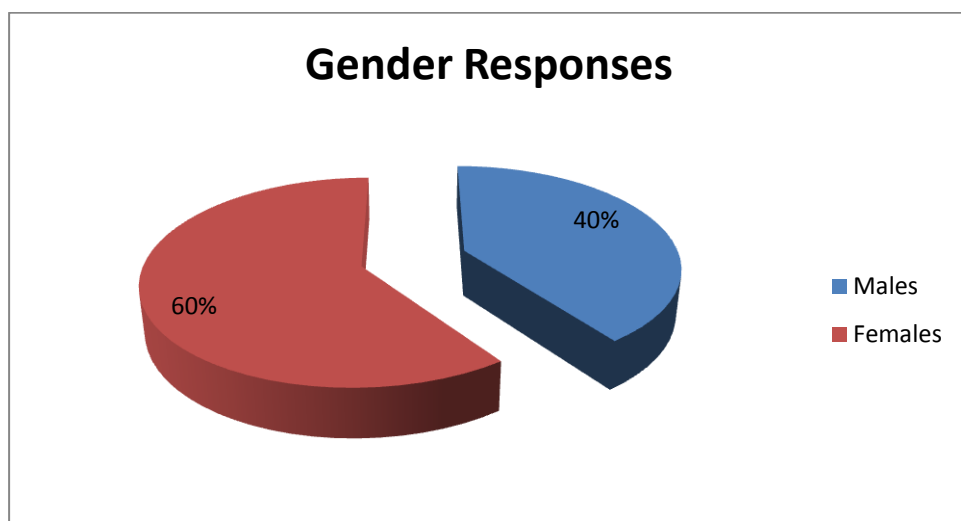
responses focused on the awareness of the subject matter as well as how much the Maltese public is willing to trust the Trustees. The results are presented either in figures or in percentages. The questions of the questionnaires can be found in Appendix 1.

4.3.1.1 Analysis of Section A – Demographic Information

The first section of the questionnaire analyses in general the demographic information.

Question 1

Figure 4.1: Gender Responses



This shows that 60% of the respondents were females whereas 40% of the respondents were males.

Question 2

Figure 4.2: Age Responses

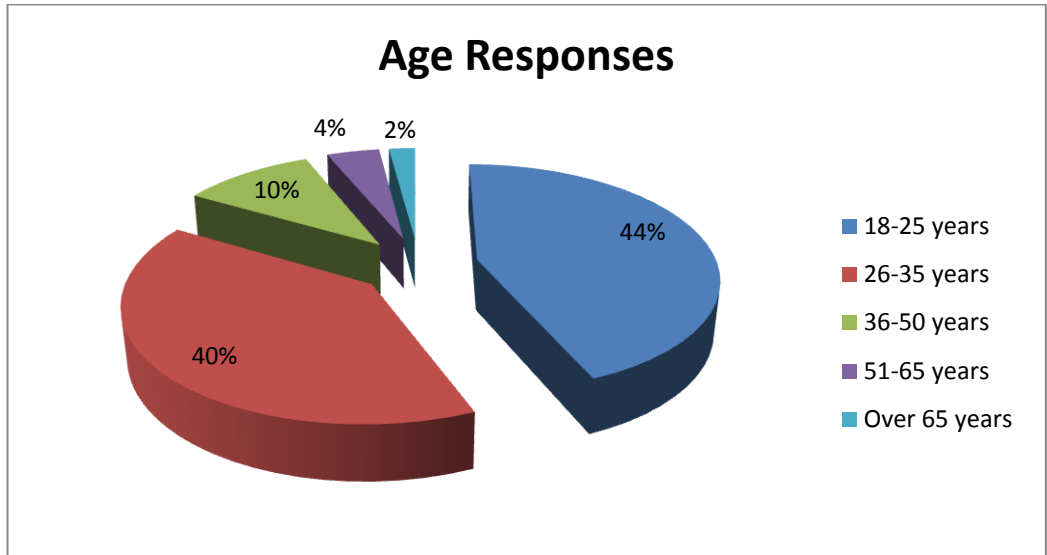
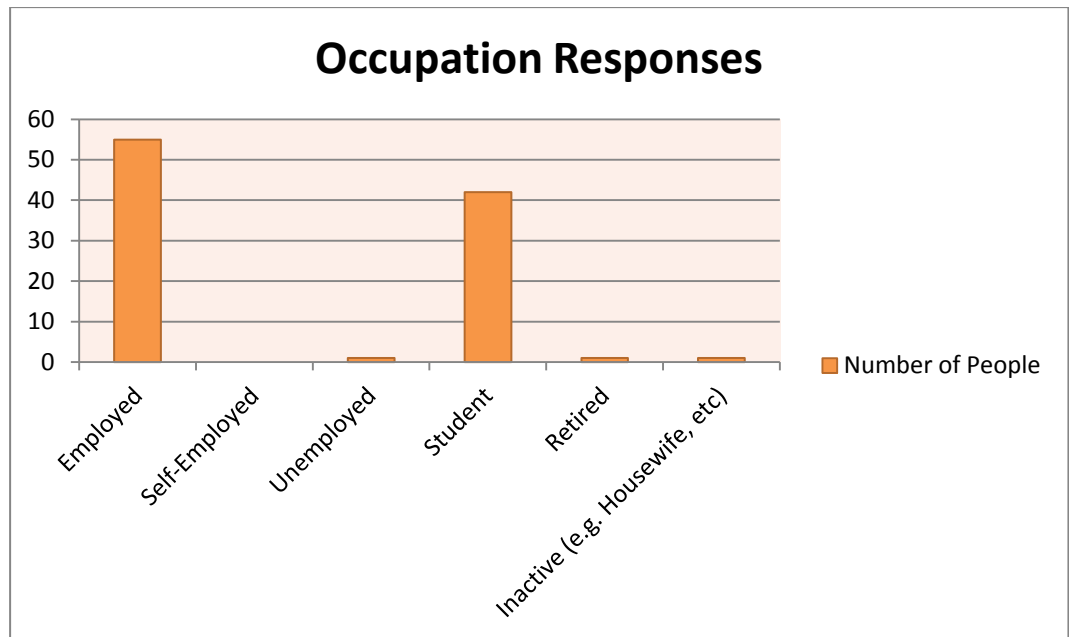


Figure 4.2 shows that the majority of respondents fall in the categories of 18-25 years and 26-35 years. This reflects that both students and those employed have undertaken this questionnaire. However, as seen in the chart, there are respondents from each age group category which makes the study more reliable. This allowed the author to get a wider view of the Maltese perspective and knowledge about Trustees.

Question 3

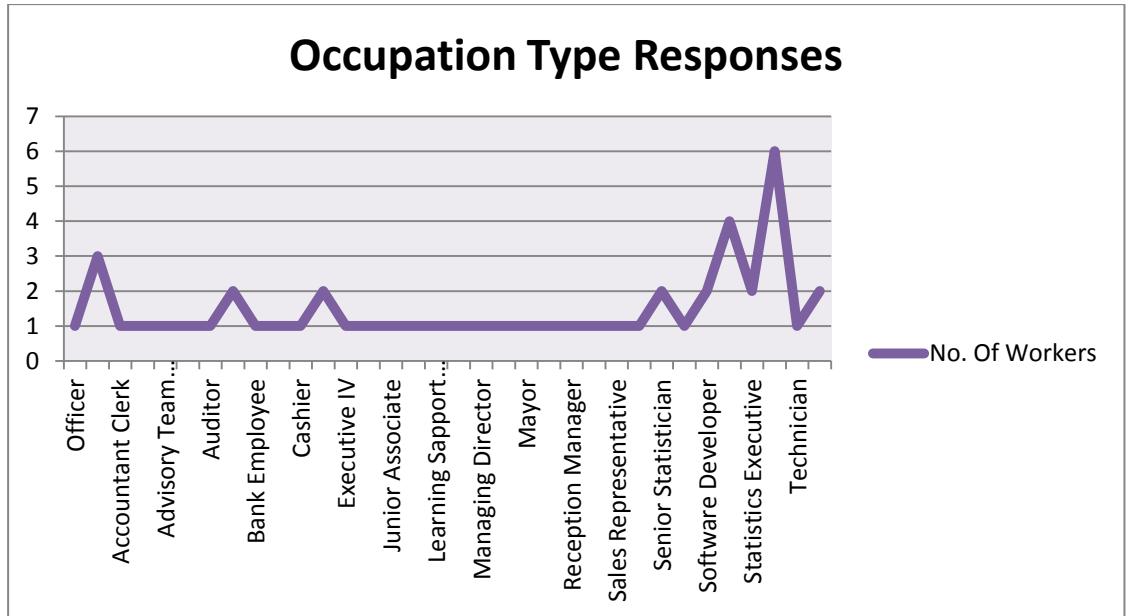
Figure 4.3: Occupation Responses



As seen in Figure 4.3, the majority of respondents are employed and students. There are also a few unemployed, retired and inactive respondents. However, since the majority are employed, 50%, and students, 47%, this enabled the research to examine opinions given by labour force who may not reflect students' opinions which may have a high level of education.

Question 4

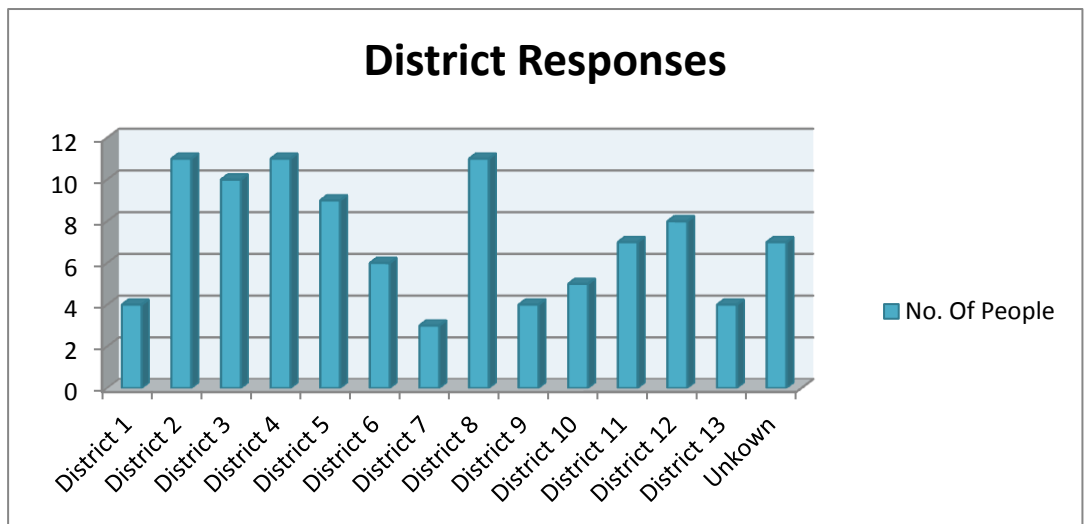
Figure 4.4: Occupation Type Response



As reflected in Figure 4.4, labour force occupation tends to vary.

Question 5

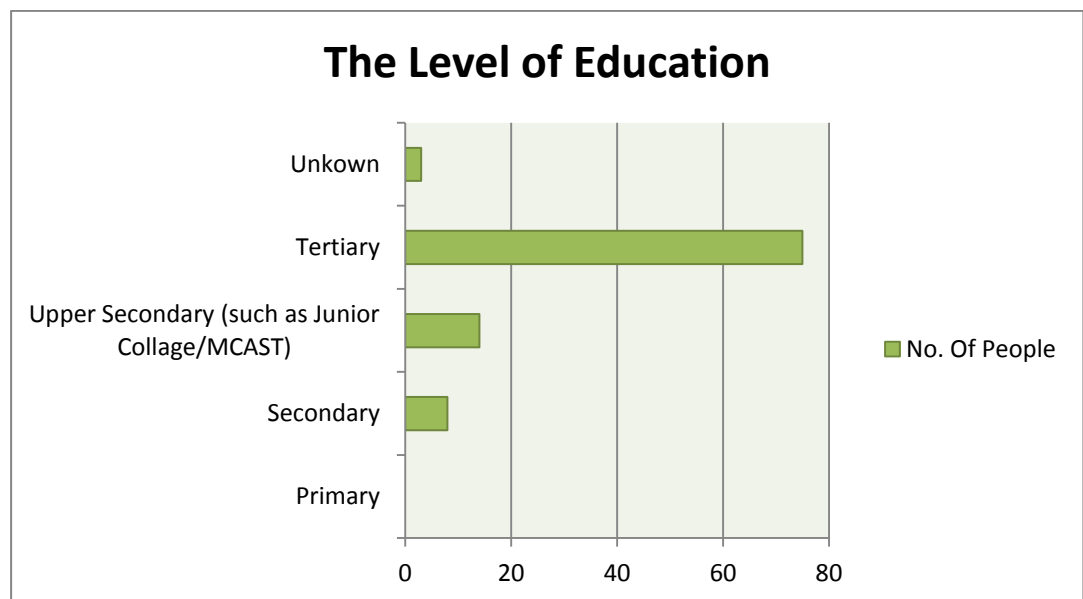
Figure 4.5: District Responses



The respondents were required to fill in the locality according to the electoral district. Respondents are from all over Malta and Gozo which enables the study to be reliable and unbiased. See Appendix 7 for Districts.

Question 6

Figure 4.6: The Level of Education



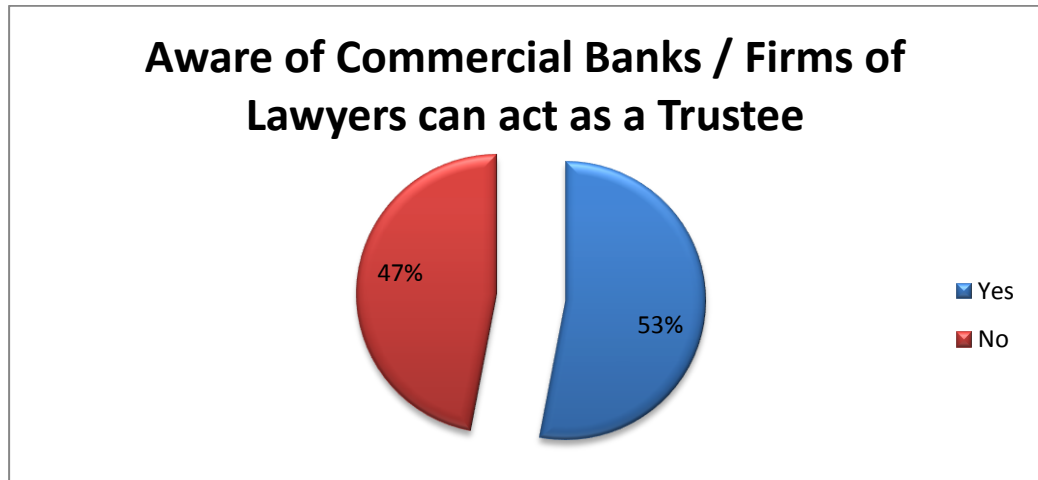
The questionnaire was mainly carried out among highly educated people. Since the respondents are highly educated, this reflects whether or not, the subject matter actually needs further advertisement amongst the Maltese public.

4.3.1.2 Analysis of Section B: Trusts offered by Banks and Firms of Lawyers

This section allows the author to determine whether respondents are aware that Commercial Banks and Law Firms can act as a Trustee to offer Trusts Service. After analysing Section A, one would expect to notice a correlation between the respondents' knowledge and the level of education.

Question 7

Figure 4.7: Aware of Commercial Banks and Firms of Lawyers can act as a Trustee to offer Trusts Service



In Figure 4.7, 53% of the population are aware of Trustees whereas 47% of the population are not aware of Trustees. This question reflects that even though the respondents' level of education is quite high, the subject is not as popular with the Maltese public as one would expect.

One can also depict other graphs and tables to analyse how much the population is aware that Commercial Banks and Firms of Lawyers can act as a Trustee to offer Trusts Service. These are found in Appendix 6.

Moreover, in this section, respondents were guided to which section to move on to according to the answer given:

- ❖ Those **Not Aware** of the service should answer **Sections C** and **F**;

- ❖ Those **Aware** of the service, **But Have Never Used** Trusts, should answer **Sections D** and **F**;

- ❖ Finally, those **Aware** of the service and **Are Using or Have Used** Trusts offered by Trustees, should answer **Sections E** and **F**.

4.3.1.3 Analysis of Section C – Not Aware of Trusts and Trustees

Here, definitions of Trusts and Trustees were provided.

Question 8

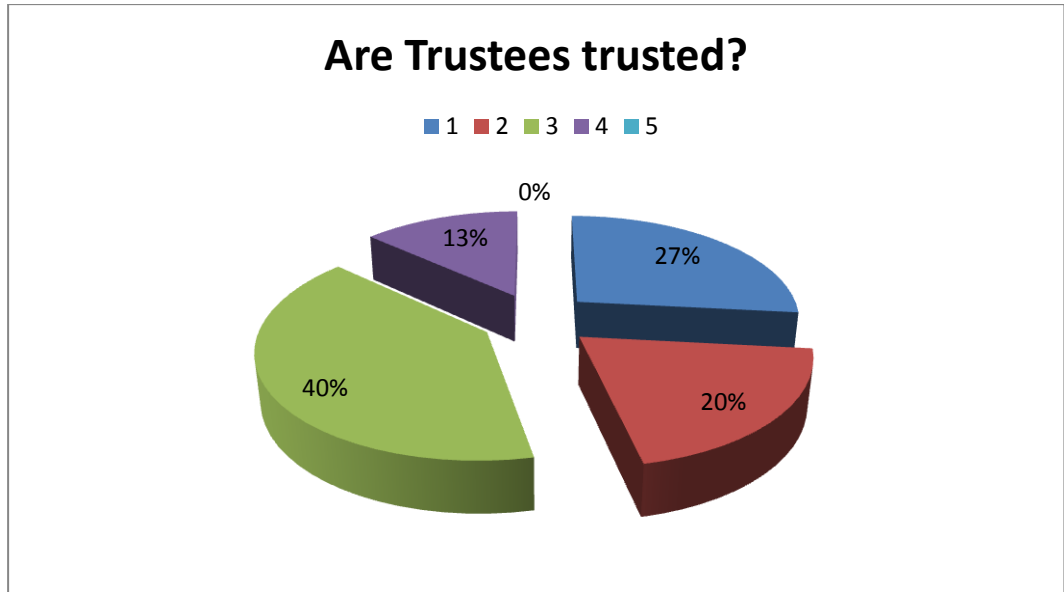
Table 4.1: Does the subject matter interest you?

Not Aware of Trusts and Trustees		
Does this interest you?	Numbers	Percentages
Yes	14	30%
No	31	66%
Left Out	2	4%
Total	47	100

This table shows that despite the fact that highly educated people were sampled for this survey; the topic of Trusts does not arouse interest in the majority of the sample. In fact only 30% of the sample said they find this subject to be of interest.

Question 9

Figure 4.8: How much are Trustees trusted?



Respondents were asked to rate the degree of trust in Trustee with their assets where a scale of 1 represent a low level and a scale of 5 represent a high level of trust. As we can see, the majority of the population who is unaware of Trusts and Trustees was willing to give a scale of 3 which is in the medium, neither highly trusted nor distrusted. However, none of the respondents gave a scale of 5 which show that there might be a problem of mistrust.

Question 10

Table 4.2: Who do you prefer?

	<i>A Family Member/ Friend</i>	<i>A Trusted Financial Institution</i>	<i>Left Out</i>	<i>Total</i>
Numbers	14	30	3	47
Percentages	30%	64%	6%	100%

As seen in Table 4.2, the Maltese population are 64% willing to trust a Trusted Financial Institution rather than a family member/friend (30%). However, this choice can depend on various factors which will be examined in the next question.

Question 11: *What are the reasons for choosing either a family member/friend or a Trusted Financial Institution?*

This was an open-ended question in order to allow respondents to express themselves in the most appropriate way. Twelve respondents opted to leave the question out. On the other hand, the remaining thirty-five respondents gave the researcher their opinion.

Those who prefer a family member/friend gave different reasons to their preference. Some respondents feel more safe and comfortable if the Trustee is a close person because:

- ❖ They can put their minds at rest;
- ❖ Due to the trust issues which led to the financial crises of 2008;
- ❖ The bank's aim is to make money;
- ❖ Family members work in banks and know the procedure;
- ❖ Is more able to understand a family's financial situation and can be more sincere in their opinion without trying to gain anything personally.

This shows that most of the respondents, who opted for a family member or a friend, think that a close person will have the family's best interest at heart whereas a financial institution would have financial interests at heart.

Meanwhile, those respondents, who prefer a Trusted Financial Institutions, provided the researcher with different opinions. Some respondents said that they prefer a Trusted Financial Institution because:

- ❖ It has more background, knowledge, experience and education;
- ❖ They feel more confident trusting assets with a Financial Institution;
- ❖ Financial Institutions know better what is happening in the Financial Sector so they feel more secure and safe;

- ❖ Prefer to leave assets in the hands of Financial Institutions since they are paid to do this job which makes them more professional;
- ❖ Are more aware of the responsibilities involved;
- ❖ No emotional relationships are involved which allows for decisions to be unbiased.

This shows that those respondents who opted for a Trusted Financial Institution feel safer in relying on Corporate Trustees. This is because the latter have experience in the field which enables the service to be provided up to standard.

Question 12

Figure 4.9: Is the population willing to get more information about the service?

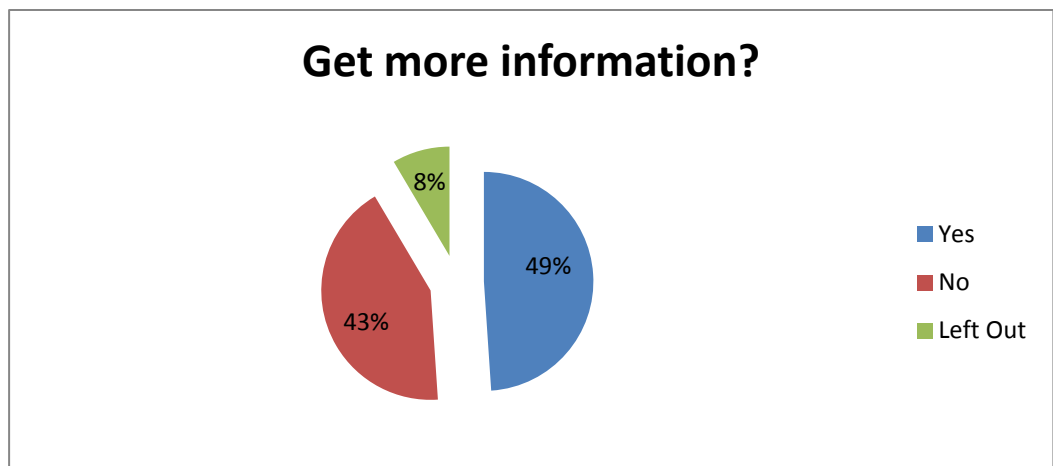


Figure 4.9 shows that the majority of respondents, i.e. 49%, are willing to get more information about the subject, whereas 43% are not willing to get more information.

Question 13

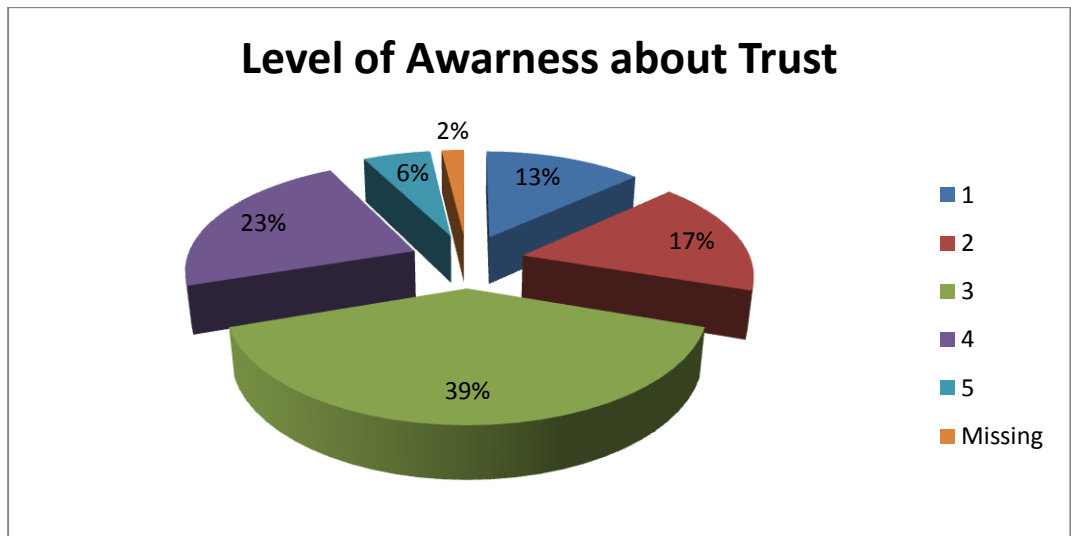
Table 4.3: The amount of respondents that are or are not going to contact the Bank/Firm of Lawyer

	<i>Contact Bank / Law Firm</i>	<i>Do Not Contact Bank / Law Firm</i>	<i>Left Out</i>	<i>Total</i>
Numbers	3	41	3	47
Percentages	6%	88%	6%	100%

As seen in Table 4.3, only 6% are willing to contact a Bank/Law Firms after finishing the questionnaire, whereas 88% are not willing to contact a Bank/Law Firm. This can be due to the fact that more information is needed for the population to start trusting and invest in the service.

4.3.1.4 Analysis of Section D – Aware of Trusts but do not use it
Question 14

Figure 4.10: Level of Awareness about the subject matter



Respondents were asked to rate service awareness where a scale of 1 represent a low level of awareness and a scale of 5 represent a high level of awareness. The respondents answered according to their knowledge and as seen in the figure above, the majority of respondents opted for a scale of 3, meaning that they have medium knowledge.

Question 15

Figure 4.11: How long have respondents been aware of the subject?

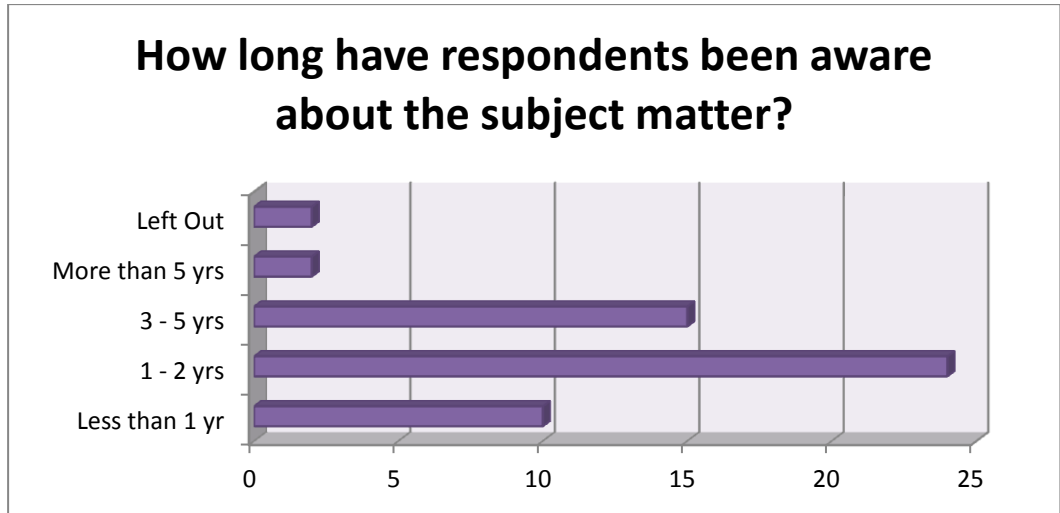


Figure 4.11 demonstrates that respondents have only recently become aware of this subject matter, mainly in the last one to two years. Only two respondents have been aware of the subject for more than five years so more advertising is needed.

Question 16

Figure 4.12: Is the reason for not using Trusts Service due to mistrust in Trustees?

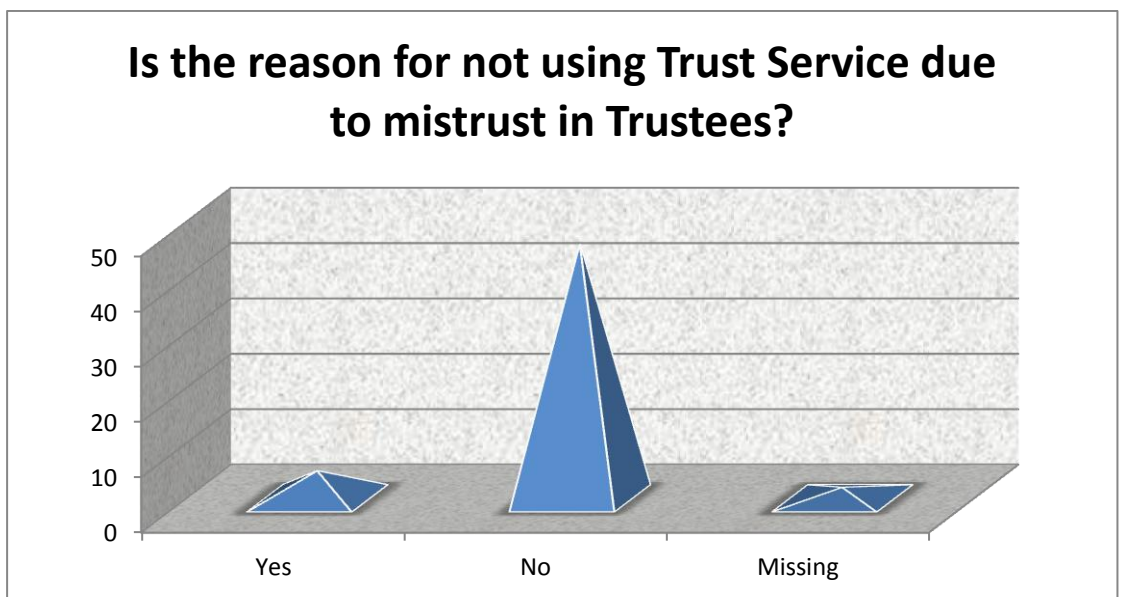


Figure 4.12 shows that the reasons for not using the Trusts Service are not due to the fact that the Maltese public does not trust the Trustees. This was reflected by 87% of the sample size. Therefore a complimentary question was needed to determine why people do not invest in Trusts Service.

Question 17: What are the reasons for not investing in Trust Service?

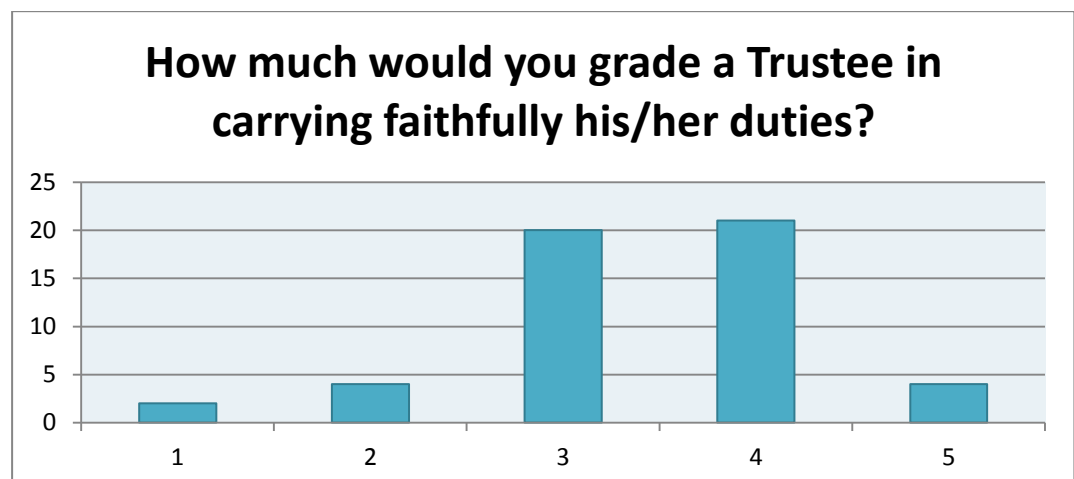
This was an open-ended question and the main reasons pointed out were that:

- ❖ Respondents aren't willing to lose ownership of their property;
- ❖ Respondents do not need this service for their current needs;
- ❖ Some respondents are still students and do not have enough money to invest in this service since it is expensive;
- ❖ Respondents prefer to make a will rather than setting up a Trust;
- ❖ Not enough information is given on this service and therefore Trusts Service seems to be risky;

Therefore from these answers one can clearly see that the main problems are two; these are lack of trust and feel that it is an unnecessary service.

Question 18

Figure 4.13: How much would you grade a Trustee in carrying faithfully his/her duties?

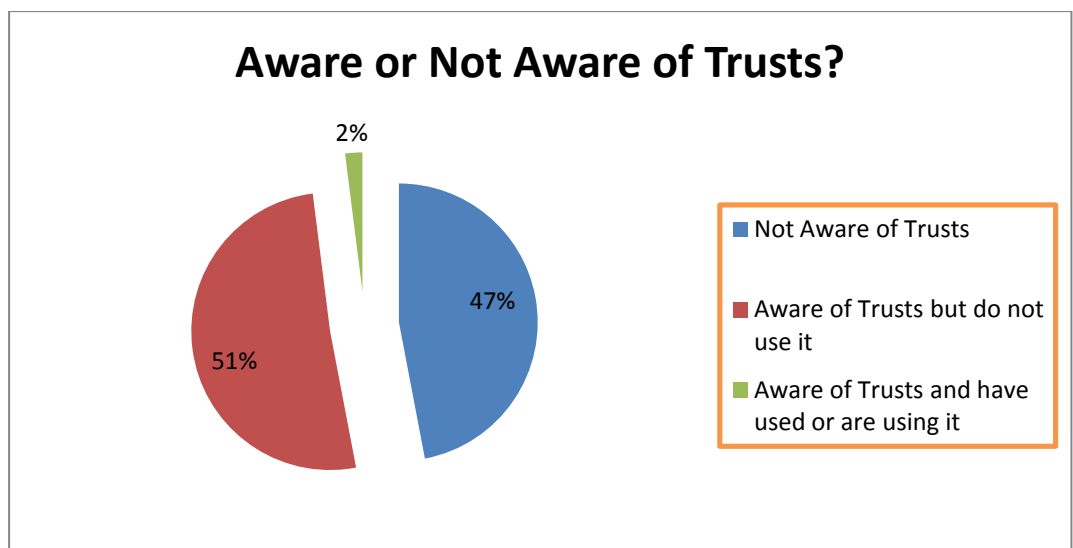


Even though the Maltese population is not willing to invest in Trusts Service, they still think that Trustees carry out their duties faithfully. The Maltese population opted for a scale of 3 and 4 with respect to how much Trustees carry out their duties faithfully which is quite a good scale.

4.3.1.5 Analysis of Section E – Aware of Trusts and Use of the Service

One drawback of this dissertation is that only two respondents are aware of Trusts Service and had or were using it. This will not help the researcher much in analysing respondents using the service.

Figure 4.14: Aware/Not Aware of Trusts?



Question 19: *What type of Trusts have you used or are you using?*

One of these two respondents used the Vilhena Trust Fund and the other used the services of an Attorney. This shows that from the sample size taken only 2 respondents have used this service.

Question 20: *What was your role within the Trust?*

Both respondents answered that they were the Beneficiaries. This means that someone had done a Trust for them to benefit from.

Question 21: *Who was your Trustee?*

In both cases, the Trustee was a Trusted Financial Institution. Probably, whoever did the Trust for them felt more confident having a Trusted Financial Institution with experience in handling the family's assets rather than having a family member or a friend handling the family's assets.

Question 22: *Were the respondents satisfied with the service offered by the Trustees?*

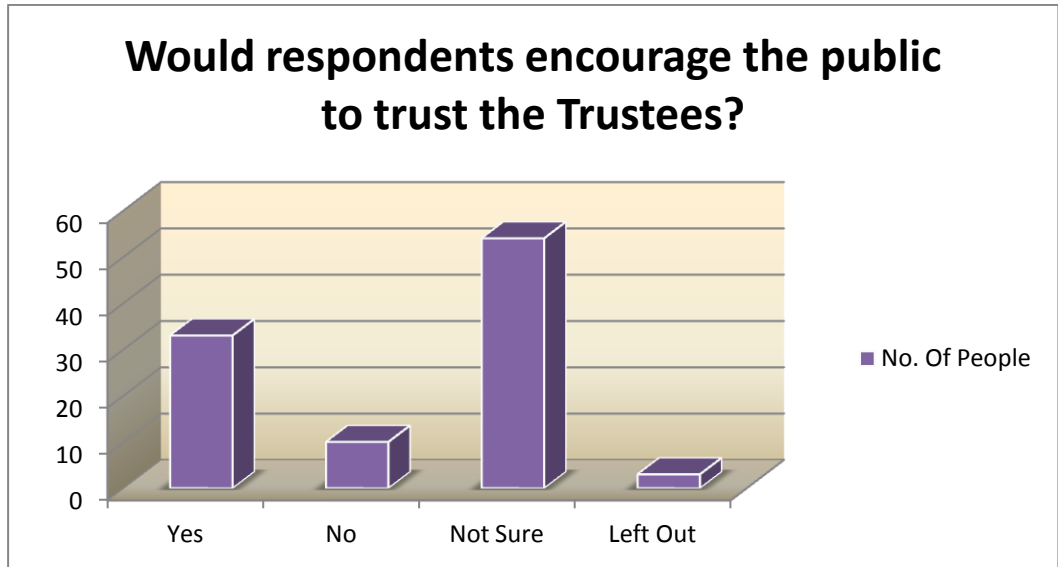
In both cases, the respondents rated the service at a scale of 4 meaning that they were quite satisfied with the service provided.

Question 23: *Did the Trustee carry out his/her role in utmost good faith keeping in mind the aim of his/her role?*

Both respondents answered in the affirmative to this question. This means that according to the respondents, the Trustees of the Financial Institutions carried out their jobs in utmost good faith.

4.3.1.6 Analysis of Section F – Other
Question 24

Figure 4.15: How much would you encourage other people to trust the Trustees?



The majority of respondents are not sure whether to encourage other people to trust the Trustees (54%) or not. However, 10% are not willing at all to encourage other people to trust the Trustees, while 33% are willing to encourage other people to trust the Trustees. 3% opted to left out the question. This may show that the Maltese population has a lack of confidence in Trustees because only 33% are willing to encourage other people.

Question 25

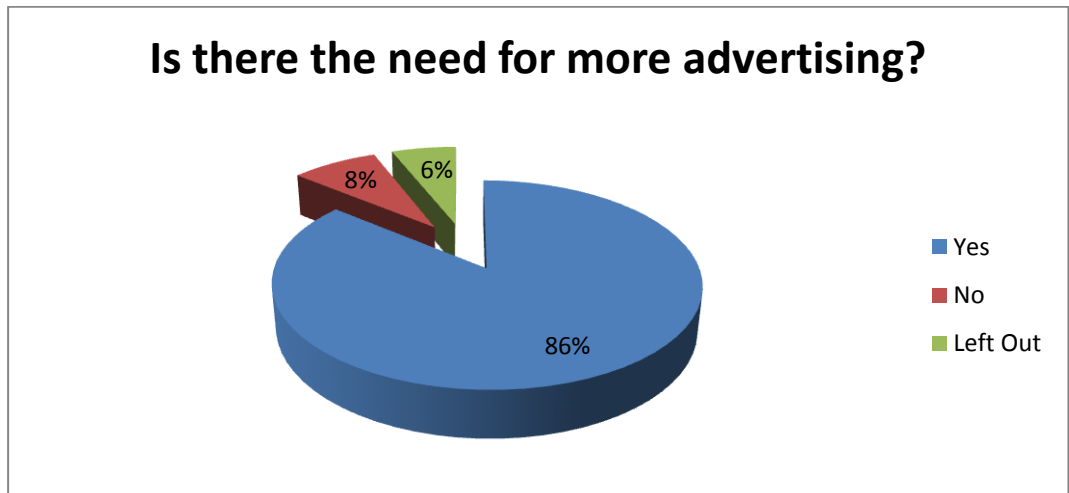
Figure 4.16: Are Trustees doing the utmost to promote peoples' confidence?



The majority of the respondents rated Trustees' efforts at a scale of 3 which reflects a medium scale. The remaining respondents opted for a scale of 1 or 2. This shows that according to the Maltese population, Trustees are not doing their utmost to promote peoples' confidence and due to this fact, the Maltese public may not be willing to trust this service.

Question 26

Figure 4.17: Is there the need for more advertising about this service?



As reflected in Figure 4.17, the population is eager to see more advertising about this service. Since 86% would like to see more advertising, it shows that the majority would like to learn more about the subject. Only 8% replied that there is no need for more advertising. It could be either because they have enough knowledge about the subject or it could be because they are not interested.

Question 27: *Any other comments regarding Trustees?*

This was an open-ended question and the main points were that:

- ❖ Trustees should encourage people to trust them more by offering a true and fair view of the service. This is because when something goes wrong, all the industry is affected and people tend to be afraid of trusting;
- ❖ More information explaining the benefits of using Trusts Service is needed;
- ❖ The difference between a Testamentary and a Trusts Service should be outlined;
- ❖ Advertising should not focus on to the service alone, but it should be targeted to people in order to become aware of the service;
- ❖ Maltese Trustees enjoy good credibility which encourages and enables Trustees to inspire peoples' confidence;
- ❖ Those who are currently undergoing the procedure said that they aren't in a position to tell whether all this will turn out well in the end or not. These are lengthy procedures. However Trustees should act in utmost good faith or otherwise no one will invest. Therefore, success depends on the role provided by the Trustees.

4.4 Chapter Conclusion

This chapter shows that the interviewees who participated in the field study gave considerable years of experience from the banking industry. The most important point is that the legal framework is clear; however certain amendments should be done since Trusts Concept is relatively new. In addition, both Bank Officials and Law Firms outlined that by acting in utmost good faith, keeping all information confidential and by promoting the service as a vehicle, this would increase public confidence. However, some interviewees argue that it's not a problem of mistrust but of giving property to Trustees. Another important point outlined, is that Trusts should, and is not used for tax avoidance but for protecting family wealth.

Meanwhile, questionnaires' outcome outlined a contradictory view because from the responses collected, there is a clear evidence of mistrust from the Maltese population. Some of the respondents see this service as unnecessary in their life and they are not interested in it, whereas others are afraid to trust and prefer to do a will. Although, most of the population is willing to learn more about the subject, only a few are willing to contact Bank Officials and Law Firms. However, the same sample showed that if the population had to choose a Trustee, most of them would prefer a Trusted Financial Institution and this can be due to the latter's experience in the field which might consequently lead to increase confidence amongst the Maltese population.

Chapter 5 : Discussion of Results, Conclusions and Recommendations

5.1 Chapter Introduction

In this chapter, final conclusive statements on the outcomes of this dissertation will be discussed. First of all, the dissertation's objectives will be restated in relation to the conclusions materialised from the interviews and questionnaires. Secondly, the study limitations and areas of further research will be discussed. Finally, recommendations will be presented to conclude the dissertation.

5.2 Discussion of Results

The scope of this dissertation was to analyse how Trustees in the Maltese Islands try to promote people's confidence through their powers. From the interviews, all Trustees explained that by providing a true and fair view of this service, confidence should increase amongst the Maltese public. Confidence is built on the service. However, Trustees should act in good faith and all information should be confidential. This allows individuals to trust Trustees. When this occurs, there will be automatically an increase in confidence in Trustees since Trustees are the ones who manage the service. Moreover, all participants agreed that reputation risk is an essential player in this field because by providing a loyal service to customers, confidence will be held stable.

Moreover, the interviews showed that there might be a problem of mistrust among the public because the Maltese want to have control of their property and aren't willing to lose ownership by giving it to Trustees to administer. This problem can be overcome by explaining in depth the role of the Trustees and the benefits one can achieve from setting a Trust. However, all the participating firms and banks admitted that more awareness is needed because even though the subject is gaining popularity, most of the population is still unaware of it and thus, unwilling to invest. Although interviewees outlined that the legal framework on Trusts is mostly clear, there are still some ambiguities. In fact, certain amendments are taking place and these will allow for a better understanding of the service which can inspire more people to invest and as a result, increase confidence.

From the questionnaires collected, the sample size has a certain degree of education. Despite this, half of the population is unaware of Trusts. This should lead regulators to promote this service more. When the population sample is asked to choose between a family member/friend and a Trusted Financial Institution, the majority opted for a Trusted Financial Institution. This may reflect that even though the majority of the sample size isn't interested, they feel safer relying on a Trusted Financial Institutions which may lead to a certain level of stability and thereby increase confidence in the administrators. Questionnaire responses outlined that more advertising is needed so that the public becomes aware and not be reluctant to invest due to the close mentality of the Maltese people.

5.3 Limitations and Areas of Further Research

Similar to other studies, this dissertation has its limitations. Firstly, interviewing the two main local banks doesn't necessarily reflect the banking population. The opinion given by banks' employees was general. Therefore, the author recommends that if possible, other banks opinions are viewed besides those of the two major leading banks.

Secondly, contacting 20 Law Firms and only 3 were willing to settle an interview was a major drawback for the author because these three Law Firms might not necessary show the Law Firms' opinion in general terms. The author thus encourages more interviews to be carried out with Law Firms to gain a wider view.

Thirdly, having a sample size of 100 helped to a certain degree. A major drawback for the author was that only two respondents were or had used Trusts which is quite a low number, despite the fact that, the majority of the sample size was an adult generation and forms part of the labour force. The author suggests that the sample size should be increased for example up to 200 to try and find more people who are using this service.

The last limitation is that the confidence limit of the sample size used for the survey amongst Maltese public could be prone to a certain degree of inaccuracy. Therefore, a sample with a confidence level of 98% could be used to reduce sample error.

5.4 Recommendations

An interesting study would be one where Maltese Trustees are compared to foreign Trustees in inspiring people confidence. Another interesting study would be one where both local and foreign frameworks are compared, in order to see how this affects Trustees.

Secondly, dominant Banks and Law Firms are both trained and keep updated with the legal framework. A general view would be one where Trusts legislation can be amended to include any missing information like the type of powers the Settlers have. This betters the service provided by Trustees. Therefore, MFSA should amend regulation by time to time.

Finally, the author would like to recommend Commercial Banks and Law Firms to hold promotional campaigns to the Maltese public so as to try to instil confidence in Trusts. By giving some incentives, like special interest rates on property and discounts when setting a Trust, the population will be attracted and confidence will increase.

5.5 Chapter Conclusion

Malta Trusts industry can offer Trusts Service by abiding with the laborious TTA and all the laws. To attract and persuade the Maltese public on the benefits of Trusts, it is of vital importance to increase awareness on the subject by giving seminars or presentations. By providing a true and fair view of accounts, focusing on fiduciary obligations, market the product properly and highlight the main benefits, the Trustees could be able to increase confidence in the population. Confidence is built on the service, but in order to build confidence on the service, Trustees should offer the service in utmost good faith.

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Appendices

Appendix 1: Questionnaire

Dear Sir/Madam,

My name is Svetlana Maria Agius and I am currently reading for an Honours Degree in Banking and Finance, at the University of Malta. In order to accomplish my degree, I am writing a dissertation entitled: Trusts – A relatively new concept in the Maltese Islands: How can Trustees promote people's confidence in Trusts? As part of this study, I need to test the awareness of the Maltese public on how much Trustees are trusted. I would be very grateful if you answer the following questions. Your questionnaire response will remain strictly confidential and would only be used for the purpose of the study.

I thank you in advance for your collaboration.

Svetlana Maria Agius

Section A: Demographic Information

1. Gender

- Male
- Female

2. Age

- 18 - 25
- 26 - 35
- 36 - 50
- 51 - 65
- Over 65

3. Occupation

- Employed
- Self-Employed
- Unemployed
- Student
- Retired
- Inactive (e.g. housewife, etc)

4. If employed / self-employed, please specify your occupation:

5. District

6. Education

- Primary
- Secondary
- Upper Secondary (such as Junior Collage/MCAST Higher National Diploma)
- Tertiary

Section B: Trusts offered by Commercial Banks and Firms of Lawyers

7. Are you aware that Commercial Banks and Firms of Lawyers can act as a Trustee to offer Trusts Services?

- Yes
- No

Please choose the appropriate Section

If your answer is **No**, then please answer Section C and F.

If your answer is **Yes**, and you have **Never Used** Trusts offered by Trustees, then please answer Section D and F.

If your answer is **Yes**, and you are **Using or Used** Trusts offered by Trustees, then please answer Section E and F.

Section C: Not aware of Trusts and Trustees

8. A Trust is a private legal agreement in which an individual (the Trustor) gives fiduciary control of property to a person or institution (the Trustee) for the benefit of beneficiaries.

Does this interest you?

Yes

No

9. How much would you trust a Trustee with you personal money or property?

	1	2	3	4	5	
Not Trusted,	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Highly Trusted

10. A Trustee can be a family member, a friend or a Trusted Financial Institution such as Commercial Banks or Firms of Lawyers. Which one do you prefer?

A family member or a friend

A Trusted Financial Institution

11. With respect to the answer in question 10, what are the reasons of choosing a family member or friend vs. Trusted Financial Institution?

12. Are you willing to get more information on such a service which is being provided in the Maltese Islands by Trustees?

Yes

No

13. After filling out this questionnaire, will you contact your Bank or a Firm of Lawyer to invest in a Trust managed by a Trustee?

Contact Bank or a Firm of Lawyer

Do not contact a Bank or a Firm of Lawyer

Section D: Aware of Trust but do not use it

14. What is your level of awareness about this subject?

	1	2	3	4	5	
Very Low	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Very High

15. How long have you been aware of this service which is offered in the Maltese Islands?

- Less than 1 year
- 1 - 2 years
- 3 - 5 years
- More than 5 years

16. Is the reason for not using the Trust due to the fact that you do not trust the Trustees?

- Yes
- No

17. With respect to the answer in question 16, what are your reasons?

18. How much are you willing to trust a Trustee in carrying out his/her duties?

	1	2	3	4	5	
Not Trusted	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	High Trusted

Section E: Aware of Trusts and use this service

19. What type of Trusts have you used?

20. What was your role within the Trust?

- Settlor
- Trustee
- Beneficiary
- Protector

21. Who was your Trustee?

- A family member or a friend
- A Trusted Financial Institution

22. Where you satisfied with the service being provided to you by the Trustee?

	1	2	3	4	5	
Not Satisfied	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Very Satisfied

23. Did the Trustee carry out his/her role in utmost good faith by always keeping in mind the aim of his/her role?

- Yes
- No

Section F: Other

24. Would you encourage people to trust the Trustees?

- Yes
- No
- Not Sure

25. Do you think that Trustees are doing the maximum they can in order to promote people's confidence?

	1	2	3	4	5	
Not Enough	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	Enough

26. Do you think that there is the need of more advertisement about the subject matter so that people invest in Trusts and start trusting the Trustees?

- Yes
- No

27. Any other comments regarding Trustees?

Appendix 2: Interview Questions

1. Trusts are relatively new in Malta. Can you please provide a brief overview of the organization, a brief history, its main activities, its structure, its clients and the services that it offers?
2. What is your role within the organization, your responsibilities and for how long have you been in this position?
3. As you may be aware, Trusts service is nowadays offered by both Commercial Banks and Firms of Lawyers. Do you offer this service to your clients? What are the reasons for offering this service?
4. As investigated in the introduction of the dissertation, the concept of Trusts was originally established some time during the 12th and 13th century. However the Trust concept emerged only recently in Malta around 1988. Why do you think that this concept emerged only recently?
5. Can you please specify the role of the Trustees within your company according to your experience in offering Trusts service?
6. What is your opinion on the clarity and understanding of the Maltese legal framework towards Trusts and the key participants? Have you encountered any particular issues with the legal framework on this matter especially when relating to Trustees?
7. How can Trustees promote people's confidence so as to encourage the Maltese public to resort to Trusts? (Through experience, objectivity, continuity and prudence?)

8. When speaking about Trusts and Trustees, do you think that among Maltese people there is a problem of mistrust? How can such a problem be overcome?

9. In your opinion, why is the Trust service so unpopular / popular with the Maltese public? Can you please justify your answer?

10. Do you think that more marketing of the concept/service is needed so that the Maltese public becomes more aware of this subject?

11. What else can the Government, Regulator, the Commercial Banks or Firms of Lawyers as a service provider do to increase the awareness of the Maltese public and therefore promote people's confidence?

Appendix 3: Covering Letter to Interviewees

Dear Sir/Madam,

My name is Svetlana Maria Agius and I am currently reading for an Honours Degree in Banking and Finance, at the University of Malta. The study of the Dissertation is carried out in order to help the author to expand the knowledge in the area of Trustees offered by Commercial Banks and Firms of Lawyers in the Maltese Islands. After a profound consideration, the following title was selected:

Trusts – A relatively new concept in the Maltese Islands: How can Trustees promote people’s confidence in Trusts?

The author honestly believes that your contribution with respect to this dissertation is of valuable importance. In fact, the author will be grateful to have your opinion on some questions related to the topic above. Your feedback will be added within the dissertation text which will enable the author to enrich the findings investigation especially when comparing the literature review with respect to the subject matter.

For these reasons, I, Svetlana Maria Agius would appreciate that an interview is carried out during this week. Your co-operation will be really appreciated. I thank you in advance.

Yours Sincerely,

Svetlana Maria Agius

Appendix 4: Consent Form

Title of the project:

Trusts – A relatively new concept in the Maltese Islands: How can Trustees promote people’s confidence in Trusts?

Name and Status of the Researcher:

Svetlana Maria Agius

Bachelor of Commerce Honours – Banking and Finance Student, University of Malta

Thank you for agreeing to participate in the study of this Dissertation. This form details the purpose of this study, a description of the involvement required and your rights as a participant.

The purpose of this study is:

- To gain insight on how Trustees try to promote people’s confidence which will lead people to invest in Trusts

The benefits of the researcher:

- To better understand the role of Trustees and how this service is offered in utmost good faith

The methods that will be used to meet this purpose include:

- Face-to-face interviews
- One-on-one interview

The rights of the participant:

I confirm that I have read and understood the purpose of this interview for the above mentioned study. The outcome of this study will only be used for research purposes. I agree that the participation in this study is voluntary so I am free to withdraw at any time without giving any reasons. I have the opportunity to consider information and ask related questions. Finally I agree to take part in the above research study.

Name of Participant: _____ Signature: _____

Svetlana Maria Agius (Researcher) Signature: _____ Date: _____

Appendix 5: Further Analysis of Interviews

5.1 General Background of the Two Major Local Banks

One of the dominant banks which were interviewed explained that they are a Trustee Investment Unit which means a unit within the bank which offers Trusts Service. They have a Trust Account which is a deposit account. For maximum confidentiality, the Account is opened in the bank's name to act as a Trustee. The bank will be responsible to hold funds for the benefit of the beneficiaries. When the account is opened, the depositor is no longer the legal owner. The legal owner will be the bank as a Trustee. The aim for providing the service was business related where the bank saw a new opportunity arising in Malta. In this case, the interviews were held by the Senior Manager and the Risk & Compliance Officer Trustee Service Unit.

The first major bank interviewed said that they offer two types of Trusts. The first one is the Normal Trusts where there is no loan for estate planning or succession. Besides this, they offer Security Trusts which was introduced in the last two years. Here people take loans. The bank secures the property which is held under Trusts. The benefit of the Security Trust is that when a property is held by Trusts there will be no tax charged. When the Settlor enters the property into a Security Trust no tax will be charged. However, it is important to inform clients about the tax implementations. The bank acts as a primary beneficiary. Once the loan is settled and the property has to go to another beneficiary for example from the mother to the child, then tax at that point has to be paid.

Trustees have to hold property according to the Trust Deed, being either secured or non-secured. The property is segregated under Trusts meaning that the Trustee should keep property separate from other Trustees' assets, as well as from the bank's assets. It is important that Trustees should keep confidentiality. In fact, by being responsible, one can be the best advertisement to the public.

If a Trustee dies, the Trust will be continued by another Trustee in the same bank. The Trust Deed allows that Settlers live in the same property. However, it is important to know exactly what the Trust Deed includes because the Trust Deed is the document which creates the legal documentation and every Trust Deed is different because it can be tailor made to one's needs.

Accounts are published to the Settlor or the Protector on Trusts property. These accounts help people to know what Trustees are doing with their property. Accounts are important because they reflect transparency. Trustees are able to deliberate. For example if a person would like to withdraw €10,000 Trustees have to see if it is in the best interest of the Settlor and if it is in conformity with the Trust Deed. The last thing is that Trusts is not free. To open up a Trust you need to have an amount of value of assets.

On the other hand, the other leading bank interviewed explained that they act as a global player. They have been providing Trusts Service for over 102 years globally and were the first financial institution to get hold of the license by MFSA. Today they have grown and their clients vary from companies to high net worth individuals. In order to settle a Trust with this bank, a minimum of €500,000 is required. The department includes 10 people and their responsibility is towards the beneficiaries. The aim for providing this service to clients was to offer a tailor made solution for individuals and businesses, in particular for estate planning and continuity of business. Here, the interview was held by the Head of Trusts Service.

Trusts are created when assets are transferred to a Trustee. When assets are transferred, the Trustees become the legal owners. Trustees are responsible for managing the assets and distributing them to the beneficiaries of Trusts according to the terms settled in the Trust Deeds and letters of wishes. Professional Trustees like this bank are regulated by the MFSA, which is the supervisory and licensing authority.

This bank offers a Testamentary Trusts. It is a Trust which takes place upon the death of the testator which is the person who has written the testament. This is created through a will. The bank cannot refuse to act as a Trustee. If the Trustee does not agree with the requirements and obligations, the Trustee can resort to court for a decision. They also provide commercial transactions where the bank acts as a Trustee for bond issues.

Moreover, two other services are offered. The first one is Discretionary Trusts where the beneficiaries named on the Trust Deed have the immediate and absolute entitlement to the assets and income of the Trust, and the second one is Fixed Trusts where the beneficiaries are not determined at the time when the Trust is formed and therefore do not have an immediate and absolute entitlement to receive capital or interest. The beneficial interest of the Trust will be vested collectively in a class of people, such as for example all the members of the family. This bank will not settle a Trust if the Settlor did not understand the Trust, if the bank itself is not satisfied or sure with the Trust and if there is no need for Trusts as in the case when Trusts is done for other purposes like for example to avoid tax. Trusts can be done in three ways. It can be done expressly by signing the documents; it can be done by rule of law and orally by word of mouth.

The assets held by Maltese Trusts include:

- ❖ Bank deposits;
- ❖ Investment portfolios;
- ❖ Real and intellectual property;
- ❖ Life assurance policies issued on the life of the Settlor;
- ❖ Shares and stocks in both quoted and unquoted companies;
- ❖ Works of Art, antiques and other valuables;
- ❖ Other types of assets.

The advantages of using Trusts:

- ❖ Wealth protection;
- ❖ A powerful asset management tool;
- ❖ Tailored to specific family requirements;
- ❖ Free from succession proceedings and related issues;
- ❖ Any important toll in capital gains and estate tax planning;
- ❖ Easily adapted to cater for changes in individual circumstances;
- ❖ Private relationships (e.g. Maltese Trusts Deeds are not publicly registered);
- ❖ Used by corporations for employee benefit plans, retirement and stock option schemes, insurance plans and special financing arrangements.

A Trust is the solution for individuals who:

- ❖ Want to preserve their wealth against uncertainty, economic or family demands;
- ❖ Want to transfer wealth to their heirs in accordance with their wishes and not in accordance with the laws of succession;
- ❖ For those to provide for someone with special needs or wish to control the spending of someone who is financially undisciplined;
- ❖ To prevent potential tensions between heirs (indivisible estate or property);
- ❖ To protect heirs who may be vulnerable due to lack of knowledge, experience or age;
- ❖ To pass property to a person undergoing personal separation;
- ❖ To avoid succession proceedings;
- ❖ To create a Charity;
- ❖ To consolidate the ownership of assets owned throughout the world in one location;
- ❖ To built a portfolio of assets (movable and immovable) in a discreet but tax compliant manner;
- ❖ To centralize reporting;
- ❖ To minimize or eliminate estate taxes arising on the death of the Settlor.

5.2 General Background of the Leading Law Firms

A particular firm of law has been active for 25 years in this sector. The company has been registered as a Maltese Trust when the first legislation came out with a license of Trustee. Its clients are distributed in Europe, Russia and Malta. The company acts as a Trustee but it does not specialize in investment Trustees. The company outsource, i.e. if the clients want to invest in Trusts; they go to someone else for advice. The interviewee was one of the directors. He has been a Trustee since 1990. As Trustees, the company handles the control of the Trust property. While following the Trust Deed, and where necessary the letter of wishes, the company administers Trusts property for the benefit of the beneficiaries.

Another law firm interviewed has around 35 years of experience in the legal profession with the aim of providing services based on commitment, loyalty and respect towards clients. Services offered vary from corporate and tax advisory to firm industry and real estate. The interview was carried out also with one of the directors appointed by the Compliance Officer since the creation of the company. The aim for offering the service to the clients is to provide a wider area of service. The interviewee's responsibility is to act as a Trustee and carry out due diligence which should be an on-going process.

The last firm of law interviewed is one of the largest law firms in Malta. It provides corporate services, fiduciary services and shipping, and clients tend to be both local and foreigners. This law firm also works with international firms. The interviewee is an Associate and his or her role is to deal with Trusts, Corporate and General Commercial and Financial Services. The service is being provided to offer a comprehensive package of services to their clients. The Trustee deals with Trusts property which varies from equity to immovable property to bank accounts. All companies are licensed by MFSA to act as a Trustee or provide Fiduciary Services according to the TTA.

Appendix 6: Further Analysis of Questionnaires

Aware or Not Aware that Commercial Banks and Firms of Lawyers can act as a Trustee to offer Trusts Service by Age Group

Tables 1: Percentage of respondents who are Aware or Unaware of Trusts by Age Group

	Aware of Trusts	Not Aware of Trusts	Total	Aware of Trusts	Not Aware of Trusts	Total
Age Group	Yes	No		%Yes	%No	
18 - 25 years	36	8	44	36%	8%	44%
26 – 35 years	15	25	40	15%	25%	40%
36 – 50 years	2	8	10	2%	8%	10%
51 – 65 years	0	4	4	0%	4%	4%
Over 65	0	2	2	0%	2%	2%
Total	53	47	100	53%	47%	100%

(Refer to Question 2 and 7 of Appendix 1)

Tables 2: Percentage of respondents who are Aware or Unaware of Trusts by Gender and Age Group

	Gender	18 - 25 years	26 – 35 years	36 – 50 years	51 – 65 years	Over 65	Total
Aware of Trusts	Male	10	4	1	0	0	15
	Female	26	11	1	0	0	38
Not Aware of Trusts	Male	5	4	5	3	0	17
	Female	3	21	3	1	2	30
Total	Male	15	8	6	3	0	32
	Female	29	32	4	1	2	68

(Refer to Question 1, 2 and 7 of Appendix 1)

Tables 3: Percentages of respondents by occupation

	Aware of Trusts	Not Aware of Trusts	Total
Occupation	%Yes	%No	
Employed	24	31	55
Self-Employed	0	0	0
Unemployed	1	0	1
Student	28	14	42
Retired	0	1	1
Inactive	0	1	1
Total	53	47	100

(Refer to Question 3 and 7 of Appendix 1)

Tables 4: Percentage of respondents who are Aware or Unaware of Trusts by Electoral District

	Aware of Trusts	Not Aware of Trusts	Left Out	Total
District	%Yes	%No		
1	3	1		4
2	7	4		11
3	4	6		10
4	5	6		11
5	5	4		9
6	2	4		6
7	1	2		3
8	6	5		11
9	2	2		4
10	3	2		5
11	4	3		7
12	5	3		8
13	3	1		4
Left Out			7	7
Total	50	43	7	100

(Refer to Question 5 and 7 of Appendix 1)

Tables 5: Percentage of respondents who are Aware or Unaware of Trusts by Level of Education

	Aware of Trusts	Not Aware of Trusts	Left Out	Total
	%Yes	%No		
Primary	0	0		0
Secondary	1	7		8
Upper Secondary	9	5		14
Tertiary	43	32		75
Left Out			3	3
Total	53	44	3	100

(Refer to Question 6 and 7 in Appendix 1)

Appendix 7: Electoral Districts

District 1

- ❖ Valletta
- ❖ Floriana
- ❖ Hamrun
- ❖ Part of Marsa
- ❖ Pieta
- ❖ Gwardamanga
- ❖ Part of Santa Venera

District 2:

- ❖ Birgu
- ❖ Isla
- ❖ Bormla
- ❖ Zabbar
- ❖ Kalkara
- ❖ Xghajra

District 3

- ❖ Zejtun
- ❖ Part of Fgura
- ❖ Marsascalea

District 4

- ❖ Part of Fgura
- ❖ Gudja
- ❖ Ghaxaq
- ❖ Marsa
- ❖ Paola
- ❖ Santa Lucija

- ❖ Tarxien

District 5

- ❖ Birzebbuga
- ❖ Kirkop
- ❖ Marsaxlokk
- ❖ Mqabba
- ❖ Qrendi
- ❖ Safi
- ❖ Zurrieq

District 6

- ❖ Qormi
- ❖ Siggiewi
- ❖ Luqa
- ❖ Hal Farrug

District 7

- ❖ Mdina
- ❖ Zebbug
- ❖ Dingli
- ❖ Mgarr
- ❖ Mtarfa
- ❖ Rabat
- ❖ Bahrija

District 8

- ❖ Birkirkara
- ❖ Lija
- ❖ Iklin
- ❖ Part of Naxxar

- ❖ Santa Venera

District 9

- ❖ Gharghur
- ❖ Msida
- ❖ San Gwann
- ❖ Swieqi
- ❖ Madliena
- ❖ Ta' Xbieb

District 10

- ❖ Gzira
- ❖ Pembroke
- ❖ St. Julians
- ❖ Paceville
- ❖ Sliema

District 11

- ❖ Attard
- ❖ Balzan
- ❖ Mosta

District 12

- ❖ Mellieha
- ❖ Part of Naxxar
- ❖ Bahar ic-Caghaq
- ❖ San Pawl il-Bahar
- ❖ Burmarrad

District 13

- ❖ Gozo