

Jersey Private Trust Companies

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Introduction

A client wishing to create a trust has to come to terms with the requirement to transfer legal ownership of assets to the trustee. In the context of offshore wealth planning, the trustee may be a service provider's professional trust company, likely to be operating in a foreign jurisdiction. If the client is concerned about taking this step, one solution may be the use of a private trust company (PTC). This is a corporate trustee established for the purpose of acting as trustee of a specific trust or trusts. It is often used as an integral part of the private wealth structuring for those seeking to establish a substantial and long lasting structure for their family or family office. The board of directors can include family members, trusted advisors of the family and local professionals.

Regulatory Requirements

Jersey has strict regulatory requirements for the conduct of trust company business (including acting as trustee of a trust), but provided certain requirements are met, a PTC is able to operate in Jersey exempt from the normal requirement to be registered to provide trust company business services with the Jersey Financial Services Commission (JFSC).

The requirements for the PTC exemption to apply are:

- the purpose of the PTC must be solely to provide trust company business services in respect of a specific trust or trusts (for example, trusts for the benefit of the members of one family);
- the PTC must not solicit from, or provide trust company business services to, the public;
- the administration of the PTC must be carried out by a person who is regulated by the JFSC to carry out trust company business; and
- the name of the PTC must be notified to the JFSC (this is normally done in the process of incorporation of the PTC).

Where the PTC exemption applies, the PTC is not required to apply its own anti-money laundering (AML)/combating financing of terrorism (CFT) procedures, appoint a money laundering reporting officer or money laundering compliance officer, or to register with the JFSC for AML/CFT purposes. Reliance is instead placed on the regulated trust company business which provides administration services to the PTC to apply its AML/CFT procedures.

Administration

The board of directors of the PTC may be constituted by family members (or their trusted advisors) alone. This may be attractive to clients who wish to remain closely involved in their interests, perhaps where a family business is held in the trust. However the presence of an experienced trust practitioner on the board can be an advantage complementing the knowledge of the family directors. In addition, some regulated trust company businesses will require, as a condition of agreeing to administer the PTC, that they have a representative appointed to the board.

Generally the JFSC will rely upon the Jersey registered service provider to ensure the PTC continues to fall outside the remits of requiring registration with the JFSC.

Ownership

The simplest structure is for the client or members of the client's family to own the shares in the PTC and to hold them in their own names. This may, however, not be attractive to clients for a number of reasons, including taxation, confidentiality or asset protection. It also requires thought to be given as to the devolution of the shares in the PTC on the death of the owner and difficulties may also arise on incapacity.

A common alternative is for the shares of the PTC to be held on the terms of a non-charitable purpose trust, the sole purpose of which is to hold those shares and to provide a trustee to the relevant trusts. Alternatively a Jersey foundation could be used.

An advantage of using a non-charitable purpose trust or foundation as shareholder is that the client has the comfort of knowing that the ownership of the PTC can be perpetual. This is particularly attractive to a client with dynastic ambitions for family wealth.

Another option now being used more frequently is for the PTC to be structured as a Jersey foundation, which does not need to have any members, so there is no need for there to be a separate non-charitable purpose trust or foundation to hold the shares or other membership interests in the PTC.

We can advise on the suitability of a PTC and its ownership structure and incorporate the company on behalf of clients.

Summary

Type of company	Private
Licensing requirements	None (but see above)
Approval from JFSC	No
Annual filings	Yes (annual confirmation statement and fee for the PTC)
External audit	No (unless constitutional documents require)
Jersey taxation	Zero per cent income tax
Number of directors	Minimum of one
Number of shareholders	Minimum of one
Jersey resident directors required	No
Jersey administration required	Yes (by a regulated trust company business)
Jersey registered office	Yes

Contacts

A full list of contacts in our International Trusts & Private Client team who specialise in this area can be found [here](#)

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