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GUIDANCE NOTE

PRIVATE TRUST COMPANY

Introduction

This Guidance Note is a summary of the purpose and uses of a Private Trust Company ("PTC").

The guide will not be able to answer all of the detailed questions that clients may have and it is not intended to be comprehensive advice. We recommend you read our Guidance Note on the use of trusts if you are unfamiliar with how a PTC structure operates. We will gladly introduce you to appropriate legal counsel should this type of structuring be of interest.

What is a PTC

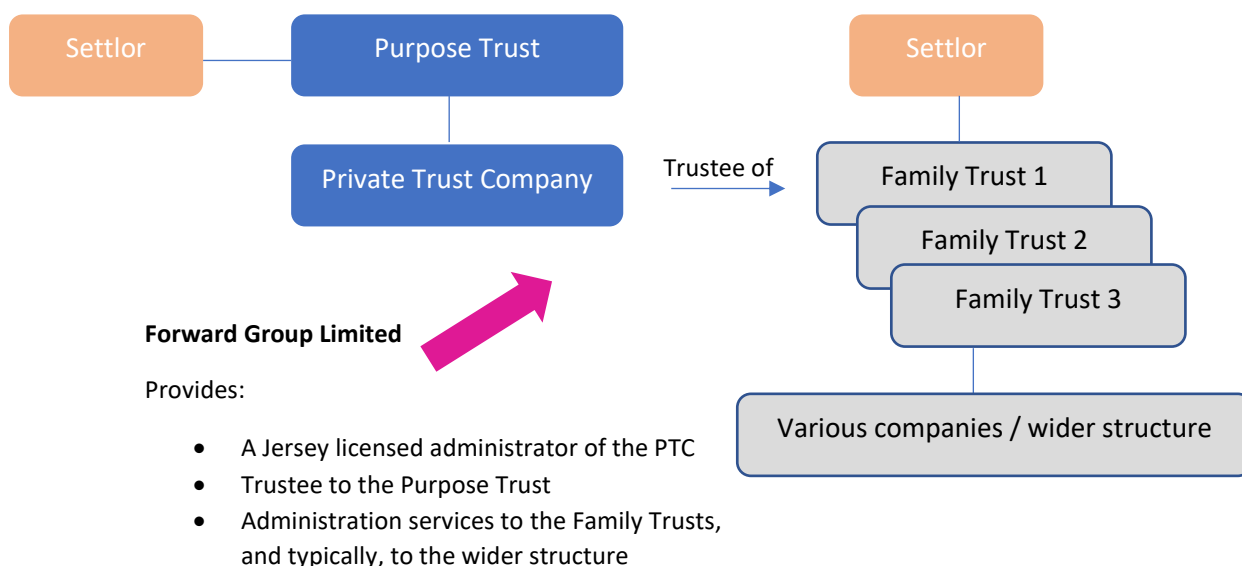
A Private Trust Company is, as the name suggests, a company incorporated specifically to act as trustee of one or more private family trusts. It will not solicit trusteeships from the public at large. Like any other company, a PTC is run by the board of directors who, in the case of a PTC, make the decisions for the company in its capacity as trustee of the trusts to which it is appointed.

Although run by the board of directors, PTCs (and the underlying trusts for which they act as trustee) are usually administered by a professional trustee who is experienced in carrying out trust and corporate administration such as Forward Group Limited.

The role of a corporate trustee is a regulated activity in Jersey and so it is not something that can be carried out by just any company. As a result, a PTC requires an administrator in Jersey that is a regulated Trust Company Business (such as Forward Group).

Typical PTC arrangement

This is a typical PTC structure (although there is a great deal of flexibility and bespoke structures are often used to accommodate the needs of a specific family).



For a variety of reasons, a purpose trust can be used to ensure separation of ownership, of the trustee, from the settlor or their family. Occasionally a foundation is used for this purpose instead, depending on the specific family situations and requirements.

A purpose trust is a special type of trust that exists for a specific purpose, in this case solely to hold shares in the PTC.

Benefits of a PTC

Control

This is the main attraction of a PTC as it provides a means by which the client, or their family, can retain a greater degree of control over trust affairs without compromising the validity of the trusts.

The client can comprise the board of directors with themselves, family members and any trusted advisers who have a heightened knowledge of the family's business and financial affairs and are empathetic to the needs of the beneficiaries.

Care does need to be given to the composition of the board of the PTC however, and also who is to have power to appoint and remove its directors. It is usually important that management and control of the PTC remains in Jersey as the tax residency of the trusts usually follows the residency of the trustee (in this case the PTC).

Avoiding future changes in trusteeship

Having a PTC as trustee of family trusts will avoid the need for future costly changes of trusteeship. Instead, only the management agreement between the PTC and the licensed administrator would need to be terminated and a new agreement entered into between the PTC and the new licensed administrator. The retiring PTC directors would cease to be on the board and the directors of the new administrator would be appointed in their stead accordingly.

This can save significant costs if the administration is moved as there are no legal agreements relating to the retirement or appointment of a new trustee, as the trustee (the PTC) does not change.

Confidentiality

Details of the structure remain confidential when a PTC is used and can therefore provide for greater privacy.

Trustee liability

Professional trustees are always aware of their liability and the risk of being sued, not only by beneficiaries but also third parties. As a result, professional trustees are reluctant to take ownership of assets or participate in ventures where substantial risks may be present.

PTCs (due to the composition of the board) can allow for riskier investments to be included in the structure which can be useful to some families. This is particularly so where the majority of their wealth is held in a concentrated manner, or limited range of investments such as a family business or family members holding unquoted or pre-IPO investments.

Philanthropy

PTCs can make discreet philanthropic distributions whilst ensuring those managing the structure understand the objectives in providing for such causes.

Flexibility

A PTC can be more flexible and allow for quicker commercial decisions to be made when dealing with family assets held in trust.





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