

Understanding Jersey private trust companies: An overview

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Introduction

A private trust company (PTC) is a private company established to serve as a trustee for a particular trust or a group of related trusts.

Unlike commercial trust companies that provide trustee services to the public, a PTC is typically used for the administration of family wealth and is designed to meet the specific needs of high-net-worth individuals and their families.

PTCs are particularly beneficial for families who wish to retain some oversight and control over their trust structures while maintaining flexibility in governance and succession planning. They are often established in offshore jurisdictions with favourable legal frameworks, such as Jersey, Guernsey, the Cayman Islands, and the British Virgin Islands (BVI).

This article explores the structure, benefits, legal requirements and practical considerations of setting up a PTC, with a focus on Jersey.

Key characteristics of a PTC

Exclusive trust services

A PTC only provides trustee services to a specific trust or a group of related trusts—usually for a single family. It does not offer services to the general public and does not engage in commercial trust business.

Regulatory exemption in Jersey

In Jersey, PTCs benefit from an exemption from licensing under the Financial Services (Jersey) Law 1998, provided they meet specific conditions. This means they are not subject to the same level of regulatory oversight as professional trust companies.

To qualify for this exemption, a PTC must:

- be a corporate entity rather than an individual;
- act only as a trustee for a pre-defined trust structure;
- not offer trustee services to third parties outside the designated family or group;
- be administered by a licensed trust company in Jersey; and
- provide notification of its name to the Jersey Financial Services Commission (JFSC).

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Other offshore jurisdictions, such as Guernsey, the Cayman Islands and the BVI, also have similar exemptions for PTCs, making them attractive for high-net-worth families seeking a private and efficient trust structure.

Structuring a PTC

PTCs can be structured in various ways depending on tax considerations, governance preferences, and succession planning requirements.

Below are the common ownership models:

Ownership by an individual or family members

In some cases, a family member or the settlor (the person who establishes the trust by transferring assets to the trustee) owns the PTC directly. However, this approach can lead to complications, such as:

- Estate planning issues: If the owner of the PTC dies, probate may be required, which can disrupt trust operations.
- Tax risks: Direct ownership can sometimes create unintended tax liabilities in certain jurisdictions.

Ownership by a purpose trust

A more common and widely recommended structure is for a non-charitable purpose trust to own the PTC so that the PTC is an orphan vehicle.

In this case:

- the PTC itself is the trustee of family trusts;
- the sole shareholder of the PTC is the trustee of the purpose trust;
- the purpose trust or foundation ensures as shareholder that the PTC is run according to a specific mandate, usually ensuring smooth family governance; and
- this set-up avoids probate and ensures the continuity of the trust structure.

Many trust companies in Jersey have their own in-house purpose trust that can be used to own the shares in the PTC.

Ownership by a foundation

Some families choose to use a foundation to own the PTC, particularly in civil law jurisdictions where trusts are less common. Foundations offer similar benefits to purpose trusts in terms of governance and succession planning.

Administration and governance of a PTC

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While PTCs are exempt from full trust company regulation, they still require proper administration and oversight. This is typically handled by a licensed trust company, which provides corporate services such as:

- Company secretarial services (maintaining records, filing documents, etc)
- Directorship services, where professionals from the administering trust company sit on the PTC's board
- Ensuring compliance with anti-money laundering (AML) and know-your-customer (KYC) regulations

Board composition and control

The board of directors of a PTC is crucial to its governance. Typically, the board includes:

- family representatives (to ensure family interests are considered);
- professional trustees or legal advisors (to ensure compliance with legal and fiduciary responsibilities); and
- independent directors (to provide expertise and impartial decision-making, if required).

Key benefits of using a PTC

PTCs offer several advantages over using a professional trustee company:

Increased control and customisation

A PTC allows the family or settlor to exercise greater control over trust decisions through their ability to sit on the board of directors of the PTC providing comfort that trust assets are managed in line with family values, traditions, and long-term objectives.

Succession planning and continuity

By owning the PTC through a purpose trust or foundation, families can ensure a seamless transition of trust governance from one generation to the next without disruptions.

Portability

The use of a PTC means it is easier to move from one service provider to another as the PTC trustee, which owns the assets and has potentially granted security, remains the same throughout the life of the trust structure.

If the relationship with the trust company providing fiduciary services to the PTC deteriorates, the client can procure that a new service provider takes on the administration of the PTC. In contrast when a regulated trust company acts as trustee it is necessary for the assets, liabilities and any contracts entered into by the trustee to be transferred to the new trustee. This can be expensive and time-consuming when third-party finance is in place.

Flexibility in decision-making

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Families can appoint their preferred advisors and professionals, rather than being bound by the policies of a regulated trust company business.

Conclusion: Is a PTC the right choice?

A PTC can be an excellent solution for high-net-worth individuals and families seeking greater control, flexibility, and privacy in their wealth management strategies; however, they require careful structuring and administration to remain compliant and effective.

How can Collas Crill help?

Collas Crill's private client and trusts team has decades of experience advising trustees and beneficiaries on PTCs. Our advisory practice can advise on the benefits of PTCs and how best to structure, administer and govern them.

Please get in touch with a member of the team for specific advice.

For more information please contact:



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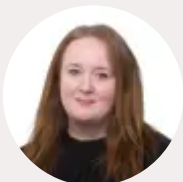
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