

GUIDE TO THE ESTABLISHMENT OF PRIVATE TRUST COMPANIES IN THE CAYMAN ISLANDS

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PREFACE

This Guide is a summary of the law and procedures relating to the establishment and operation of Private Trust Companies in Cayman. It should be read in conjunction with the Appleby “Guide to Trusts in the Cayman Islands” and “Guide to STAR Trusts in the Cayman Islands”.

We recognise that this Guide will not completely answer detailed questions which clients and their advisers may have; it is not intended to be comprehensive. If any such questions arise in relation to the contents, they may be addressed to any member of the Private Client and Trusts Team, using the [contact information](#) provided at the end of this Guide.

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1. ESTABLISHMENT OF PRIVATE TRUST COMPANIES IN THE CAYMAN ISLANDS

More and more, wealthy families are looking at the flexibility and economic benefits of establishing their own private trust companies (PTC) to serve as trustee of their family trusts. To carry on trust business in the Cayman Islands, a private trust company is required to be regulated or registered by the Cayman Islands Monetary Authority (CIMA).

There are two categories of PTCs in the Cayman Islands: (1) Licensed PTCs and (2) Registered PTCs. Registered PTCs are more lightly regulated and are not required to obtain a Restricted Trust Licence from CIMA. This is the most common form of PTC in the Cayman Islands, suitable for most clients' purposes. Occasionally, a client will wish to establish a PTC with the benefit of a full Restricted Licence. In those cases, it may apply for a Restricted Trust Licence under the Banks and Trust Companies Law (as revised). This type of PTC is subject to regulatory oversight by CIMA.

2. LICENSED PRIVATE TRUST COMPANIES

The type of licence issued for a Licensed PTC is a Restricted Trust Licence. A Restricted Trust Licence is issued subject to the condition that the trust business is limited to certain named clients. Under a Restricted Trust Licence where a private trust company has been established to act as trustee of family trusts, CIMA allows a maximum of 20 trusteeships as long as the trusts are related.

2.1 Type of Company

A Licensed PTC may be incorporated as either an Ordinary or an Exempted Company depending on the client's requirements. An Exempted Company is most commonly used for private trust companies. The advantages of an Exempted Company are as follows:

- the Company may receive a renewable guarantee from the Government that it will not be taxed for twenty years after incorporation should the laws of the Cayman Islands be changed to impose tax (and there are no indications that this is likely);
- it is permitted shares of no par value;
- the name of the PTC need not include the word "Limited" or "Ltd."

An Exempted Company may not carry on business in the Cayman Islands except in furtherance of its overseas operations.

2.2 Name

Except with the consent of CIMA, no company may be registered or continue to be registered with a name which contains the words "bank", "trust", "trust company", "trust corporation", "savings" or "savings and loan" or any of their derivatives. A Cayman Islands company is required to include in its name the word "Limited" or its abbreviation "Ltd." unless the company is an Exempted Company.

2.3 Minimum Net Worth

A minimum paid up share capital is required in such amount as will enable the Restricted Trust licensee to maintain a net worth of CID20,000 (approximately USD25,000).

2.4 Directors, Senior Officers and Shareholders

Each licensee is required to have at least two directors, at least one of whom is required to have sound professional knowledge of and experience in trust business. All directors and senior officers must be approved by CIMA and CIMA will not grant such approval unless it considers the relevant persons to be fit

and proper persons to be a director or officer, as the case may be. The requirement for CIMA approval applies to all changes to directors and senior officers after licensing.

CIMA requires the following information to be submitted in relation to each director and senior officer:

- a personal questionnaire in the form prescribed by CIMA;
- two character references;
- one financial reference from a bank or trust company; and
- a police clearance certificate or non-conviction affidavit.

All shareholders who are natural persons holding more than 10% of the licensee's issued share capital or voting rights are required to submit the same information that is described above. Any shareholder holding more than 10% of the licensee's issued share capital or voting rights that is a corporation is required to submit audited annual accounts for the two years immediately preceding the year of application, together with similar accounts for the parent body, if any, of each such body corporate. If the shareholder of the licensee is a privately owned company, an undertaking will usually be required from the ultimate beneficial owners that there will be no issue or transfer of shares in the shareholder without the prior approval of CIMA.

2.5 Description of Scope of Business

A detailed summary of the proposed activities of the licensee must accompany the application covering:

- the applicant's business aims and reasons for seeking a licence;
- its proposed asset and liability structure for the next two years (loan portfolio, investment policy, liquidity guidelines, etc.);
- its management structure, base of operations and overall staffing; and
- a description of its customer base (proposed name number and origin of trusts, information on the settlor of each trust and the ultimate beneficiaries, etc.).

Any significant change in the scope of business after licensing should be approved by CIMA.

2.6 Local Presence

Each Trust Company is required to have a place of business in the Islands. A place of business in the Islands shall have such resources (including staff and facilities) and such books and records as CIMA considers appropriate having regard to the nature and scale of the business. Each licensee is also required to have two individuals or a body corporate, approved by CIMA, resident or incorporated in the Islands to be its agent in the Islands.

2.7 Auditors

Every licensee incorporated under the Companies Law (as revised) is required to have its accounts audited annually by an auditor approved by CIMA and is required to forward its audited accounts to CIMA within three months of the end of its financial year. Quarterly unaudited financial reports on the prescribed forms will also be required.

Among the firms at present approved by the CIMA are: PricewaterhouseCoopers; Deloitte; Ernst & Young; KPMG.

Other large international firms may be acceptable, but banks and trust companies incorporated locally are required to have resident auditors.

2.8 Time for Establishment

It normally takes approximately six to eight weeks to complete all aspects of establishing and licensing a Licensed PTC. In some cases, certain aspects of the process may be expedited.

3. REGISTERED PRIVATE TRUST COMPANIES

Unlike Licensed PTCs, a Registered PTC is not required to obtain from CIMA a Restricted Trust Licence. However a Registered PTC must maintain its registered office at a company which holds a trust licence under the Banks and Trust Companies Law; that is, at a licensed Cayman Islands trust company.

3.1 Type of Company

A Registered PTC may be incorporated as either an Ordinary or an Exempted Company depending on the client's requirements. An Exempted Company is most commonly used for private trust companies. The advantages of an Exempted Company are set out above.

As noted previously, an Exempted Company may not carry on business in the Cayman Islands except in furtherance of its overseas operations.

3.2 Annual Declaration and Name

The requirements for registration of a Registered PTC include the provision of the following to CIMA:

- an annual declaration;
- the names of the directors of the PTC and the name of the holder of the licensee that is providing the registered office for a Registered PTC;
- a declaration that the PTC is in compliance with the requirements and the regulations.

The name of the PTC must include the words "Private Trust Company" or the letters "PTC".

3.3 Minimum Net Worth

There is no minimum net worth requirement.

3.4 Directors, Senior Officers and Shareholders

The directors and senior officers of a Registered PTC are not required to be approved by CIMA. However, clients may be asked to provide the names and professional biographies of proposed directors. It is advisable that at least one of the directors have knowledge and experience in trust business. If not, clients may consider appointing an adviser to the board of directors who has trust administration experience.

The shares of a PTC are commonly held by one or more individuals, by a company limited by guarantee or in a trust. It is not unusual for a purpose trust, such as a Cayman Islands STAR Trust, to be used to hold the shares of a PTC; see "Guide to STAR Trusts in the Cayman Islands" for further details.

3.5 Description of Scope of Business

A Registered PTC may only carry out trust business on behalf of "connected persons". A Registered PTC cannot administer trusts on behalf of third parties or the general public. The PTC may only administer

trusts that fall within the scope of the definition of “connected persons” under the Regulations. CIMA should be notified of any significant change in the scope of business after registration.

A registered PTC may act as a trustee of a Cayman Islands STAR trust.

3.6 Local Presence

The PTC must be incorporated in the Cayman Islands and must maintain its registered office at a Cayman Islands licensed trust company. Copies of the trust deeds of each trust which the PTC administers must be kept at the registered office.

3.7 Audited Accounts

A Registered PTC is not required by CIMA to have audited accounts, although clients should maintain unaudited accounts for good corporate governance.

3.8 Time for Establishment

It normally takes approximately three to four business days to complete all aspects of establishing a Registered PTC. In some cases, certain aspects of the process may be expedited.

4. ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM OBLIGATIONS

The Cayman Islands legal system incorporates anti-money laundering and combating the financing of terrorism laws and regulations in accordance with modern international best practice. Appleby and its affiliated companies have always required certain information from our clients in all cases. Beyond that, we are required to obtain and keep on file extensive documentation of the identity of each client for whom certain specified types of business are conducted. In certain cases, it may be possible to rely on an exemption or on client identification carried out by another regulated service provider, and we will do so where appropriate. However, it will often be necessary to ask clients or prospective clients for documentary evidence of their identity, and often also that of related parties, as well as certain references and comprehensive details of the business that they are involved in.

We ask for the co-operation and understanding of our clients in this process, which is an important element of the drive by leading financial centres such as the Cayman Islands to ensure that they are not used for unlawful purposes.

For more specific advice on the establishment of private trust companies in the Cayman Islands, we invite you to contact:

Cayman Islands

Carlos de Serpa Pimentel

Partner, Global Group Head

Private Client & Trusts

+1 345 814 2082

cpimentel@applebyglobal.com

For the convenience of clients in other time zones, a list of contacts available in each of our jurisdictions may be found [here](#).