A PTF is, in its simplest form, a foundation incorporated specifically to act as trustee of one or more family trusts.

Like any other foundation, a PTF is run by its council which, in the case of a PTF, is responsible for making the decisions relating to the trust(s) for which the PTF acts as trustee. Whilst a PTF is run by the council, invariably PTFs are assisted in the administration of the trusts by a licensed Guernsey trust company experienced in carrying out trust and corporate administration.

PTF structures for private wealth management are a relatively new alternative to Private Trust Company structures similarly used by international high-net-worth individuals wishing to establish their own entity to act as trustee of their family trusts rather than to transfer their assets to an offshore professional trustee.

Alternatives to, or rather adaptations of, the PTF structure include the PTC structure (see Ogier’s note on PTCs) or the use of a Company Limited by Guarantee (with the founder as the guarantee member) to act as trustee of the family trust(s).

A typical PTF structure
Notwithstanding PTF structures are very flexible, bespoke structures, which can be tailored to meet the needs of each particular client, the below diagram is an example of a typical PTF structure.

![Diagram of PTF structure]
Establishing a PTF structure

Whilst there is no ‘one shoe fits all’ approach to PTF structures and there is no need to have all elements and parties located in Guernsey, for the purposes of this note we have set out below the steps for establishing a typical structure along the lines of the diagram.

1. Find a suitable council member and administrator

Find a suitable Guernsey licensed trust company to (1) act as council member of the foundation and (2) administer the PTF and family trust(s). A comprehensive administration agreement will be entered into between the PTF and licensed trust company, setting out the terms upon which the licensed trust company will assist the PTF and underlying trust(s).

2. Decide who will comprise the initial council members of the PTF

This will likely include representatives of the licensed trust company together with suitable people selected by the founder, with consideration being given to the location of individuals (for disclosure, management and control/tax reasons and also to avoid potential conflicts of interest where family members are involved). The founder can also retain control over the composition of the council through the constitutional documents of the PTF e.g. the council may be required to seek the approval of, or follow the directions of, the founder or a nominated other (e.g. guardian) in relation to the appointment or removal of council members.

The key is to ensure the right mix of council members and balance of powers to ensure the smooth operation of the structure.

3. Create and establish the PTF

As referred to above, the PTF does not need to be a Guernsey registered foundation (however in practice it more often than not will be), and will be incorporated using a set of tailored rules and a charter. Please see Ogier’s note on Guernsey Foundations for more information on the creation and establishment of foundations. Note that the name of the PTF should not include the words “trust foundation” without approval of the Guernsey regulator; although it can use the letters “PTF”.

4. Regulation

Apply to the GFSC for an exemption to the need for the PTF to be licensed. Whilst the relevant Guernsey regulatory law (The Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000, as amended (the “Fiduciary Law”)) only requires a company operating in Guernsey which acts as trustee to be licensed if it is receiving income, a fee or other monetary consideration, it can technically become caught if (as often happens) the PTF needs to invoice the family trust(s) to meet the costs of running the structure i.e. it acts as a conduit and pays fees on to third parties, which is why a discretionary exemption from licensing is often sought.

The conditions for granting an exemption, on the payment of a one-off fee, are that the PTF:

- acts as a trustee only in respect of a specific trust or connected trusts;
- does not advertise or market its services to the public;
- is administered by a company which is licensed under the Fiduciary Law; and
- has a representative of a licensed fiduciary on its council.

Should a third party e.g. guardian be resident in Guernsey and remunerated for his/her services, then he/she too will need to be licensed by the GFSC.

5. Create new family trust(s) or transfer trusteeship

Create new family trust(s) with the PTF as the original trustee, or transfer the trusteeship of existing family trust(s) into the trusteeship of the PTF.
**Private Trust Foundation (PTF) Structures in Guernsey**

**Benefits of a PTF structure**
The following are only a few of the benefits that can be achieved by using a PTF structure:

**Family control**
PTFs provide a means by which the client, or their family, can retain a greater degree of control over the trust affairs without compromising the validity of the family trust(s).
The founder can compose the council with himself/herself, family members, and trusted advisers who have a heightened knowledge of the family’s business and financial affairs and are empathetic to the needs of the beneficiaries. As referenced above, careful thought needs to be given to the composition of the council of the PTF and also to who is to have power to appoint and remove its members.

**Confidentiality**
Ownership of the structure can remain confidential.

**Flexibility**
A PTF is likely to be more flexible and quicker in dealing with certain trust assets, including philanthropic distributions close to the family’s heart.

**Avoiding future changes in trusteeship**
Having a PTF as trustee of family trusts will avoid the need for future changes of trusteeship. Instead, only the management agreement between the PTF and the licensed administrator would need to be terminated, with a new agreement being entered into between the PTF and the new licensed administrator, and the old licensed administrator’s PTF directors ceasing to be on the council of the PTF. Note that where the PTF is exempted by the GFSC from regulation, the GFSC will need to consent to a change in administrator.

**Conclusion**
PTF structures are bespoke vehicles which can provide many benefits, although they are not for everyone. Careful consideration should be given at the outset and professional advice should be sought.

* This note has been prepared for the assistance of our clients considering establishing a Guernsey PTF structure in the context of private wealth management. It is intended to provide only a summary of the main legal requirements and general principles applicable to the establishment and administration of PTF structures. It is not intended to be comprehensive in its scope and we recommend that you seek specific legal advice and would be pleased to assist in this regard.

A series of briefings on other aspects of Guernsey trust and foundation law has been produced by Ogier and is available on request or online at www.ogier.com.
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