## GFSC final word template logo

Form Discretionary Exemption for PTC

Effective date 19 October 2016

THE REGULATION OF FIDUCIARIES, ADMINISTRATION BUSINESSES, AND COMPANY DIRECTORS, ETC. (BAILIWICK OF GUERNSEY) LAW, 2000 (“the Law”)

|  |
| --- |
| APPLICATION IN RESPECT OF A DISCRETIONARY EXEMPTION FOR PRIVATE TRUST COMPANY (PTC) |
| ***NOTES ON COMPLETION OF FORM DISCRETIONARY EXEMPTION FOR PTC 2016***1. A private trust company (“PTC”) is a company that acts as a trustee to a specific trust or a group of connected trusts, often for one family.
2. Any person or entity wishing to carry out regulated activities (as defined under section 2 of the Law) by way of business must be licenced under the Law. Regulated activities include*, among other things*, acting as a corporate or individual trustee or protector for trusts.
3. The Commission recognises the potentially disproportionate burden of requiring a full fiduciary licence for essentially one business relationship and it may therefore, on application by the PTC, exempt it from the requirement to obtain a licence, provided that certain criteria are met. Section 3(1)(y) of the Law empowers the Commission, on application by a person, to specifically exempt an activity from the operation of section 2 by written instrument.
4. The applicant is encouraged to refer to the Guidance Notes on Private Trust Companies that are available on the Commission’s website. In considering whether to grant a discretionary exemption to a PTC, the Commission will follow the criteria specified in the Guidance Notes on Private Trust Companies.
5. All questions on this Form Discretionary Exemption for PTC 2016 should be completed, and any forms received unsigned will be returned. Incomplete forms may also be returned for completion. Please state “not applicable” where a question does not apply; an explanation of this answer should be provided if it is not immediately obvious from information given elsewhere on this form.
6. Where the answer to a question is unknown, or provisional, or is modified at a later stage in the application process, the applicant should recognise that this may cause delay to the consideration of the application.
7. If there is insufficient space on the form, please append additional sheets and initial each sheet.
8. Please type the information in each box, or onto additional sheets where necessary.
9. Please note that if any information provided with the application substantially changes after a discretionary exemption is granted, a new discretionary exemption application may be required.
10. Please note that the applicant has an obligation to inform the Commission immediately if any of the information provided with the application substantially changes at any time after the application is submitted
11. This form should be posted, together with all supporting documentation, to:

|  |  |
| --- | --- |
| Authorisations TeamGuernsey Financial Services CommissionPO Box 128Glategny CourtGlategny EsplanadeSt Peter PortGuernsey GY1 3HQ | Telephone: 712706International dialling code: 44 1481Email: authorisations@gfsc.ggInternet: [www.gfsc.gg](http://www.gfsc.gg) |

 **The Commission reserves the right to make such requests for additional information and documents as it considers necessary or desirable for the carrying out of any of its functions.**

|  |
| --- |
|   |

 |

**About the PTC**

1. Name or proposed name of the PTC:

2. Has the PTC been incorporated? Yes No if yes, please indicate when.

 Where the PTC was or will be incorporated?

3. Please indicate why the PTC’s activity is considered to be by way of business as defined in Section 58 of the Law *(an exemption is not required if the applicant is not acting by way of business).*

4. Please explain the purpose of the PTC, in particular whether the PTC will be acting as a trustee to a specific trust or a group of trusts for one family:

5. Please provide the name of the full fiduciary licensee who will administer the PTC (“licensed fiduciary”). In any case where the licensed fiduciary will be providing additional services to the PTC or to the structure, please specify the services here.

6. Please provide full names of the individuals who will be the directors of the PTC. Please identify the director(s) who is/ are representative(s) from the licensed fiduciary. For the other directors, please provide further details including relationship to the settlor, date of birth, nationality and address.

In any case where the applicant deems that it would not be practical to have a natural person as the representative of the licensed fiduciary and believes that a corporate director would be able to fulfill the objectives as set out in the Guidance Notes on Private Trust Companies on the Commission’s website, please also provide the rationale for this.

**The trust or group of trusts** (to which the PTC will provide the trusteeship)

7. Under which jurisdiction will the trust or the group of trusts be established?

Please also provide full names, address, nationality, and date of birth of the settlor, protector and beneficiaries.

**The purpose trust** (if any)

8.Under which jurisdiction will the purpose trust be established?

Please provide information relating to the purpose trust, including full names, address, nationality, and date of birth (where applicable) of the trustee, settlor, and enforcer.

**Assets under the trust**

9. Please provide details of the assets under the existing or proposed trust/s. Where a trust asset is a company, please provide the information regarding the date and jurisdiction of the company’s incorporation, the purpose of the company and full names of the directors of the company. For the directors who are not known to the Commission, please provide further information i.e. address, nationality, date of birth and the relationship with the settlor or his family.

**AML/CFT**

10. Please provide information here if the individuals or entities related to the PTC are considered high risk (e.g. PEP/CEP, high risk jurisdictions, adverse information, etc.) and explain how the licensed fiduciary assures that the AML/CFT risks are mitigated.

Any further information in support of this application:

**DOCUMENTATION SUBMITTED**

In support of the application the following documentation/information must be enclosed with this form:

|  |  |
| --- | --- |
| * A structure chart showing all trusts to which the PTC will be acting as the trustee, assets under the trusts and the purpose trust (whether such trusts are in existence at this time or not). Where the trust asset is a holding company, please ensure that the structure chart covers the subsidiaries and the underlying assets.
 |  |
|  |
| * The fee as prescribed from time to time by Regulations made under Section 7 of the Law *(Please see the Commission’s website for the current fee for a discretionary exemption)*
 |  |
|  |
|  |  |
| * If the PTC has already been incorporated or otherwise established, evidence of this
 |  |
| should be provided.*(If the PTC has not been incorporated or otherwise established the Commission will only issue consent in principle. The exemption will be formally granted once the Commission is notified that the PTC has been incorporated and provided with proof of registration.)* |  |

**Declaration**

I confirm that the PTC does not advertise or market its services to the public in any way and the PTC will be administered within the AML/CFT controls of the licensed fiduciary.

The above information is true and accurate to the best of my knowledge.

Sign ………………………(name)……………………….…..(position)

Date ……………………………….

**THE DATA PROTECTION (BAILIWICK OF GUERNSEY) LAW, 2017**

Personal information provided in a Form will be used by the Commission. For the purposes of The Data Protection (Bailiwick of Guernsey) Law, 2017, the Commission is considered to be a data controller. The Commission will use the Forms to satisfy its statutory duty under the Law. Information disclosed in the Form may be disclosed to third parties for those purposes. Further information may be found in the Commission’s Data Protection policy, which can be located on its website at www.gfsc.gg.