## GFSC final word template logo

Form Discretionary Exemption for PTC - June 2019

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 2019***   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 that it may be potentially disproportionate to require a full fiduciary licence for essentially one business relationship. Therefore the Commission may, where it thinks appropriate, having given consideration to the specific circumstances, and 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 – June 2019 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 submitted electronically, together with all supporting documentation, to authorisations@gfsc.gg   Prescribed fee: Send by BACS to:  Bank: HSBC Guernsey Branch  Address: 20-22 High Street, St Peter Port, Guernsey GY1 2LB  Sort code: 40-22-25  Account Number: 91460722  IBAN: GB53MIDL40222591460722  Swift: MIDLGGS1XXX  Account Name:  Guernsey Financial Services Commission  Reference: *“Applicant’s name”*  **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”).

6. Please explain how the licensed fiduciary which will administer the PTC is satisfied that it will be able to retain sufficient knowledge and information about the PTC’s ownership and control structure and about its activities that:

a) the PTC will be effectively administered and governed; and

b) the PTC complies with relevant laws and regulatory requirements.

7. Please provide full names of the individuals who will be the directors of the PTC. For a director who is not an employee of the licensed fiduciary, please provide further details including relationship to the settlor, date of birth, nationality and address.

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

8. 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)

9. 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**

10. 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**

11. 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 (or fees if a request to use name is also being made) as prescribed from time to time by Regulations made under Section 7 of the Law has been made by BACS payment *(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 above information is true and accurate to the best of my knowledge.
* The PTC will not advertise or market its services to the public in any way;
* The PTC will be administered within the AML/CFT controls of ……(*name of the licensed fiduciary*)……………………………..;
* The administrator will retain sufficient knowledge and information about the PTC’s ownership and control structure and about its activities to be satisfied that:

a) the PTC will be effectively administered and governed, and

b) the PTC complies with relevant laws and regulatory requirements; and

* The administrator will keep records of the PTC including beneficial ownership information on the PTC, its directors and its controllers, and on the settlor, beneficiaries and any protector (if relevant) of the trust or trusts for which it acts. Such records will be made available for inspection by the Commission upon request.

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

Date ……………………………….

**The Data Protection (Bailiwick of Guernsey) Law, 2017**

For the purpose of the Data Protection (Bailiwick of Guernsey) Law, 2017 please note that any personal data provided to the Commission will be used by the Commission to discharge its regulatory activities and statutory functions. Further information, relating to the Commission’s Data Protection policy, can be located on the website at [www.gfsc.gg/data-protection](http://www.gfsc.gg/data-protection)