Private Trust Company
Guidelines

FINANCIAL SERVICES AUTHORITY

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1. INTRODUCTION

1.1. These guidelines on Private Trust Companies ("PTC") have been issued by the Financial Services Authority ("the Authority") to provide guidance pertaining to the application process for authorisation, registration and administration of PTCs in Seychelles.

1.2. These guidelines are not exhaustive. It provides a general summary of the legislation and should be read in conjunction with the relevant provisions of the International Corporate Service Providers Act, 2003 ("ICSP Act"), Trusts Act, 2021 and International Business Companies Act, 2016 ("IBC Act").

2. BACKGROUND

2.1. A PTC is a corporate entity that mainly provides trust services to "connected persons".

2.2. In a PTC structure, "connected persons" creates a separate trust company to act as trustee solely for the family trust.

2.3. The settlor can retain control over the assets and his investments by appointing himself or his relatives to sit on the Board of Directors of the PTC. The Board may also comprise of professionals such as the lawyers and accountants of the "connected persons".

2.4. In the Seychelles, the ICSP Act makes provision for the authorisation of PTCs to provide connected trust services and exempts them from licensing.

3. REQUIREMENTS FOR PTCs

3.1. Name of PTC

The name of a PTC must end with the words "Private Trust Company" or with the abbreviation "PTC" as per section 25(2A) of the IBC Act.

3.2. Registered agent of PTC

3.2.1. At all times, PTCs are required to have a registered agent in Seychelles which holds both an International Corporate Services (ICS) licence and a Trustee Services licence under the ICSP Act.

3.2.2. It must also be noted that in Seychelles, some service providers having the same owners and management, hold their ICS and trustee services licences under different company. In such cases, the company holding the ICS licence is eligible to be the registered agent of a PTC, so long as the other company maintains a valid trustee services licence.

3.3. Memorandum of association for PTCs

The memorandum of association of PTCs must clearly state that the company is a Private Trust Company.

3.4. Restriction of business activity for PTCs

A PTC must only carry out the business of “connected trust services” as defined under the ICSP Act and is not permitted to carry out any other business.

4. AUTHORISATION REQUIREMENT

4.1. Pursuant to section 3 of the ICSP Act, PTCs are exempted from the licensing requirement under the ICSP Act to provide “connected trust services”. However, companies wishing to be a PTC must obtain authorization from the Authority by lodging an application to request for authorization to provide connected trust services in accordance with section 3A of the ICSP Act.

4.2. The test for determining whether a PTC carries on “connected trust services” looks at whether the trust being administered is a connected trust. To determine whether a trust is a connected trust, one needs to look at:

(a) in cases of a single trust, the relationship between each beneficiary and the settlors of the trust, or whether the beneficiary is a charity; or

(b) in cases of two or more trusts, the relationship between the settlors of the trusts.

Under paragraph (b), each settlor (of each trust of which the PTC is trustee) must be a connected person to each other. The scope of “connected person” is clearly defined in schedule 5(3) of the ICSP Act and includes relationships by blood and marriage between individuals as well as companies within the same group and certain shareholder and company relationships.

5. APPLICATION REQUIREMENTS FOR NEW COMPANIES

5.1. A proposed company wishing to be incorporated as a PTC must apply for incorporation as an IBC and apply for the Authority’s authorization to provide “connected trust services” simultaneously.

5.2. Prior to submitting an application, the registered agent must reserve the proposed name of the company which must end with the words “Private Trust Company” or abbreviation “PTC”.

5.3 An application to request for the Authority’s authorisation must be accompanied by:

- Letter from the proposed registered agent requesting authorisation for the proposed company to provide connected trust services and, in the case where the registered agent holds its international corporate services licence and its trustee services licence under different companies, the letter should state the name of the company under which the trustee licence of the proposed registered agent has been issued.
- The name reservation certificate featuring the proposed name of the IBC.
- The IBC number confirmation.
- The IBC incorporation application form (see **Annexure 1** of the IBC Guidelines).

- The relevant Declaration (see **Annexure 1**).
- At least 3 copies of the company's Memorandum and Articles of Association.
- The name and address of the of the proposed members, directors and beneficial owners of the PTC.
- The application fee of US$ 1,000.
- The incorporation fee of US$ 130.

6. APPLICATION REQUIREMENTS FOR EXISTING COMPANIES

6.1. An existing IBC wishing to undertake "connected trust services" must request authorisation from the Authority by lodging an application for the existing IBC to provide "connected trust services".

6.2. Prior to submitting an application, the registered agent must reserve the proposed new name of the company which must end with the words "Private Trust Company" or abbreviation "PTC".

6.3. An application to request for the Authority's authorisation must be accompanied by:

- A letter from the registered agent requesting authorisation for the company to provide connected trust services and, in the case where the registered agent holds its international corporate services licence and its trustee services licence under different companies, the letter should state the name of the company under which the trustee licence has been issued.
- The name reservation certificate featuring the proposed new name of the IBC.
- A certified copy or extract of the resolution (and the restated memorandum of association (optional)) to amend the memorandum of association to state the IBC is a PTC.
- The relevant Declaration (see **Annexure 1)**.
- A certified copy of the register of members, register of directors, and register of beneficial owners of the PTC.
- The application fee of US$1,000.
- The filing fee (for the amendment to the memorandum of association) of either US$ 50 or US$100 (which depends on the timing of the filing).

7. AUTHORISATION OF PTCs

7.1. Upon receipt of an application, the Authority may grant or reject the application.

7.2. Where the Authority approves an application for a new IBC, the Authority will issue a letter of approval, incorporate the company as a PTC and issue a Certificate of Incorporation.

7.3. Where the Authority approves an application for an existing company, the Authority will issue letter of approval, register the resolution (or extract thereof, including any restated memorandum of association), issue a certificate of change of name to the IBC and incorporate the company as a PTC and issue a Certificate of Incorporation.

7.4. Where the Authority rejects an application, the Authority will inform the applicant of the reasons for the rejection through a formal letter.

Note: The Act does not provide a time limit within which the Authority must reach a decision in respect to an application. In practice, the Authority always seeks to deal as promptly as possible with each application. Generally, if all the required documents have been submitted, the Authority would not expect an application to remain outstanding for a period greater than 7 working days.

8. ANNUAL FEE AND COMPLIANCE DECLARATION

8.1. A PTC must annually (on or before the date of each anniversary of its authorization):

(a) file with the Authority a compliance declaration (see Annexure 2), and

(b) pay to the Authority an annual fee of US$1,000 pursuant to section 3A (4) of the ICSP Act (note that pursuant to section 12(1) of the IBC Act, an annual fee of US$ 140 is to be paid separately on the anniversary of the IBC's incorporation).

8.2. In cases where the annual fee of US$1,000 is not paid on time, the annual fee will increase by 10% for each month or part thereof that it remains unpaid.

9. DUTIES OF PTCs

9.1. For each trust for which a PTC acts as trustee, the PTC is required to keep copies of the trust deed (or other document creating or establishing a trust) and any deed or document varying the terms of the trust under the Trusts Act at the PTC's registered office in Seychelles.

9.2. For each trust for which a PTC acts as trustee, the PTC is required to keep the trust register at the PTC's registered office in Seychelles, specifying the information referred to in section 28(2) of the Trusts Act, 2021.

9.3. Section 8 of the ICSP Act requires a PTC to:

(a) maintain a place of business in Seychelles (the availability of a Seychelles' registered office address of the PTC is adequate to satisfy this requirement)

(b) maintain accounting books and records which accurately reflect the business carried on by the PTC (separate accounts must be maintained in respect of any client funds distinguishing the same from the PTC's own funds)

(c) maintain such records and documents relating to its business or clients as may be required under the laws of Seychelles

(d) ensure that any monies or other assets that it holds for or on behalf of any entity to which it provides services, are designated, and clearly identified as client funds excluding any monies paid to the PTC for services rendered, products sold, or expenses incurred by the PTC, and

(e) ensure that, where any client funds are held for a period exceeding 30 days, they are kept separate from the PTC's own funds (including any bank account maintained by it) in an account designated as a client account unless the relevant entity instructs otherwise in writing.

9.4. Several other obligations apply to a PTC under the Trusts Act, 2021. These includes, amongst other things, the registration of trustee appointment declaration, notice of appointment or cessation of trustee and the keeping of its accounting records in Seychelles (including the accounting records and financial summary relating to each trust under its management). However, in view that a PTC is required to audit its accounts annually (refer to paragraph 10 of this guidelines), in line with paragraph 32.19 of the IBC Guidelines, the PTC itself does not need to prepare a Financial Summary as required under the IBC Act.

9.5. A PTC must also ensure that it complies with all its obligations as an IBC under the IBC Act (including the record keeping obligations) and its obligations under the Beneficial Ownership Act, 2020 (including the keeping of register of beneficial owners).

10. AUDITING OF ACCOUNTS

In accordance with section 9 of the ICSP Act, a PTC must have its accounts audited annually by a qualified auditor (as defined under the Companies Act, 1972) in accordance with internationally accepted accounting standards and a true copy of the PTC's audited accounts must be furnished to the Authority within 6 months of the end of the financial year of the PTC.

11. NOTICE OF CHANGES TO THE AUTHORITY

11.1. In accordance with section 6 of the ICSP Act, a PTC must give the Authority prior notice of:

(a) a change in the ownership of a majority of the issued shares of the PTC

(b) a change in the beneficial ownership of such shares in the PTC, or

(c) the appointment or departure of a director or manager of the PTC.

11.2. However, a notice relating to the departure of a director or manager may be given after the event.

12. POWERS OF THE AUTHORITY

12.1. The FSA is empowered under the ICSP Act to take enforcement action against a PTC, including suspending, revoking or imposing conditions on the authorization to operate as a PTC.

12.2. The FSA is also empowered under the Trusts Act and the IBC Act to enforce penalties against PTCs who contravenes their obligations under the aforementioned Acts.

Annexure 1

DECLARATION

Section 3A(2)(a) of the ICSP Act, 2003

We/I, the Director(s) of the company, hereby declare and confirm the following:

- Name of the Private Trust Company: [insert company name]
- Name of the registered agent of the Private Trust Company: [insert the name of the registered agent]
- The Private Trust Company is in compliance with the requirements of section 3A and schedule 5 of the International Corporate Service Providers Act, 2003.

Dated this [insert date].

____________________________	______________________________
Director	Director
Name: [insert full name]	Name: [insert full name]

Annexure 2

COMPLIANCE DECLARATION

Section 3A(4)(a) of the ICSP Act, 2003

We/I, the Director(s) of the company, hereby declare and confirm that (tick as appropriate):

1. The PTC provides only "connected trust services" and no other business activities.	Yes ☐	No ☐
2. The PTC does not solicit business from the public.	Yes ☐	No ☐
3. The PTC's registered agent holds an international corporate services licence and a trustee services licence (directly or indirectly).	Yes ☐	No ☐
4. The PTC is keeping at its registered office in Seychelles, a Trust register in relation to each trust of which it is a trustee specifying the information referred to in section 28(1) of the Trusts Act.	Yes ☐	No ☐
5. The PTC has ensured that monies or other assets that it holds for or on behalf of any entity to which it provides services are designated and clearly identified as client funds.	Yes ☐	No ☐
6. Where any client funds are held for a period exceeding 30 days, they are kept separate from the PTC's own funds (including any bank account maintained by it) in an account designated as a client account unless the relevant entity has instructed otherwise in writing.	Yes ☐	No ☐
7. The PTC is keeping at its registered office in Seychelles copies of the trust deed or other documents creating or establishing a trust, and any deed or document varying the terms of the trust under the Trusts Act 2021, for each trust for which it is acting as trustee.	Yes ☐	No ☐
8. The PTC has notified the Authority of any change that may have occurred in the ownership of a majority of the issued shares of the PTC.	Yes ☐	No ☐
9. The PTC has notified the Authority of any change that may have occurred in the beneficial ownership of such shares in the PTC.	Yes ☐	No ☐
10. The PTC has notified the Authority of any appointment or departure of a director or manager of the PTC.	Yes ☐	No ☐
11. The PTC is keeping at its registered office in Seychelles, reliable accounting books and records that are sufficient to show and explain the company's transactions.	Yes ☐	No ☐

Dated this [insert date].

____
Director
Name: [insert full name]

____
Director
Name: [insert full name]