



# Private Trust Companies



## The Solution

Instead of the commercial trust company acting as trustee itself, FCA Ltd. can work with the family and the commercial trust company to establish and maintain a Private Trust Company (“PTC”).

FCA Ltd. (with its select partners) can arrange the establishment of a PTC, obtain the necessary trust company licence, set up underlying companies, provide accounting services and secure the best legal advice and auditing services and administer the complete structure.

A typical PTC structure is shown on a later slide. At first sight it will appear to be complex. It is not – and this presentation explains the whole structure; its advantages and disadvantages; the costs; and the regulatory obligations involved.

## Advantages of using a PTC

Cost savings – FCA Ltd. (with its select partners) will provide administrative services as a contracting party, not as a fiduciary = lower level of legal responsibility = lower costs.

The directors of the PTC, which will typically include the *paterfamilias* and other family members, will have a more direct involvement in trust matters, e.g., selecting beneficiaries to receive discretionary distributions.

The structure provides a convenient way to pass control and influence over family business interests and wealth to the “next generation” over a suitable period of time and in a regulated manner by bringing in designated successor(s) as director(s) of the PTC during the lifetime of the *paterfamilias*. By allowing a designated successor to participate in the affairs of the PTC in this way during the lifetime of the *paterfamilias*: (i) the *paterfamilias* can evaluate the suitability of his designated successor; and (ii) the successor can become familiar with the operations of the PTC, the underlying business and investment activities, and the way in which the structure is run.

The structure can be used to accommodate other family trusts.

## Board of Directors of the PTC

The constitution of the Board of Directors of the PTC is of paramount importance. The directors will have primary responsibility for ensuring that the family trusts are carried out and that the administrator and investment managers perform their roles satisfactorily. One of the main advantages of using a PTC is that the *paterfamilias*, together with members of his/her family and circle of trusted advisors, may play a “hands on” role. As directors, they will be far more intimately involved and influential in trust affairs than would be the case if a typical trust with a trust company as trustee was used.

CIMA requires the Board of Directors of PTCs to be comprised of fit and proper persons and that it should include persons with appropriate expertise in trust matters. FCA Ltd. will suggest suitable people for the family to interview. All proposed directors must supply detailed information to CIMA as part of the application process and are subject to formal approval.

The Board will typically include one or more family members; frequently the *paterfamilias* will be designated as Chairman of the Board during his/her lifetime and have the power to designate his/her successor as such (subject to CIMA’s approval). In addition to family members, the Board will usually include a trust expert (who FCA Ltd. can provide) and a Cayman lawyer or other trusted family advisor. These two will be designated to CIMA as the providers of the required trust expertise.

## Administration

The administration of the affairs of the STAR Trust, the PTC, the family trusts and the underlying holding companies can be carried out by FCA Ltd. In this structure the commercial trust company will only be trustee of the STAR Trust, and any other functions will be carried out by it as a contracting party - not as a fiduciary.

This has two main consequences:

1. It will result in the trust company reporting to the boards of directors of the PTC and its underlying companies, rather than to the beneficiaries of the trusts.
2. The fact that the commercial trust company has contractual liability rather than fiduciary liability for the provision of its administrative services, results in substantial cost savings to the client family.



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